Internal Revenue
bulletin

Bulletin No. 1999–43
October 25, 1999

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

REG–121063–97, page 540.

Proposed regulations under section 1301 of the Code relate to how individuals engaged in a farming business may elect to income average and thereby reduce their regular tax liability by treating all or a portion of the current year's farming income as if it had been earned in equal proportions over the prior three years. A public hearing is scheduled for February 15, 2000.

EMPLOYEE PLANS

Notice 99–52, page 525.

Weighted average interest rate update. Guidelines are set forth for determining for October 1999 the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for purposes of the full funding limitation of section 412(c)(7) of the Code.

EXEMPT ORGANIZATIONS

Announcement 99–102, page 545.

The instructions to Forms 990, 990–EZ, 990T, and 990-PF have been changed to clarify reporting by tax-exempt organizations of activities of entities disregarded as separate from the organization for federal tax purposes.

Announcement 99–103, page 546.

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

ADMINISTRATIVE

Rev. Proc. 99–38, page 525.

Optional standard mileage rates. This procedure announces 32.5 cents as the optional rate for deducting or accounting for expenses for business use of an automobile, 14 cents as the optional rate for use of an automobile as a charitable contribution, and 10 cents as the optional rate for use of an automobile as a medical or moving expense for 2000. It provides rules for substantiating the deductible expenses of using an automobile for business, moving, medical, or charitable purposes. Rev. Proc. 98–63, modified by Announcement 99–7, superseded.

Rev. Proc. 99–39, page 532.

Information returns, electronic filing. This procedure provides the requirements for the Form 941 *e-file* Program, which combines the Form 941 Electronic Filing (ELF) Program with an on-line program to allow a taxpayer to electronically file a Form 941, Employer's Quarterly Federal Tax Return, using a personal computer, modem, and commercial tax preparation software. Rev. Proc. 97–47 amplified, clarified, modified, and superseded. Rev. Proc. 96–17 modified.

Announcement 99–101, page 544.

Public comments are requested in connection with a study being conducted by the Department of the Treasury relating to the scope and use of provisions regarding taxpayer confidentiality. Written comments must be submitted by November 15, 1999.

Finding Lists begin on page ii.

Department of the Treasury
Internal Revenue Service

The IRS Mission

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 62.—Adjusted Gross Income Defined

26 CFR 1.62–2: Reimbursements and other expense allowance arrangements.

26 CFR 1.62–2T: Reimbursements and other expense allowance arrangements (temporary).

Rules under which a reimbursement or other expense allowance arrangement for the cost of operating an automobile for business purposes will satisfy the requirements of section 62(c) of the Code as to business connection, substantiation, and returning amounts in excess of expenses. See Rev. Proc. 99–38, page 525.

Section 162.—Trade or Business Expenses

26 CFR 1.162–17: Reporting and substantiation of certain business expenses of employees.

Rules are set forth for substantiating the amount of a deduction or an expense for business use of an automobile that most nearly represents current costs. See Rev. Proc. 99–38, page 525.

Section 170.—Charitable, etc., Contributions and Gifts

26 CFR 1.170A–1: Charitable, etc., contributions and gifts; allowance of deduction.

Rules are set forth for substantiating the amount of a deduction or an expense for charitable use of an automobile. See Rev. Proc. 99–38, page 525.

Section 213.—Medical, Dental, etc., Expenses

26 CFR 1.213–1: Medical, dental, etc., expenses.

Rules are set forth for substantiating the amount of a deduction or an expense for use of an automobile to obtain medical services. See Rev. Proc. 99–38, page 525.

Section 217.—Moving Expenses

26 CFR 1.217–2: Moving expenses.

Rules are set forth for substantiating the amount of a deduction or an expense for use of an automobile as part of a move. See Rev. Proc. 99–38, page 525.

Section 274.—Disallowance of Certain Entertainment, etc., Expenses

26 CFR 1.274–5T: Substantiation requirements (temporary).

Simplified optional method for substantiating the amount of the ordinary and necessary business expenses of an employee for business use of an automobile when a payor provides a mileage allowance for such expenses. See Rev. Proc. 99–38, page 525.

---

26 CFR 1.274(d)–1T: Substantiation requirements (temporary).

Simplified optional method for substantiating the amount of the ordinary and necessary business expenses of an employee for business use of an automobile when a payor provides a mileage allowance for such expenses. See Rev. Proc. 99–38, page 525.

Section 3504.—Acts To Be Performed by Agents

26 CFR 31.3504–1: Acts to be performed by agents.

What are the requirements of the Form 941 *e-file* Program, which combines the Form 941 Electronic Filing Program with an on-line filing program that allows a taxpayer to electronically file a Form 941, Employer's Quarterly Federal Tax Return, using a personal computer, modem, and commercial tax preparation software? See Rev. Proc. 99–39, page 532.

Section 6011.—General Requirement of Return, Statement, or List

26 CFR 31.6011(a)–7: Execution of returns.

What are the requirements of the Form 941 *e-file* Program, which combines the Form 941 Electronic Filing Program with an on-line filing program that allows a taxpayer to electronically file a Form 941, Employer's Quarterly Federal Tax Return, using a personal computer, modem, and commercial tax preparation software? See Rev. Proc. 99–39, page 532.

Section 6061.—Signing of Returns and Other Documents

26 CFR 301.6061–1: Signing of returns and other documents.

What are the requirements of the Form 941 *e-file* Program, which combines the Form 941 Electronic Filing Program with an on-line filing program that allows a taxpayer to electronically file a Form 941, Employer's Quarterly Federal Tax Return, using a personal computer, modem, and commercial tax preparation software? See Rev. Proc. 99–39, page 532.

Section 6071.—Time for Filing Returns and Other Documents

26 CFR 31.6071(a)–1: Time for filing returns and other documents.

What are the requirements of the Form 941 *e-file* Program, which combines the Form 941 Electronic Filing Program with an on-line filing program that allows a taxpayer to electronically file a Form 941, Employer's Quarterly Federal Tax Return, using a personal computer, modem, and commercial tax preparation software? See Rev. Proc. 99–39, page 532.

Part III. Administrative, Procedural, and Miscellaneous

Weighted Average Interest Rate Update

Notice 99–52

Notice 88–73 provides guidelines for determining the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the full funding limitation of § 412(c)(7) of the Internal Revenue Code as amended by the Omnibus Budget Reconciliation Act of 1987 and as further amended by the Uruguay Round Agreements Act, Pub. L. 103–465 (GATT).

The average yield on the 30-year Treasury Constant Maturities for September 1999 is 6.07 percent.

The following rates were determined for the plan years beginning in the month shown below.

Month	Year	Weighted Average	90% to 105% Permissible Range	90% to 110% Permissible Range
October	1999	5.99	5.39 to 6.29	5.39 to 6.59

Drafting Information

The principal author of this notice is Todd Newman of the Employee Plans Division. For further information regarding this notice, call (202) 622-6076 between 2:30 and 3:30 p.m. Eastern time (not a toll-free number). Mr. Newman's number is (202) 622-8458 (also not a toll-free number).

---

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.
(Also Part I, sections 62, 162, 274, 1016; 1.62–2, 1.162–17, 1.274–5T, 1.274(d)–1T, 1.1016–3.)

Rev. Proc. 99–38

SECTION 1. PURPOSE

This revenue procedure updates Rev. Proc. 98–63, 1998–52 I.R.B. 25, as modified by Announcement 99–7, 1999–2 I.R.B. 45, by providing optional standard mileage rates for employees, self-employed individuals, or other taxpayers to use in computing the deductible costs of operating an automobile for business, charitable, medical, or moving expense purposes. This revenue procedure also provides rules under which the amount of ordinary and necessary expenses of local travel or transportation away from home that are paid or incurred by an employee will be deemed substantiated under § 1.274–5T of the temporary Income Tax Regulations when a payor (the employer, its agent, or a third party) provides a mileage allowance under a reimbursement or other expense allowance arrangement to pay for such expenses. Use of a method of substantiation described in this revenue procedure is not mandatory and a taxpayer may use actual allowable expenses if the taxpayer maintains adequate records or other sufficient evidence for proper substantiation.

SECTION 2. SUMMARY OF STANDARD MILEAGE RATES

.01 *Standard mileage rates.*

(1) Business (section 5 below)	32.5 cents per mile
(2) Charitable (section 7 below)	14 cents per mile
(3) Medical and Moving (section 7 below)	10 cents per mile

.02 *Determination of standard mileage rates.* The business, medical, and moving standard mileage rates reflected in this revenue procedure are based on an annual study of the fixed and variable costs of operating an automobile conducted on behalf of the Service by an independent contractor, and the charitable standard mileage rate is provided in § 170(i) of the Internal Revenue Code. In connection with its study, the contractor has suggested that a change be made to the study methodology regarding the business standard mileage rate. This suggested change would include the cost of personal rather than business automobile insurance because taxpayers who use the business standard mileage rate generally carry personal rather than business insurance on their automobiles. The Service has reviewed this suggested change and has adopted it in this revenue procedure.

SECTION 3. BACKGROUND AND CHANGES

.01 Section 162(a) of the Internal Revenue Code allows a deduction for all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business. Under that provision, an employee or self-employed individual may deduct the cost of operating an automobile to the extent that it is used in a trade or business. However, under § 262, no portion of the cost of operating an automobile that is attributable to personal use is deductible.

.02 Section 274(d) provides, in part, that no deduction shall be allowed under § 162 with respect to any listed property (as defined in § 280F(d)(4) to include passenger automobiles and any other property used as a means of transportation) unless the taxpayer complies with certain substantiation requirements. The section further provides that regulations may prescribe that some or all of the substantiation requirements do not apply to an expense that does not exceed an amount prescribed by such regulations.

.03 Section 1.274(d)–1T, in part, grants the Commissioner the authority to prescribe rules relating to mileage allowances for ordinary and necessary expenses of local travel and transportation away from home. Pursuant to this grant of authority, the Commissioner may prescribe rules under which such allowances, if in accordance with reasonable business practice, will be regarded as (1) equivalent to substantiation, by adequate records or other sufficient evidence, of the amount of such travel and transportation

expenses for purposes of § 1.274–5T(c), and (2) satisfying the requirements of an adequate accounting to the employer of the amount of such expenses for purposes of § 1.274–5T(f).

.04 Section 62(a)(2)(A) allows an employee, in determining adjusted gross income, a deduction for the expenses allowed by Part VI (§ 161 and following), subchapter B, chapter 1 of the Code, paid or incurred by the employee in connection with the performance of services as an employee under a reimbursement or other expense allowance arrangement with a payor.

.05 Section 62(c) provides that an arrangement will not be treated as a reimbursement or other expense allowance arrangement for purposes of § 62(a)(2)-(A) if it—

(1) does not require the employee to substantiate the expenses covered by the arrangement to the payor, or

(2) provides the employee with the right to retain any amount in excess of the substantiated expenses covered under the arrangement. Section 62(c) further provides that the substantiation requirements described therein shall not apply to any expense to the extent that, under the grant of regulatory authority prescribed in § 274(d), the Commissioner has provided that substantiation is not required for such expense.

.06 Under § 1.62–2(c)(1), a reimbursement or other expense allowance arrangement satisfies the requirements of § 62(c) if it meets the requirements of business connection, substantiation, and returning amounts in excess of expenses as specified in the regulations. Section 1.62–2T(e)(2) specifically provides that substantiation of certain business expenses in accordance with rules prescribed under the authority of § 1.274(d)–1T will be treated as substantiation of the amount of such expenses for purposes of § 1.62–2. Under § 1.62–2(f)(2), the Commissioner may prescribe rules under which an arrangement providing mileage allowances will be treated as satisfying the requirement of returning amounts in excess of expenses, even though the arrangement does not require the employee to return the portion of such an allowance that relates to miles of travel substantiated and that exceeds the amount of the employee's expenses deemed substantiated pursuant to rules prescribed under § 274(d), provided the allowance is reasonably calculated not to exceed the amount of the employee's expenses or anticipated expenses and the employee is required to return any portion of such an allowance that relates to miles of travel not substantiated.

.07 Section 1.62–2(h)(2)(i)(B) provides that if a payor pays a mileage allowance under an arrangement that meets the requirements of § 1.62–2(c)(1), the portion, if any, of the allowance that relates to miles of travel substantiated in accordance with § 1.62–2(e), that exceeds the amount of the employee's expenses deemed substantiated for such travel pursuant to rules prescribed under § 274(d) and § 1.274(d)–1, and that the employee is not required to return, is subject to withholding and payment of employment taxes. See §§ 31.3121(a)–3, 31.3231(e)–1(a)(5), 31.3306(b)–2, and 31.3401(a)–4 of the Employment Tax Regulations. Because the employee is not required to return this excess portion, the reasonable period of time provisions of § 1.62–2(g) (relating to the return of excess amounts) do not apply to this excess portion.

.08 Under § 1.62–2(h)(2)(i)(B)(4), the Commissioner may, in his or her discretion, prescribe special rules regarding the timing of withholding and payment of employment taxes on mileage allowances.

SECTION 4. DEFINITIONS

.01 *Standard mileage rate.* The term "standard mileage rate" means the applicable amount provided by the Service for optional use by employees or self-employed individuals in computing the deductible costs of operating automobiles (including vans, pickups, or panel trucks) owned or leased for business purposes, or by taxpayers in computing the deductible costs of operating automobiles for charitable, medical, or moving expense purposes.

.02 *Transportation expenses.* The term "transportation expenses" means the expenses of operating an automobile for local travel or transportation away from home.

.03 *Mileage allowance.* The term "mileage allowance" means a payment under a reimbursement or other expense allowance arrangement that meets the requirements specified in § 1.62–2(c)(1) and that is

(1) paid with respect to the ordinary and necessary business expenses incurred, or which the payor reasonably anticipates will be incurred, by an employee for transportation expenses in connection with the performance of services as an employee of the employer,

(2) reasonably calculated not to exceed the amount of the expenses or the anticipated expenses, and

(3) paid at the applicable standard mileage rate, a flat rate or stated schedule, or in accordance with any other Service-specified rate or schedule.

.04 *Flat rate or stated schedule.* A mileage allowance is paid at a flat rate or stated schedule if it is provided on a uniform and objective basis with respect to the expenses described in section 4.03 of this revenue procedure. Such allowance may be paid periodically at a fixed rate, at a cents-per-mile rate, at a variable rate based on a stated schedule, at a rate that combines any of these rates, or on any other basis that is consistently applied and in accordance with reasonable business practice. Thus, for example, a periodic payment at a fixed rate to cover the fixed costs (including depreciation (or lease payments), insurance, registration and license fees, and personal property taxes) of driving an automobile in connection with the performance of services as an employee of the employer, coupled with a periodic payment at a cents-per-mile rate to cover the operating costs (including gasoline and all taxes thereon, oil, tires, and routine maintenance and repairs) of using an automobile for such purposes, is an allowance paid at a flat rate or stated schedule. Likewise, a periodic payment at a variable rate based on a stated schedule for different locales to cover the costs of driving an automobile in connection with the performance of services as an employee is an allowance paid at a flat rate or stated schedule.

SECTION 5. BUSINESS STANDARD MILEAGE RATE

.01 *In general.* The standard mileage rate for transportation expenses is 32.5 cents per mile for all miles of use for business purposes. This business standard mileage rate will be adjusted annually (to the extent warranted) by the Service, and any such adjustment will be applied prospectively.

.02 *Use of the business standard mileage rate.* A taxpayer may use the business standard mileage rate with respect to an automobile that is either owned or leased by the taxpayer. A taxpayer generally may deduct an amount equal to either the business standard mileage rate times the number of business miles traveled or the actual costs (both operating and fixed) paid or incurred by the taxpayer that are allocable to traveling those business miles.

.03 *Business standard mileage rate in lieu of operating and fixed costs.* A deduction using the standard mileage rate for business miles is computed on a yearly basis and is in lieu of all operating and fixed costs of the automobile allocable to business purposes (except as provided in section 9.06 of this revenue procedure). Such items as depreciation (or lease payments), maintenance and repairs, tires, gasoline (including all taxes thereon), oil, insurance, and license and registration fees are included in operating and fixed costs for this purpose.

.04 *Parking fees, tolls, interest, and taxes.* Parking fees and tolls attributable to use of the automobile for business purposes may be deducted as separate items. Likewise, interest relating to the purchase of the automobile as well as state and local taxes (other than those included in the cost of gasoline) may be deducted as separate items, but only to the extent that the interest or taxes are allowable deductions under § 163 or 164 respectively. If the automobile is operated less than 100 percent for business purposes, an allocation is required to determine the business and nonbusiness portion of the taxes and interest deduction allowable. However, § 163(h)-(2)(A) expressly provides that interest is nondeductible personal interest when it is paid or accrued on indebtedness properly allocable to the trade or business of performing services as an employee. Section 164 also expressly provides that state and local taxes that are paid or accrued by a taxpayer in connection with an acquisition or disposition of property will be treated as part of the cost of the acquired property or as a reduction in the amount realized on the disposition of such property.

.05 *Depreciation.* For owned automobiles placed in service for business purposes, and for which the business standard mileage rate has been used for any year, depreciation will be considered to have been allowed at the rate of 12 cents per mile for 1996, 1997, 1998, and 1999; and 14 cents per mile for 2000, for those years in which the business standard mileage rate was used. If actual costs were used for one or more of those years, the rates above will not apply to any year in which such costs were used. The depreciation described above will reduce the basis of the automobile (but not below zero) in determining adjusted basis as required by § 1016.

.06 *Limitations.*

(1) The business standard mileage rate may not be used to compute the deductible expenses of (a) automobiles used for hire, such as taxicabs, or (b) two or more automobiles used simultaneously (such as in fleet operations).

(2) The business standard mileage rate may not be used to compute the deductible business expenses of an automobile leased by a taxpayer unless the taxpayer uses either the business standard mileage rate or a FAVR allowance (as provided in section 8 of this revenue procedure) to compute the deductible business expenses of the automobile for the entire lease period (including renewals). For a lease commencing on or before December 31, 1997, the "entire lease period" means the portion of the lease period (including renewals) remaining after that date.

(3) The business standard mileage rate may not be used to compute the deductible expenses of an automobile for which the taxpayer has (a) claimed depreciation using a method other than straight-line for its estimated useful life, (b) claimed a § 179 deduction, or (c) used the Accelerated Cost Recovery System (ACRS) under former § 168 or the Modified Accelerated Cost Recovery System (MACRS) under current § 168. By using the business standard mileage rate, the taxpayer has elected to exclude the automobile (if owned) from MACRS pursuant to § 168(f)(1). If, after using the business standard mileage rate, the taxpayer uses actual costs, the taxpayer must use straight-line depreciation for the automobile's remaining estimated useful life (subject to the applicable depreciation deduction limitations under § 280F).

(4) The business standard mileage rate and this revenue procedure may not be used to compute the amount of the deductible automobile expenses of an employee of the United States Postal Service incurred in performing services involving the collection and delivery of mail on a rural route if the employee receives qualified reimbursements (as defined in § 162(o)) for such expenses. See § 162(o) for the rules that apply to these qualified reimbursements.

SECTION 6. RESERVED

SECTION 7. CHARITABLE, MEDICAL, AND MOVING STANDARD MILEAGE RATE

.01 *Charitable.* Section 170(i) provides a standard mileage rate of 14 cents per mile for purposes of computing the charitable deduction for use of an automobile in connection with rendering gratuitous services to a charitable organization under § 170.

.02 *Medical and moving.* The standard mileage rate is 10 cents per mile for use of an automobile (a) to obtain medical care described in § 213, or (b) as part of a move for which the expenses are deductible under § 217. The standard mileage rates for medical and moving transportation expenses will be adjusted annually (to the extent warranted) by the Service, and any such adjustment will be applied prospectively.

.03 *Charitable, medical, or moving expense standard mileage rate in lieu of operating expenses.* A deduction computed using the applicable standard mileage rate for charitable, medical, or moving expense miles is in lieu of all operating expenses (including gasoline and oil) of the automobile allocable to such purposes. Costs for such items as depreciation (or lease payments), maintenance and repairs, tires, insurance, and license and registration fees are not deductible, and are not included in such standard mileage rates.

.04 *Parking fees, tolls, interest, and taxes.* Parking fees and tolls attributable to the use of the automobile for charitable, medical, or moving expense purposes may be deducted as separate items. Likewise, interest relating to the purchase of the automobile as well as state and local taxes (other than those included in the cost of gasoline) may be deducted as separate items, but only to the extent that the interest and taxes are allowable deductions under § 163 or 164, respectively.

SECTION 8. FIXED AND VARIABLE RATE ALLOWANCE

.01 *In general.*

(1) The ordinary and necessary expenses paid or incurred by an employee in driving an automobile owned or leased by the employee in connection with the performance of services as an employee of the employer will be deemed substantiated (in an amount determined under section 9 of this revenue procedure) when a payor reimburses such expenses with a mileage allowance using a flat rate or stated schedule that combines periodic fixed and variable rate payments that meet all the requirements of section 8 of this revenue procedure (a FAVR allowance).

(2) The amount of a FAVR allowance must be based on data that (a) is derived from the base locality, (b) reflects retail prices paid by consumers, and (c) is reasonable and statistically defensible in approximating the actual expenses employees receiving the allowance would incur as owners of the standard automobile.

.02 *Definitions.*

(1) *FAVR allowance.* A FAVR allowance includes periodic fixed payments and periodic variable payments. A payor may maintain more than one FAVR allowance. A FAVR allowance that uses the same payor, standard automobile (or an automobile of the same make and model that is comparably equipped), retention period, and business use percentage is considered one FAVR allowance, even though other features of the allowance may vary. A FAVR allowance also includes any optional high mileage payments; however, such optional high mileage payments are included in the employee's gross income, are reported as wages or other compensation on the employee's Form W-2, and are subject to withholding and payment of employment taxes when paid. See section 9.05 of this revenue procedure. An optional high mileage payment covers the additional depreciation for a standard automobile attributable to business miles driven and substantiated by the employee for a calendar year in excess of the annual business mileage for that year. If an employee is covered by the FAVR allowance for less than the entire calendar year, the annual business mileage may be prorated on a monthly basis for purposes of the preceding sentence.

(2) *Periodic fixed payment.* A periodic fixed payment covers the projected fixed costs (including depreciation (or lease payments), insurance, registration and license fees, and personal property taxes) of driving the standard automobile in connection with the performance of services as an employee of the employer in a base locality, and must be paid at least quarterly. A periodic fixed payment may be computed by (a) dividing the total projected fixed costs of the standard automobile for all years of the retention period, determined at the beginning of the retention period, by the number of periodic fixed payments in the retention period, and (b) multiplying the resulting amount by the business use percentage.

(3) *Periodic variable payment.* A periodic variable payment covers the projected operating costs (including gasoline and all taxes thereon, oil, tires, and routine maintenance and repairs) of driving a standard automobile in connection with the performance of services as an employee of the employer in a base locality, and must be paid at least quarterly. The rate of a periodic variable payment for a computation period may be computed by dividing the total projected operating costs for the standard automobile for the computation period, determined at the beginning of the computation period, by the computation period mileage. A computation period can be any period of a year or less. Computation period mileage is the total mileage (business and personal) a payor reasonably projects a standard automobile will be driven during a computation period and equals the retention mileage divided by the number of computation periods in the retention period. For each business mile substantiated by the employee for the computation period, the periodic variable payment must be paid at a rate that does not exceed the rate for that computation period.

(4) *Base locality.* A base locality is the particular geographic locality or region of the United States in which the costs of driving an automobile in connection with the performance of services as an employee of the employer are generally paid or incurred by the employee. Thus, for purposes of determining the amount of fixed costs, the base locality is generally the geographic locality or region in which the employee resides. For purposes of determining the amount of operating costs, the base locality is generally the geographic locality or region in which the employee drives the automobile in connection with the performance of services as an employee of the employer.

(5) *Standard automobile.* A standard automobile is the automobile selected by the payor on which a specific FAVR allowance is based.

(6) *Standard automobile cost.* The standard automobile cost for a calendar year may not exceed 95 percent of the sum of (a) the retail dealer invoice cost of the standard automobile in the base locality, and (b) state and local sales or use taxes applicable on the purchase of such an automobile. Further, the standard automobile cost may not exceed $27,300.

(7) *Annual mileage.* Annual mileage is the total mileage (business and personal) a payor reasonably projects a standard automobile will be driven during a calendar year. Annual mileage equals the annual business mileage divided by the business use percentage.

(8) *Annual business mileage.* Annual business mileage is the mileage a payor reasonably projects a standard automobile will be driven by an employee in connection with the performance of services as an employee of the employer during the calendar year, but may not be less than 6,250 miles for a calendar year. Annual business mileage equals the annual mileage multiplied by the business use percentage.

(9) *Business use percentage.* A business use percentage is determined by dividing the annual business mileage by the annual mileage. The business use percentage may not exceed 75 percent. In lieu of demonstrating the reasonableness of the business use percentage based on records of total mileage and business mileage driven by the employees annually, a payor may use a business use percentage that is less than or equal to the following percentages for a FAVR allowance that is paid for the following annual business mileage:

Annual business mileage	*Business use percentage*
6,250 or more but less than 10,000	45 percent
10,000 or more but less than 15,000	55 percent
15,000 or more but less than 20,000	65 percent
20,000 or more	75 percent

(10) *Retention period.* A retention period is the period in calendar years selected by the payor during which the payor expects an employee to drive a standard automobile in connection with the performance of services as an employee of the employer before the automobile is replaced. Such period may not be less than two calendar years.

(11) *Retention mileage.* Retention mileage is the annual mileage multiplied by the number of calendar years in the retention period.

(12) *Residual value.* The residual value of a standard automobile is the projected amount for which it could be sold at the end of the retention period after being driven the retention mileage. The Service will accept the following safe harbor residual values for a standard automobile computed as a percentage of the standard automobile cost:

Retention period	*Residual value*
2-year	70 percent
3-year	60 percent
4-year	50 percent

.03 *FAVR allowance in lieu of operating and fixed costs.*

(1) A reimbursement computed using a FAVR allowance is in lieu of the employee's deduction of all the operating and fixed costs paid or incurred by an employee in driving the automobile in connection with the performance of services as an employee of the employer, except as provided in section 9.06 of this revenue procedure. Such items as depreciation (or lease payments), maintenance and repairs, tires, gasoline (including all taxes thereon), oil, insurance, license and registration fees, and personal property taxes are included in operating and fixed costs for this purpose.

(2) Parking fees and tolls attributable to an employee driving the standard automobile in connection with the performance of services as an employee of the employer are not included in fixed and operating costs and may be deducted as separate items. Similarly, interest relating to the purchase of the standard automobile may be deducted as a separate item, but only to the extent that the interest is an allowable deduction under § 163.

.04 *Depreciation.*

(1) A FAVR allowance may not be paid with respect to an automobile for which the employee has (a) claimed depreciation using a method other than straight-line for its estimated useful life, (b) claimed a § 179 deduction, or (c) used the Accelerated Cost Recovery System (ACRS) under former § 168 or the Modified Accelerated Cost Recovery System (MACRS) under current § 168. If an employee uses actual costs for an owned automobile that has been covered by a FAVR allowance, the employee must use straight-line depreciation for the automobile's remaining estimated useful life (subject to the applicable depreciation deduction limitations under § 280F).

(2) Except as provided in section 8.04(3) of this revenue procedure, the total amount of the depreciation component for the retention period taken into account in computing the periodic fixed payments for that retention period may not exceed the excess of the standard automobile cost over the residual value of the standard automobile. In addition, the total amount of such depreciation component may not exceed the sum of the annual § 280F limitations on depreciation (in effect at the beginning of the retention period) that apply to the standard automobile during the retention period.

(3) If the depreciation component of periodic fixed payments exceeds the limitations in section 8.04(2) of this revenue procedure, that section will be treated as satisfied in any year during which the total annual amount of the periodic fixed payments and the periodic variable payments made to an employee driving 80 percent of the annual business mileage of the standard automobile does not exceed the amount obtained by multiplying 80 percent of the annual business mileage of the standard automobile by the applicable business standard mileage rate for that year (see, e.g., section 5.01 of this revenue procedure).

(4) The depreciation included in each periodic fixed payment portion of a FAVR allowance paid with respect to an automobile will reduce the basis of the automobile (but not below zero) in determining adjusted basis as required by § 1016. See section 8.07(2) of this revenue procedure for the requirement that the employer report the depreciation component of a periodic fixed payment to the employee.

.05 *FAVR allowance limitations.*

(1) A FAVR allowance may be paid only to an employee who substantiates to the payor for a calendar year at least 5,000 miles driven in connection with the performance of services as an employee of the employer or, if greater, 80 percent of the annual business mileage of that FAVR allowance. If the employee is covered by the FAVR allowance for less than the entire calendar year, these limits may be prorated on a monthly basis.

(2) A FAVR allowance may not be paid to a control employee (as defined in § 1.61–21(f)(5) and (6), excluding the $100,000 limitation in paragraph (f)(5)(iii)).

(3) At no time during a calendar year may a majority of the employees covered by a FAVR allowance be management employees.

(4) At all times during a calendar year at least five employees of an employer must be covered by one or more FAVR allowances.

(5) A FAVR allowance may be paid only with respect to an automobile (a) owned or leased by the employee receiving the payment, (b) the cost of which, when new, is at least 90 percent of the standard automobile cost taken into account for purposes of determining the FAVR allowance for the first calendar year the employee receives the allowance with respect to that automobile, and (c) the model year of which does not differ from the current calendar year by more than the number of years in the retention period.

(6) A FAVR allowance may not be paid with respect to an automobile leased by an employee for which the employee has used actual expenses to compute the deductible business expenses of the automobile for any year during the entire lease period. For a lease commencing on or before December 31, 1997, the "entire lease period" means the portion of the lease period (including renewals) remaining after that date.

(7) The insurance cost component of a FAVR allowance must be based on the rates charged in the base locality for insurance coverage on the standard automobile during the current calendar year without taking into account such rate-increasing factors as poor driving records or young drivers.

(8) A FAVR allowance may be paid only to an employee whose insurance coverage limits on the automobile with respect to which the FAVR allowance is paid are at least equal to the insurance coverage limits used to compute the periodic fixed payment under that FAVR allowance.

.06 *Employee reporting.* Within 30 days after an employee's automobile is initially covered by a FAVR allowance, or is again covered by a FAVR allowance if such coverage has lapsed, the employee by written declaration must provide the payor with the following information: (a) the make, model, and year of the employee's automobile, (b) written proof of the insurance coverage limits on the automobile, (c) the odometer reading of the automobile, (d) if owned, the purchase price of the automobile or, if leased, the price at which the automobile is ordinarily sold by retailers (the gross capitalized cost of the automobile), and (e) if owned, whether the employee has claimed depreciation with respect to the automobile using any of the depreciation methods prohibited by section 8.04(1) of this revenue procedure or, if leased, whether the employee has computed deductible business expenses with respect to the automobile using actual expenses. The information described in (a), (b), and (c) of the preceding sentence also must be supplied by the employee to the payor within 30 days after the beginning of each calendar year that the employee's automobile is covered by a FAVR allowance.

.07 *Payor recordkeeping and reporting.*

(1) The payor or its agent must maintain written records setting forth (a) the statistical data and projections on which the FAVR allowance payments are based, and (b) the information provided by the employees pursuant to section 8.06 of this revenue procedure.

(2) Within 30 days of the end of each calendar year, the employer must provide each employee covered by a FAVR allowance during that year with a statement that, for automobile owners, lists the amount of depreciation included in each periodic fixed payment portion of the FAVR allowance paid during that calendar year and explains that by receiving a FAVR allowance the employee has elected to exclude the automobile from MACRS pursuant to § 168(f)(1). For automobile lessees, the statement must explain that by receiving the FAVR allowance the employee may not compute the deductible business expenses of the automobile using actual expenses for the entire lease period (including renewals). For a lease commencing on or before December 31, 1997, the "entire lease period" means the portion of the lease period (including renewals) remaining after that date.

.08 *Failure to meet section 8 requirements.* If an employee receives a mileage allowance that fails to meet one or more of the requirements of section 8 of this revenue procedure, the employee may not be treated as covered by any FAVR allowance of the payor during the period of such failure. Nevertheless, the expenses to which that mileage allowance relates may be deemed substantiated using the method described in sections 5, 9.01(1), and 9.02 of this revenue procedure to the extent the requirements of those sections are met.

SECTION 9. APPLICATION

.01 If a payor pays a mileage allowance in lieu of reimbursing actual transportation expenses incurred or to be incurred by an employee, the amount of the expenses that is deemed substantiated to the payor is either:

(1) for any mileage allowance other than a FAVR allowance, the lesser of the amount paid under the mileage allowance or the applicable standard mileage rate in section 5.01 of this revenue procedure multiplied by the number of business miles substantiated by the employee; or

(2) for a FAVR allowance, the amount paid under the FAVR allowance less the sum of (a) any periodic variable rate payment that relates to miles in excess of the business miles substantiated by the employee and that the employee fails to return to the payor although required to do so, (b) any portion of a periodic fixed payment that relates to a period during which the employee is treated as not covered by the FAVR allowance and that the employee fails to return to the payor although required to do so, and (c) any optional high mileage payments.

.02 If the amount of transportation expenses is deemed substantiated under the rules provided in section 9.01 of this revenue procedure, and the employee actually substantiates to the payor the elements of time, place (or use), and business purpose of the transportation expenses in accordance with paragraphs (b)(2) (travel away from home), (b)(6) (listed property, which includes passenger automobiles and any other property used as a means of transportation), and (c) of § 1.274–5T, the employee is deemed to satisfy the adequate accounting requirements of § 1.274–5T(f), as well as the requirement to substantiate by adequate records or other sufficient evidence for purposes of § 1.274–5T(c). See § 1.62–2(e)(1) for the rule that an arrangement must require business expenses to be substantiated to the payor within a reasonable period of time.

.03 An arrangement providing mileage allowances will be treated as satisfying the requirement of § 1.62–2(f)(2) with respect to returning amounts in excess of expenses as follows:

(1) For a mileage allowance other than a FAVR allowance, the requirement to return excess amounts will be treated as satisfied if the employee is required to return within a reasonable period of time (as defined in § 1.62–2(g)) any portion of such an allowance that relates to miles of travel not substantiated by the employee, even though the arrangement does not require the employee to return the portion of such an allowance that relates to the miles of travel substantiated and that exceeds the amount of the employee's expenses deemed substantiated. For example, assume a payor provides an employee an ad-

vance mileage allowance of $70 based on an anticipated 200 business miles at 35 cents per mile (at a time when the applicable business standard mileage rate is 32.5 cents per mile), and the employee substantiates 120 business miles. The requirement to return excess amounts will be treated as satisfied if the employee is required to return the portion of the allowance that relates to the 80 unsubstantiated business miles ($28) even though the employee is not required to return the portion of the allowance ($3) that exceeds the amount of the employee's expenses deemed substantiated under section 9.01 of this revenue procedure ($39) for the 120 substantiated business miles. However, the $3 excess portion of the allowance is treated as paid under a nonaccountable plan as discussed in section 9.05.

(2) For a FAVR allowance, the requirement to return excess amounts will be treated as satisfied if the employee is required to return within a reasonable period of time (as defined in § 1.62–2(g)), (a) the portion (if any) of the periodic variable payment received that relates to miles in excess of the business miles substantiated by the employee, and (b) the portion (if any) of a periodic fixed payment that relates to a period during which the employee was not covered by the FAVR allowance.

.04 An employee is not required to include in gross income the portion of a mileage allowance received from a payor that is less than or equal to the amount deemed substantiated under section 9.01 of this revenue procedure, provided the employee substantiates in accordance with section 9.02. See § 1.274–5T(f)-(2)(i). In addition, such portion of the allowance is treated as paid under an accountable plan, is not reported as wages or other compensation on the employee's Form W-2, and is exempt from the withholding and payment of employment taxes. See §§ 1.62–2(c)(2) and (c)(4).

.05 An employee is required to include in gross income only the portion of a mileage allowance received from a payor that exceeds the amount deemed substantiated under section 9.01 of this revenue procedure, provided the employee substantiates in accordance with section 9.02 of this revenue procedure. See § 1.274-5T(f)(2)(ii). In addition, the excess portion of the allowance is treated as paid under a nonaccountable plan, is reported as wages or other compensation on the employee's Form W-2, and is subject to withholding and payment of employment taxes. See §§ 1.62–2(c)(3)(ii), (c)(5), and (h)(2)(i)(B).

.06

(1) Except as otherwise provided in section 9.06(2) of this revenue procedure with respect to leased automobiles, if the amount of the expenses deemed substantiated under the rules provided in section 9.01 of this revenue procedure is less than the amount of the employee's business transportation expenses, the employee may claim an itemized deduction for the amount by which the business transportation expenses exceed the amount that is deemed substantiated, provided the employee substantiates all the business transportation expenses, includes on Form 2106, Employee Business Expenses, the deemed substantiated portion of the mileage allowance received from the payor, and includes in gross income the portion (if any) of the mileage allowance received from the payor that exceeds the amount deemed substantiated. See § 1.274–5T(f)(2)(iii). However, for purposes of claiming this itemized deduction, substantiation of the amount of the expenses is not required if the employee is claiming a deduction that is equal to or less than the applicable standard mileage rate multiplied by the number of business miles substantiated by the employee minus the amount deemed substantiated under section 9.01 of this revenue procedure. The itemized deduction is subject to the 2-percent floor on miscellaneous itemized deductions provided in § 67.

(2) An employee whose business transportation expenses with respect to a leased automobile are deemed substantiated under section 9.01(1) of this revenue procedure (relating to an allowance other than a FAVR allowance) may not claim a deduction based on actual expenses unless the employee does so consistently beginning with the first business use of the automobile after December 31, 1997. However, an employee whose business transportation expenses with respect to a leased automobile are deemed substantiated under section 9.01(2) of this revenue procedure (relating to a FAVR allowance) may not claim a deduction based on actual expenses.

.07 An employee may deduct an amount computed pursuant to section 5.01 of this revenue procedure only as an itemized deduction. This itemized deduction is subject to the 2-percent floor on miscellaneous itemized deductions provided in § 67.

.08 A self-employed individual may deduct an amount computed pursuant to section 5.01 of this revenue procedure in determining adjusted gross income under § 62(a)(1).

.09 If a payor's reimbursement or other expense allowance arrangement evidences a pattern of abuse of the rules of § 62(c) and the regulations thereunder, all payments under the arrangement will be treated as made under a nonaccountable plan. Thus, such payments are included in the employee's gross income, are reported as wages or other compensation on the employee's Form W-2, and are subject to withholding and payment of employment taxes. See §§ 1.62–2(c)(3), (c)(5), and (h)(2).

SECTION 10. WITHHOLDING AND PAYMENT OF EMPLOYMENT TAXES.

.01 The portion of a mileage allowance (other than a FAVR allowance), if any, that relates to the miles of business travel substantiated and that exceeds the amount deemed substantiated for those miles under section 9.01(1) of this revenue procedure is subject to withholding and payment of employment taxes. See § 1.62–2(h)(2)(i)(B).

(1) In the case of a mileage allowance paid as a reimbursement, the excess described in section 10.01 of this revenue procedure is subject to withholding and payment of employment taxes in the payroll period in which the payor reimburses the expenses for the business miles substantiated. See § 1.62–2(h)(2)-(i)(B)(*2*).

(2) In the case of a mileage allowance paid as an advance, the excess described in section 10.01 of this revenue procedure is subject to withholding and payment of employment taxes no later than the first payroll period following the payroll period in which the business miles with respect to which the advance was paid are substantiated. See § 1.62–2(h)-(2)(i)(B)(*3*). If some or all of the business

miles with respect to which the advance was paid are not substantiated within a reasonable period of time and the employee does not return the portion of the allowance that relates to those miles within a reasonable period of time, the portion of the allowance that relates to those miles is subject to withholding and payment of employment taxes no later than the first payroll period following the end of the reasonable period. See § 1.62–2(h)(2)(i)(A).

(3) In the case of a mileage allowance that is not computed on the basis of a fixed amount per mile of travel (e.g., a mileage allowance that combines periodic fixed and variable rate payments, but that does not satisfy the requirements of section 8 of this revenue procedure), the payor must compute periodically (no less frequently than quarterly) the amount, if any, that exceeds the amount deemed substantiated under section 9.01(1) of this revenue procedure by comparing the total mileage allowance paid for the period to the applicable standard mileage rate in section 5.01 of this revenue procedure multiplied by the number of business miles substantiated by the employee for the period. Any excess is subject to withholding and payment of employment taxes no later than the first payroll period following the payroll period in which the excess is computed. See § 1.62–2(h)-(2)(i)(B)(*4*).

(4) For example, assume an employer pays its employees a mileage allowance at a rate of 35 cents per mile (when the business standard mileage rate is 32.5 cents per mile). The employer does not require the return of the portion of the allowance (2.5 cents) that exceeds the business standard mileage rate for the business miles substantiated. In June, the employer advances an employee $175 for 500 miles to be traveled during the month. In July, the employee substantiates to the employer 400 business miles traveled in June and returns $35 to the employer for the 100 business miles not traveled. The amount deemed substantiated for the 400 miles traveled is $130 and the employee is not required to return the remaining $10. No later than the first payroll period following the payroll period in which the 400 business miles traveled are substantiated, the employer must withhold and pay employment taxes on $10.

.02 The portion of a FAVR allowance, if any, that exceeds the amount deemed substantiated for those miles under section 9.01(2) of this revenue procedure is subject to withholding and payment of employment taxes. See § 1.62–2(h)-(2)(i)(B).

(1) Any periodic variable rate payment that relates to miles in excess of the business miles substantiated by the employee and that the employee fails to return within a reasonable period, or any portion of a periodic fixed payment that relates to a period during which the employee is treated as not covered by the FAVR allowance and that the employee fails to return within a reasonable period, is subject to withholding and payment of employment taxes no later than the first payroll period following the end of the reasonable period. See § 1.62–2(h)-(2)(i)(A).

(2) Any optional high mileage payment is subject to withholding and payment of employment taxes when paid.

SECTION 11. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 98–63, 1998–52 I.R.B. 25, as modified by Announcement 99–7, 1999–2 I.R.B. 45, is hereby superseded for mileage allowances that are paid both (1) to an employee on or after January 1, 2000, and (2) with respect to transportation expenses paid or incurred by the employee on or after January 1, 2000. Rev. Proc. 98–63, as modified by Announcement 99–7, is also hereby superseded for purposes of computing the amount allowable as a deduction for transportation expenses paid or incurred on or after January 1, 2000.

DRAFTING INFORMATION

The principal author of this revenue procedure is Edwin B. Cleverdon of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Mr. Cleverdon at (202) 622-4920 (not a toll-free call).

---

26 CFR 601.602: Tax forms and instructions.
(Also Part I, sections 3504, 6011, 6061, 6071; 31.3504–1, 31.6011(a)–7, 31.6061–1, 301.6061–1, 31.6071(a)–1.)

Rev. Proc. 99–39

Table of Contents

SECTION 1. PURPOSE

This revenue procedure provides the requirements of the Form 941 *e-file* Program, which combines the Form 941 Electronic Filing (ELF) Program with an on-line filing program that allows a taxpayer to electronically file a Form 941, Employer's Quarterly Federal Tax Return, using a personal computer, modem, and commercial tax preparation software. The technical specifications for filing Form 941 electronically are published separately in Publication 1855, Technical Specifications Guide for the Electronic Filing System of Form 941, Employer's Quarterly Federal Tax Return. This revenue procedure amplifies, clarifies, modifies, and supersedes Rev. Proc. 97–47, 1997–2 C.B. 510.

SECTION 2. BACKGROUND AND CHANGES

.01 Section 6011(a) of the Internal Revenue Code provides that any person liable for any tax imposed by this title, or for the collection thereof, must make a return or statement according to the forms and regulations prescribed by the Secretary. Every person required to make a return or statement must include therein the information required by such forms or regulations.

.02 Section 31.6011(a)–4 of the Employment Tax Regulations provides in general that every person required to make a return of income tax withheld from wages pursuant to § 3402 must make a return for the first calendar quarter in which the person is required to deduct and withhold such tax and for each subsequent calendar quarter until the person has filed a final return. Except as otherwise provided, Form 941 is the form prescribed for making the return.

.03 Section 31.6011(a)–7 provides that each return, together with any prescribed copies or supporting data, must be filled in and disposed of in accordance with the forms, instructions, and regulations applicable thereto. The return may be made by an agent in the name of the person required to make the return if an acceptable power of attorney is filed with the Internal Revenue Service office with which such person is required to file returns and if such a return includes all taxes required to be reported by such person on such return. Form 8655, Reporting Agent Authorization for Magnetic Tape/Electronic Filers, is an acceptable power of attorney, if prepared in accordance with the requirements set forth in Rev. Proc. 96–17, 1996–1 C.B. 633, as modified by section 21.02 of this revenue procedure.

.04 Section 31.6061–1 provides that the return may be signed for the taxpayer by an agent that is fully authorized in accordance with § 31.6011(a)–7 to make such return. An Agent may sign the Form 941 on behalf of a taxpayer that has a valid Form 8655 on file with the Service.

.05 Section 301.6061–1 of the Regulations on Procedure and Administration provides that the Secretary may prescribe in forms, instructions, or other appropriate guidance the method for signing any return, statement, or other document required to be made under any provision of the internal revenue laws or regulations. The Service has prescribed in the electronic filing instructions to Form 941 that an electronically filed Form 941 is signed by the entry of the Authorized Signatory's Personal Identification Number ("PIN").

.06 Section 31.6071(a)–1 generally provides that each return required to be made under § 31.6011(a)–1 for taxes imposed by the Federal Insurance Contributions Act, or required to be made under § 31.6011(a)–4 for withheld income taxes, must be filed on or before the last day of the first calendar month following the period for which it is made. However, under § 31.6071(a)–1, a return may be filed on or before the 10th day of the second calendar month following such period if timely deposits under § 6302(c) and the regulations thereunder have been made in full payment of such taxes due for the period.

.07 Procedures for the magnetic filing of Form 941 are in Rev. Proc. 96–18, 1996–1 C.B. 637, and the specifications are in Publication 1264. For further information, see Publication 1264, File Specifications, Process Criteria, and Record Layouts for Magnetic Tape Filing of Form 941, Employer's Quarterly Federal Tax Return.

.08 This revenue procedure updates Rev. Proc. 97–47. The updates include changes in the Form 941 *e-file* Program and additional guidance derived from other Service documents that relate to the Form 941 *e-file* Program. Some of the updates are:

(1) returns for any quarter in the previous year can be filed electronically (section 3);

(2) On-Line Filers, who prepare and file Forms 941 on-line using their personal computer, modem, and commercial tax preparation software, have been added to the Form 941 *e-file* Program (section 4.05);

(3) the signature provisions for an electronically filed Form 941 have been modified to allow On-Line Filers to use a PIN as an electronic signature alternative to sign electronic Forms 941 for the Form 941 *e-file* Program (sections 4.01 and 6.05);

(4) the definition of an Electronic Filer has been expanded to include a Transmitter (Section 4.02);

(5) the limitations on balance due returns in section 3.03 of Rev. Proc. 97–47 have been eliminated; and

(6) the restriction in sections 5.03 and 23.02 of Rev. Proc. 97–47 on Reporting Agents filing fewer than ten returns has been eliminated.

SECTION 3. SCOPE

The Form 941 *e-file* Program accepts electronically filed Forms 941 that are current returns, late returns for the current year, and returns for any quarter in the previous year. The Form 941 *e-file* Program will not accept the electronic filing of amended returns, corrected returns, or returns containing attachments other than Schedule B. A violation of these restrictions will cause a Processing Interruption (as defined in section 4.07 of this revenue procedure).

SECTION 4. DEFINITIONS

.01 *Authorized Signatory.* The Authorized Signatory is the person who is authorized to use the PIN to sign returns filed by or through an Electronic Filer under the Form 941 *e-file* Program or during software development testing.

.02 *Electronic Filer.* An Electronic Filer may be a:

(1) *Reporting Agent.* A Reporting Agent ("Agent") is an accounting service, franchiser, bank, or other person that complies with Rev. Proc. 96–17, as modified by section 21.02 of this revenue procedure, and is authorized to prepare and electronically file a Form 941 for a taxpayer;

(2) *Software Developer.* A Software Developer develops software for the purposes of (a) formatting returns according to the Service's electronic return specifications in Publication 1855; and/or (b) transmitting electronic returns directly to the Service. A Software Developer may also sell its software; or

(3) *Transmitter.* A Transmitter is a firm, organization, or individual that receives returns and Letters of Application electronically from its clients, reformats the data (if necessary), batches them with returns or electronic Letters of Application from other clients, and then transmits the data to the Service. A Transmitter does not have signature authority for the taxpayers that it services.

.03 *Electronic Filing Help Desk.* The Electronic Filing Help Desk ("*e-file* Help Desk") is responsible for the administration of the Form 941 *e-file* Program. See section 20 of this revenue procedure for the address, telephone number, and web site of the *e-file* Help Desk.

.04 *Letter of Application.* A Letter of Application ("LOA") is a paper or electronic request to participate in the Form 941 *e-file* Program that is submitted to the Service by a prospective Electronic Filer or On-Line Filer.

.05 *On-Line Filer.* An On-Line Filer is a taxpayer that electronically files a Form 941 through a Transmitter using a personal computer, modem, and commercial tax preparation software.

.06 *Personal Identification Number.* A Personal Identification Number ("PIN") is a number assigned by the Service to the Authorized Signatory for purposes of signing an electronically filed Form 941.

.07 *Processing Interruption.* A "Processing Interruption" is an abnormal termination of a program run caused by the electronic data submitted by an Electronic Filer.

.08 *Reporting Agent Authorization.* A Reporting Agent Authorization ("Authorization") allows a taxpayer to designate an Agent. The Authorization may be submitted on Form 8655, or any other instrument that complies with Rev. Proc. 96–17, as modified by section 21.02 of this revenue procedure. An Authorization must be submitted for each taxpayer on the Reporting Agent's List.

.09 *Reporting Agent's List.* For purposes of the Form 941 *e-file* Program, a Reporting Agent's List ("Agent's List") identifies all taxpayers for whom an Agent will file Forms 941 electronically. A separate Authorization must be submitted for each taxpayer on the Agent's List. The Agent's List must contain each taxpayer's employer identification number ("EIN").

.10 *User identification/password.* The user identification/password ("userid/password") consists of an identification number (userid) issued by the Service and a confidential set of characters (password) that, when used in conjunction with each other, permit an Electronic Filer access to the Form 941 *e-file* Program.

.11 *Validated Reporting Agent's List.* A Validated Reporting Agent's List ("Validated Agent's List") is the source of the EIN and name control to be used as an identification of each taxpayer by an Electronic Filer that is an Agent. A Validated Agent's List is a list of taxpayers and their EINs prepared by an Agent that is confirmed and assigned name controls by the Service. Once the Service returns a Validated Agent's List, the Agent must use it to fill in certain required fields (for example, the name control field) of the electronic transmission. See Publication 1855.

SECTION 5. APPLICATION FOR THE FORM 941 *e-file* PROGRAM

.01 A prospective Electronic Filer must first submit an LOA to the Service to participate in the Form 941 *e-file* Program. See Publication 1855 for a sample LOA and the application procedures.

.02 A prospective On-Line Filer must submit an electronic LOA through a Transmitter to participate in the Form 941 *e-file* Program. The Transmitter is required to batch and bundle the electronic LOA files, and then transmit those files to the Service. The Transmitter is required to send an acknowledgment to the On-Line Filer to verify that the electronic LOA was transmitted successfully to the Service. The LOA is provided in the commercial tax preparation software used by the On-Line Filer in order to participate in the Form 941 *e-file* Program.

.03 In addition to the LOA, an Agent must also include an Agent's List, providing the names of all taxpayers for which it will file returns. Each name on the Agent's List must be accompanied by an Authorization made on Form 8655, except as provided in section 5.04 of this revenue procedure. See Rev. Proc. 96–17, as modified by section 21.02 of this revenue procedure, for general instructions on preparing Form 8655. See Publication 1855 for instructions on adding names to, or deleting names from, the Agent's List.

.04 A revised Authorization is not required to replace an Authorization made on Form 8655 with a revision date before October 1995 (or its equivalent) that was previously submitted to the Service by an Agent, provided that the Authorization places no restriction on the medium for filing Form 941, and the Agent:

(1) advises its client that its Forms 941 may be filed electronically, and provides the client with the option of rejecting electronic filing as the medium for filing its Forms 941. An Agent may use the

most efficient and timely method of clearly providing this notification to a client. A client's rejection of electronic filing for its Forms 941 must be submitted in writing to the Agent; and

(2) immediately removes any client from its electronic filing client base that rejects having its Forms 941 filed electronically.

SECTION 6. ACCEPTANCE IN THE FORM 941 *e-file* PROGRAM

.01 A prospective Electronic Filer or On-Line Filer will receive an acceptance or rejection regarding their LOA for the Form 941 *e-file* Program within 45 days of the Service's receipt of their completed LOA.

.02 An Electronic Filer that is accepted in the Form 941 *e-file* Program will be required to submit a successful test transmission before being granted approval to file tax returns. Details regarding test requirements may be found in Publication 1855.

.03 After evaluating the test file, the Service will notify an Electronic Filer in writing of approval or denial of electronic filing privileges. An approval remains in effect unless the Electronic Filer:

(1) that is an Agent fails to comply with the Authorization requirements of sections 5.03 and 5.04 of this revenue procedure;

(2) that is a Software Developer fails to comply with the requirements of section 9.04 of this revenue procedure;

(3) that is a Transmitter fails to comply with the requirements of section 9.03 of this revenue procedure; or

(4) is suspended from the Form 941 *e-file* Program. See section 15 of this revenue procedure for the effect of a suspension.

.04 The acceptance by the Service of a Software Developer as an Electronic Filer:

(1) establishes only that the test electronic transmission(s) are formatted properly and may be processed by the Service;

(2) is not an endorsement by the Service of the software or the quality of services provided by the Software Developer; and

(3) does not entitle the Software Developer to electronically file Forms 941 unless the Software Developer is also accepted in the Form 941 e-file Program as an Agent or Transmitter.

.05 If an LOA is approved, the Service will send the following:

(1) for an Electronic Filer, a notification of approval that will contain the userid/password, and information and procedures regarding signing onto the system for filing electronic Forms 941; and

(2) for an Authorized Signatory, a PIN that may be used only by the Authorized Signatory named in the LOA.

.06 Upon receipt of the document(s) referenced in section 6.05 of this revenue procedure, the Electronic Filer must return the following documents to the Service:

(1) an acknowledgment signed by each employee recipient of the userid/password indicating possession of, and responsibility for, the userid/password; and

(2) where applicable, an acknowledgment signed by the Authorized Signatory indicating possession of, and responsibility for, the proper use of the PIN for signing tax returns (pursuant to § 301.6061–1) filed in the Form 941 *e-file* Program.

See Publication 1855 for a sample userid/password and PIN receipt.

.07 Upon receipt of the PIN referenced in section 6.05(2) of this revenue procedure, the On-Line Filer must return an acknowledgment signed by the Authorized Signatory indicating possession of, and responsibility for, the proper use of the PIN for signing tax returns (pursuant to § 301.6061–1) filed in the Form 941 *e-file* Program.

.08 The Service will activate the userid/password and the PIN upon receiving the Electronic Filer's or On-Line Filer's acknowledgments referenced in sections 6.06 and 6.07 of this revenue procedure.

.09 If a prospective Electronic Filer that is an Agent is denied, or does not receive, approval to participate in the Form 941 *e-file* Program before the end of the tax quarter for which the Forms 941 will be filed, the Agent should file the returns on paper Forms 941 (or on magnetic tape if the Agent meets the requirements of Rev. Proc. 96–18).

SECTION 7. ELECTRONIC FILING OF FORM 941

.01 An Electronic Filer that is an Agent must ensure that a current electronic Form 941 is filed on or before the due date of the return. The due dates prescribed for filing paper Forms 941 with the Service also apply to returns filed under the Form 941 *e-file* Program. Forms 941 are due on or before the last day of the first calendar month following the period for which the return is made. However, a return for which all tax deposits were made when due for the quarter may be filed by the 10th day of the month following the due date.

.02 An Electronic Filer that is a Transmitter must ensure that an electronic Form 941 is transmitted to the Service by the later of: (1) three days after receipt of the return; or (2) the due date of the return without regard to extensions.

.03 An electronically filed Form 941 is not considered filed until it has been acknowledged as accepted for processing by the Service. If an electronically filed Form 941 is transmitted to the Service on or before the return due date, the return will be deemed timely filed. If an electronically filed Form 941 is initially transmitted to the Service on or before the return due date and is ultimately rejected, but the Electronic Filer complies with section 7.04 or 7.05 of this revenue procedure, as appropriate, and the On-Line Filer complies with section 7.06 of this revenue procedure, the return will be deemed timely filed.

.04 An electronic transmission that causes a Processing Interruption may not be accepted. An Electronic Filer that is an Agent will be asked to resubmit the return(s). If the electronic transmission is acknowledged as rejected by the Service, the Agent should correct the error(s) and retransmit the return(s) on the same calendar day. If the Agent chooses not to have the previously rejected return retransmitted, or if the return still cannot be accepted for processing, a paper Form 941 (or a Form 941 on magnetic tape if the Electronic Filer meets the requirements of Rev. Proc. 96–18) must be filed by the later of: (1) the due date of the return; or (2) within five calendar days of the rejection or notice that the return cannot be retransmitted, with an explanation of why the return is being filed after the due date. For the penalty for failure to file a timely return, see section 17 of this revenue procedure.

.05 If a Processing Interruption occurs with an Electronic Filer that is a Transmit-

ter, and the Transmitter cannot promptly correct any transmission error that causes an electronic transmission to be rejected, then the Transmitter, within 24 hours of receiving the rejection, must take reasonable steps to inform the On-Line Filer that the return has not been filed. When the Transmitter advises the On-Line Filer that the return has not been filed, the Transmitter must provide the On-Line Filer with the reject code(s), an explanation of the reject code(s), and the sequence number of each reject code(s). See Publication 1855 for an explanation of the reject codes.

.06 If the On-Line Filer chooses not to have the electronic portion of the return corrected and transmitted to the Service, or if the electronic portion of the return cannot be accepted for processing by the Service, the On-Line Filer must file a paper Form 941 by the later of: (1) the due date of the return; or (2) within five calendar days of the rejection or notice that the return cannot be retransmitted, with an explanation of why the return is being filed after the due date. For the penalty for failure to file a timely return, see section 17 of this revenue procedure.

SECTION 8. ADJUSTMENTS TO FORM 941

Forms 941 filed under the Form 941 *e-file* Program must not contain adjustments other than adjustments resulting from rounding fractions of cents or from third-party sick pay for which an employer is not responsible. Returns with other adjustments must be filed on magnetic tape or on paper.

SECTION 9. RESPONSIBILITIES OF PARTICIPANTS IN FORM 941 *e-file* PROGRAM

.01 To ensure that complete returns are accurately and efficiently filed, Electronic Filers must comply with the technical specifications detailed in Publication 1855.

.02 An Electronic Filer or On-Line Filer must comply with the following applicable userid/password and PIN requirements:

(1) if an Electronic Filer suspects that the confidentiality of the userid/password has been compromised, the Electronic Filer must contact the *e-file* Help Desk within 24 hours for instructions on how to proceed. See section 20 of this revenue procedure for Service contact information;

(2) the Electronic Filer or On-Line Filer is responsible for ensuring that the PIN remains the confidential information of the Authorized Signatory. If the Electronic Filer or On-Line Filer suspects that the confidentiality of the PIN has been compromised, the Electronic Filer or On-Line Filer must contact the *e-file* Help Desk within 24 hours for instructions on how to proceed. See section 20 of this revenue procedure for Service contact information;

(3) if the Authorized Signatory changes, the Electronic Filer or On-Line Filer must notify the Service of the name and title of the new Authorized Signatory for the electronically filed Form 941 and apply for a new PIN no later than 15 days before the filing of another return. After this notification, the Service will deactivate the current PIN and issue a new PIN to the new Authorized Signatory. The new Authorized Signatory must submit a PIN receipt as specified in section 6.06 or 6.07 of this revenue procedure in order to activate the new PIN; and

(4) the Authorized Signatory must manually enter the PIN signature for each transmission of electronically filed Forms 941.

.03 An Electronic Filer that is a Transmitter must:

(1) retrieve the acknowledgment file (in which the Service states whether it accepts or rejects the electronic portion of a taxpayer's return for processing) within two work days of transmission;

(2) match the acknowledgment file to the original transmission file and send to the On-Line Filer either

(a) an acceptance notice within two days of retrieving the acknowledgment file; or

(b) a rejection notice within 24 hours of retrieving the acknowledgment file;

(3) immediately contact the appropriate service center for further instructions if an acknowledgment of acceptance for processing has not been received by the Transmitter within two work days of transmission or if a Transmitter receives an acknowledgment for a return that was not transmitted on the designated transmission;

(4) promptly correct any transmission error that causes an electronic transmission to be rejected; and

(5) ensure the security of all transmitted data.

.04 An Electronic Filer that is a Software Developer must:

(1) promptly correct any software error that may cause, or causes, an electronic return to be rejected;

(2) promptly distribute any such software correction;

(3) ensure that any software package that will be used to transmit returns from multiple Electronic Filers that are Agents has the capability of combining these returns into one Service transmission file; and

(4) not incorporate into its software a Service assigned PIN.

SECTION 10. ALTERNATIVE FILING PROCEDURES

.01 Procedures for the filing of Form 941 on magnetic tape are in Rev. Proc. 96-18 and the specifications are in Publication 1264.

.02 An Electronic Filer that is an Agent may use a Form 941 *e-file* Program Authorization to file a paper Form 941 under the following circumstances:

(1) the late receipt of payroll information from a taxpayer that would jeopardize the timely submission of the taxpayer's return;

(2) the amendment of returns filed under the Form 941 *e-file* Program;

(3) the rejection of an electronic transmission that would jeopardize the timely submission of the taxpayer's return;

(4) an authorization by the Service for an Agent to file paper Forms 941 instead of electronically filed Forms 941; or

(5) the suspension of an Agent from the Form 941 *e-file* Program as provided in section 15.02(3) of this revenue procedure.

.03 An Agent may prepare a paper Form 941 for the taxpayer's signature. A taxpayer's authorized representative that is not an Agent participating in the Form 941 *e-file* Program (including a suspended Agent) must have a valid power of attorney (usually a Form 2848, Power of Attorney and Declaration of Representative) that authorizes the representative to sign and file a paper Form 941 on behalf of a taxpayer.

.04 Each paper Form 941 must be signed by the taxpayer, the taxpayer's authorized representative, or a participating Agent to the extent permitted under section 10.02 of this revenue procedure.

SECTION 11. REVISION OF COMPUTER SPECIFICATIONS BY THE SERVICE

.01 If Publication 1855 is revised, the Service, if necessary, will advise all current Electronic Filers to submit test files prior to filing under the new specifications. Failure to submit a test file may later result in a Processing Interruption, which may result in a notice of suspension. See section 13 of this revenue procedure concerning the reasons for suspension of electronic filing privileges.

.02 If an Electronic Filer is unable to comply with the changes in specifications, the Electronic Filer must contact the *e-file* Help Desk for further instructions.

SECTION 12. ADVERTISING STANDARDS

.01 An Electronic Filer must:

(1) comply with the advertising and solicitation provisions of 31 C.F.R. Part 10 (Treasury Department Circular No. 230). This circular prohibits the use or participation in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, unduly influencing, coercive, or unfair statement or claim. In addition, advertising must not imply a special relationship with the Service, Financial Management Service ("FMS"), or the Treasury Department;

(2) adhere to all relevant federal, state, and local consumer protection laws;

(3) not use the Service's name, "Internal Revenue Service" or "IRS", within a firm's name;

(4) not use improper or misleading advertising in relation to the Form 941 *e-file* Program;

(5) not carry the Service, FMS, or other Treasury Seals on its advertising material;

(6) clearly state the names of all cooperating parties if advertising for a cooperative electronic return filing project (public/private sector);

(7) pre-record any radio or television advertisement and keep a copy of this advertisement for a period of at least 36 months from the date of the last transmission or use; and

(8) retain a copy of any actual direct mailing or fax communications, along with a list or other description of persons to whom the communication was mailed, faxed, or otherwise distributed for a period of at least 36 months from the date of the last mailing, fax, or distribution.

.02 Acceptance to participate in the Form 941 *e-file* Program does not imply endorsement by the Service, FMS, or the Treasury Department of the software or quality of services provided.

SECTION 13. REASONS FOR SUSPENSION

.01 The Service reserves the right to suspend an Electronic Filer from the Form 941 *e-file* Program for the following reasons (this list is not all-inclusive):

(1) submitting tax returns for which the Service did not receive Authorizations;

(2) repeatedly submitting tax returns that cause a Processing Interruption;

(3) submitting tax returns that cause a Processing Interruption after failing to submit the test file required by section 6.02 of this revenue procedure;

(4) failing to comply with the responsibilities of an Electronic Filer set forth in section 9 of this revenue procedure;

(5) failing to abide by the advertising standards in section 12 of this revenue procedure; or

(6) significant complaints about an Electronic Filer's performance in the Form 941 *e-file* Program.

.02 If the Electronic Filing Coordinator informs an Electronic Filer that a certain action is a reason for suspension and the action continues, the service center director may send the Electronic Filer a notice proposing suspension of the Electronic Filer. However, a notice proposing suspension may be sent without a warning if the Electronic Filer's action indicates an intentional disregard of rules. A notice proposing suspension will describe the reason(s) for the proposed suspension, and indicate the length of the suspension and the conditions that need to be met before the suspension will terminate.

.03 An Electronic Filer that is an Agent or Transmitter has an obligation to notify its Form 941 *e-file* Program clients when that Agent or Transmitter is suspended from filing under the Form 941 *e-file* Program as provided in sections 15.02(4) and 15.03 of this revenue procedure. The Service reserves the right to extend the period of suspension of any Agent or Transmitter that fails to comply with this requirement.

SECTION 14. ADMINISTRATIVE REVIEW PROCESS FOR PROPOSED SUSPENSION

.01 An Electronic Filer that receives a notice proposing suspension may request an administrative review prior to the proposed suspension taking effect.

.02 The request for an administrative review must be in writing and contain detailed reasons, with supporting documentation, for withdrawal of the proposed suspension.

.03 The written request for an administrative review and a copy of the notice proposing suspension must be delivered to the Electronic Filing Coordinator within 30 calendar days of the date on the notice proposing suspension. The Electronic Filing Coordinator will forward the written request to the National Program Analyst for Electronic Filing of Business Returns ("National Coordinator") if the service center director continues to believe that suspension is warranted.

.04 After consideration of the written request for an administrative review, the National Coordinator will either issue a suspension letter or notify the Electronic Filer in writing that the proposed suspension is withdrawn.

.05 If an Electronic Filer receives a suspension letter, the Electronic Filing Coordinator's subsequent determination of whether a reason for suspension has been corrected is not subject to review or appeal.

.06 If an Electronic Filer does not timely submit a written request for an administrative review, the service center director will issue a suspension letter.

.07 Failure to submit a written request for an administrative review within the 30-day period described in section 14.03 of this revenue procedure irrevocably terminates the Electronic Filer's right to an administrative review of the proposed suspension.

SECTION 15. EFFECT OF SUSPENSION

.01 An Electronic Filer's suspension will continue for the length of time specified in the suspension letter, or until the conditions for terminating the suspension have been met, whichever is later.

.02 In the case of an Electronic Filer that is an Agent, the following additional rules apply:

(1) if a Form 941 is due (without regard to extensions) within 60 days from the date on the suspension letter, the Agent may file the Form 941 under the Form 941 *e-file* Program;

(2) if a Form 941 is due (without regard to extensions) more than 60 days from the date on the suspension letter, the Agent may not file the Form 941 under the Form 941 *e-file* Program;

(3) if a suspended Agent has a power of attorney from a taxpayer that authorizes the Agent to sign and file Form 941, the suspended Agent will be able to sign and file a paper Form 941 for the taxpayer. See section 10.03 of this revenue procedure. Form 8655 does not authorize the filing of paper Forms 941 outside of the Form 941 *e-file* Program; and

(4) an Agent must provide written notification of a suspension to a taxpayer at least 45 days before the due date of the taxpayer's first return affected by the suspension. This notification must be provided even though the Agent may believe that the Agent will be able to meet the conditions for terminating the suspension before the due date.

.03 A Transmitter that receives a suspension letter from the Service may not accept any further LOAs from prospective On-Line Filers that want to participate in the Form 941 *e-file* Program and must immediately inform current On-Line Filers of its inability to transmit Forms 941 during its suspension

.04 An Electronic Filer will be able to participate in the Form 941 *e-file* Program from which the Electronic Filer was suspended, without reapplying to the Form 941 *e-file* Program, after:

(1) the stated suspension period expires; and

(2) the reason(s) for suspension is corrected.

SECTION 16. APPEAL OF SUSPENSION

.01 If an Electronic Filer receives a suspension letter from the National Coordinator, the Electronic Filer is entitled to appeal, by written protest, to the National Director of Appeals. The written protest must be sent to the National Coordinator, who will forward it to the National Director of Appeals. During the appeals process, the suspension remains in effect.

.02 The written protest must be received by the National Coordinator within 30 calendar days of the date of the suspension letter. The written protest must contain detailed reasons, with supporting documentation, for termination of the suspension.

.03 Within 15 calendar days of receipt of a written protest, the National Coordinator will forward the file on the Electronic Filer and the material described in section 16.02 of this revenue procedure to the National Director of Appeals.

.04 Failure to appeal within the 30-day period described in section 16.02 of this revenue procedure irrevocably terminates the Electronic Filer's right to appeal the suspension.

SECTION 17. PENALTY FOR FAILURE TO TIMELY FILE A RETURN

Section 6651(a)(1) provides that for each month (or part thereof) a return is not filed when required (determined with regard to any extensions of time for filing), there is a penalty of 5 percent of the unpaid tax not to exceed 25 percent, absent reasonable cause. A taxpayer does not establish reasonable cause simply by engaging a competent Electronic Filer to file the taxpayer's return. However, if the Electronic Filer has reasonable cause under § 6651(a) for failing to timely file the taxpayer's return, the taxpayer will also have reasonable cause for that failure, and the failure-to-file penalty will be abated.

SECTION 18. FILING FORMS W-4 WITH THE INTERNAL REVENUE SERVICE

.01 An employer is required to send to the Service by the due date of the quarterly return copies of all Forms W-4, Employee's Withholding Allowance Certificates, received during the quarter from any employee still employed at the end of the quarter who claims:

(1) more than 10 withholding exemptions; or

(2) exemption from withholding and is expected to earn more than $200 per week.

Employers should not send other Forms W-4 unless notified by the Service in writing to do so.

.02 If an employer's Form 941 is filed under the Form 941 *e-file* Program, copies of required paper Forms W-4 along with a cover letter providing the employer's name, address, EIN, and the number of Forms W-4 included, must be sent to the service center that would have received the employer's paper Form 941. See Publication 15, Circular E, Employer's Tax Guide, for more information on sending Forms W-4 to the Service.

.03 Required Forms W-4 information may also be filed on magnetic media (5¼-inch diskettes, 3½-inch diskettes, or magnetic tape). For more information concerning magnetic media filing of Forms W-4, see Publication 1245, Specifications for Filing Form W-4, Employee's Withholding Allowance Certificate, on Magnetic Tape, and 5¼ and 3½-Inch Magnetic Diskettes.

SECTION 19. FILING FORMS W-2 (COPY A) WITH THE SOCIAL SECURITY ADMINISTRATION

Forms W-2 (Copy A), Wage and Tax Statements, must be filed directly with the Social Security Administration on magnetic media or paper. For information on magnetic media reporting of Form W-2 (Copy A), contact the Social Security Administration's Regional Magnetic Media Coordinators.

SECTION 20. INTERNAL REVENUE SERVICE CONTACT

Unless otherwise instructed, all questions regarding this revenue procedure should be directed to the *e-file* Help Desk at the following address, telephone number, or web site:

Address:

Internal Revenue Service
Austin Service Center
Electronic Filing Help Desk
P.O. Box 1231
Stop 6380 AUSC
Austin, TX 78767
Attention: Electronic Filing

Telephone Number:

(512) 460-8900 (not a toll-free number)

Web site for Help Desk:

www.irs.gov/prod/elec_svs/

Web site for Publications:

www.irs.gov

SECTION 21. EFFECT ON OTHER DOCUMENTS

.01 Rev. Proc. 97–47 is amplified, clarified, modified, and superseded.

.02 Section 6.05 of Rev. Proc. 96–17, 1996–1 C.B. 633, is modified to provide the same relief as set forth in section 5.04 of this revenue procedure (regarding an Agent not having to replace a previously submitted Authorization under certain circumstances).

SECTION 22. EFFECTIVE DATE

This revenue procedure is effective for returns due after October 7, 1999 (without regard to extensions).

SECTION 23. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–1557.

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

The collections of information in this revenue procedure are in sections 5, 6, 7, 9, 11, and 12. This information is required by the Service to implement the Form 941 *e-file* Program and to enable taxpayers to file their Forms 941 electronically. The information will be used to ensure that taxpayers receive accurate and essential information regarding the filing of their electronic returns and to identify persons involved in the filing of electronic returns. The collections of information are required to retain the benefit of participating in the Form 941 *e-file* Program. The likely respondents are business or other for-profit institutions; federal, state or local governments; nonprofit institutions; and small businesses or organizations.

The estimated total annual reporting and recordkeeping burden is 238,863 hours.

The estimated annual burden per respondent/recordkeeper varies from 10 minutes to 5 hours, depending on individual circumstances, with an estimated average of 37 minutes. The estimated number of respondents and recordkeepers is 390,200.

The estimated annual frequency of responses is on occasion.

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

Part IV. Items of General Interest

Notice of Proposed Rulemaking and Notice of Public Hearing

Averaging of Farm Income

REG–121063–97

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains proposed regulations for averaging farm income under section 1301 of the Internal Revenue Code. The regulations reflect the enactment of the provision by the Taxpayer Relief Act of 1997, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999. The regulations provide guidance to individuals engaged in a farming business who may elect to reduce their regular tax liability by treating all or a portion of the current year's farming income as if it had been earned in equal proportions over the prior three years. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments and requests to speak (with outlines of oral comments) at a public hearing scheduled for February 15, 2000, must be received by January 14, 2000.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–121063–97), 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–121063–97), 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.gov/tax_regs/regslist.html. The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, John M. Moran, at (202) 622-4940; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Guy Traynor, at (202) 622-7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the **Office of Management and Budget,** Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the **Internal Revenue Service,** Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224. Comments on the collection of information should be received by December 7, 1999. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collection of information in this proposed regulation is in §1.1301–1(c). This collection of information is required by the IRS to verify compliance with section 1301. This information will be used to determine whether the amount of tax has been calculated correctly. The collection of information is required to obtain a benefit. The respondents are certain individuals engaged in the trade or business of farming.

Taxpayers provide the information on Schedule J, Farm Income Averaging, which is attached to Form 1040, U.S. Individual Income Tax Return, for the taxable year in which income averaging is elected. The burden for this requirement is reflected in the burden estimate for Schedule J. The estimated burden for the 1998 Schedule J is 1.31 hours per respondent.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

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

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) for averaging farm income under section 1301 of the Internal Revenue Code (Code). Section 1301 was enacted by section 933 of the Taxpayer Relief Act of 1997, Public Law 105-34 (111 Stat. 788) (the TRA of 1997), effective for taxable years beginning after December 31, 1997, and ending before January 1, 2001. Section 2011 of the Tax and Trade Relief Extension Act of 1998, which is part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Public Law 105-277, 112 Stat. 2681, amended section 933 of the TRA of 1997 by deleting the January 1, 2001 ending date.

Section 1301(c) authorizes the Secretary to prescribe regulations as may be appropriate to carry out the purposes of this section, including regulations regarding (1) the order and manner in which items of income, gain, deduction, or loss, or

limitations on tax, shall be taken into account in computing the tax imposed by chapter 1 (Normal Taxes and Surtaxes) of subtitle A (Income Taxes) of the Code on the income of any taxpayer to whom this section applies for any taxable year, and (2) the treatment of any short taxable year.

Explanation of Provisions

I. In general

Under section 1301, an individual may elect to compute the section 1 tax for the current taxable year by designating all or a portion of the individual's farm income (subject to certain limitations) as elected farm income, and subtracting it from taxable income. One-third of the elected farm income is allocated to each of the three prior years' taxable income and the increase in the section 1 tax that results from these additions is calculated. The prior years are referred to as base years. The tax for the current year is the sum of (1) the section 1 tax for the current year without the elected farm income and (2) the increase in the section 1 tax for the three base years that is attributable to elected farm income.

II. Engaged in a farming business

The proposed regulations provide that the term *farming business* has the same meaning as provided in section 263A(e)(4) and the regulations thereunder. The proposed regulations also provide that an individual engaged in a farming business includes a sole proprietor of a farming business, a partner of a partnership engaged in a farming business, and a shareholder of an S corporation engaged in a farming business.

III. Making, changing, or revoking an election

The proposed regulations provide that a farm income averaging election is made by filing Schedule J, Farm Income Averaging, with an individual's timely filed Federal income tax return (including extensions). In general, the proposed regulations provide that if an individual has an adjustment for an election year or base year, the individual may also make a late farm income averaging election or change or revoke a previous election. An adjustment is any change in taxable income or tax liability that is permitted to be made by filing an amended Federal income tax return, or a change in taxable income or tax liability resulting from an IRS examination. If there is no adjustment for an election year or a base year, a late election, change, or revocation may be made only with the consent of the Commissioner. The IRS and the Treasury Department anticipate that the Commissioner's consent will be obtained by requesting a letter ruling from the national office.

IV. Calculation of section 1 tax

Farm income averaging allocates one-third of elected farm income from an election year to each of the base years only for the purpose of calculating the section 1 tax attributable to the elected farm income allocated to each base year. The proposed regulations provide that the section 1 tax for the election year is determined by allocating elected farm income to the base years only after all other adjustments and determinations have been made. For example, any net operating loss carryover is applied to an election year before allocating elected farm income to the base years.

The regulations provide that the allocation of elected farm income to the base years does not affect any determination (other than the calculation of the section 1 tax attributable to the elected farm income) with respect to the election year or the base years. Thus, for example, in applying the section 68 overall limitation on itemized deductions to the election year, adjusted gross income for the election year includes any elected farm income allocated to the base years. Similarly, the section 68 limitation for a base year is not recomputed to take into account any allocation of elected farm income to such base year.

The proposed regulations provide that calculation of the section 1 tax on elected farm income allocated to a base year is made without any additional adjustments or determinations with respect to that year. For example, if a base year had a partially used capital loss, the remaining capital loss may not be applied to reduce the elected farm income allocated to such year. Similarly, if a base year had a partially used credit, the remaining credit may not applied to reduce the section 1 tax attributable to the elected farm income allocated to such year.

V. Elected farm income

The proposed regulations provide that farm income includes all income, deductions, gains, and losses attributable to an individual's farming business. An individual may designate what type, and how much of each type, of farm income is to be treated as elected farm income. The elected farm income may not exceed an individual's taxable income. In addition, elected farm income from net capital gain attributable to a farming business may not exceed total net capital gain. One-third of each type of elected farm income is then allocated to each base year.

Proposed Effective Date

The regulations, as proposed, apply to any taxable period ending on or after the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register.** However, the rules in these proposed regulations may be relied on by individuals for taxable periods ending before the publication of the Treasury decision.

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 Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the collection of information imposed by this regulation is not significant as reflected in the estimated burden of information collection for Schedule J, which is 1.31 hours per respondent. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the 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.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic or written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. In addition, comments are specifically requested regarding whether wages paid to a shareholder of an S corporation may be electible farm income. All comments will be available for public inspection and copying.

A public hearing has been scheduled for February 15, 2000, beginning at 10 a.m. in room 2615 of the 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 who wish to present oral comments at the hearing must submit electronic or written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by January 14, 2000. 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 John M. Moran, Office of Assistant Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

Proposed Amendment to the Regulations

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

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

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

Section 1.1301–1 also issued under 26 U.S.C. 1301(c). * * *

Par. 2. An undesignated center heading and §1.1301–1 are added immediately following the center heading "Readjustment of Tax Between Years and Special Limitations" to read as follows:

INCOME AVERAGING

§1.1301–1 Averaging of farm income.

(a) *Overview.* An individual engaged in a farming business may elect to compute his or her current year (election year) income tax liability under section 1 by averaging, over the prior three-year period (base years), all or a portion of the individual's current year electible farm income (as defined in paragraph (e) of this section. To average farm income, the individual–

(1) Designates all or a portion of his or her electible farm income for the election year as elected farm income;

(2) Allocates one-third of the elected farm income to each of the three base years; and

(3) Determines the election year section 1 tax by determining the sum of–

(i) The election year section 1 tax without regard to the elected farm income; plus

(ii) For each base year, the increase in section 1 tax attributable to the elected farm income allocated to such year.

(b) Individual engaged in a farming business. Farming business has the same meaning as provided in section 263A(e)(4) and the regulations thereunder. An individual engaged in a farming business includes a sole proprietor of a farming business, a partner in a partnership engaged in a farming business, and a shareholder of an S corporation engaged in a farming business. An individual is not required to have been engaged in a farming business in any of the base years in order to make a farm income averaging election.

(c) *Making, changing, or revoking an election*—(1) *Making an election.* A farm income averaging election is made by filing Schedule J, Farm Income Averaging, with an individual's timely filed (including extensions) Federal income tax return for the election year.

(2) *Making a late election, or changing or revoking an election*—(i) *Adjustments in an election or base year.* An individual who has an adjustment for an election year or any base year may make a late farm income averaging election, change the amount of elected farm income in a previous election, or revoke a previous election, if the period of limitation on filing a claim for credit or refund has not expired for the election year. For purposes of this paragraph (c)(2), an adjustment is any change in taxable income or tax liability that is permitted to be made by filing an amended Federal income tax return or a change in taxable income or tax liability made as the result of an IRS examination.

(ii) *No adjustment.* If an individual does not have an adjustment described in paragraph (c)(1)(i) of this section, the individual may not make a late farm income averaging election, change the amount of elected farm income in a previous election, or revoke a previous election, without the consent of the Commissioner.

(d) *Calculation of section 1 tax*—(1) *In general.* The section 1 tax for the election year is determined by allocating elected farm income to the base years only after all other adjustments and determinations have been made. For example, any net operating loss (NOL) carryover or net capital loss carryover is applied to an election year before allocating elected farm income to the base years. Similarly, the determination of whether there is a net section 1231 gain or loss in the election year and the determination of the character of the section 1231 items are made before allocating elected farm income to the base years. The allocation of elected farm income to the base years does not affect

any determination (other than the calculation of the section 1 tax attributable to the elected farm income) with respect to the election year or the base years. Thus, for example, in applying the section 68 overall limitation on itemized deductions to the election year, adjusted gross income for the election year includes any elected farm income allocated to the base years. Similarly, the section 68 limitation for a base year is not recomputed to take into account any allocation of elected farm income to such base year. The calculation of the section 1 tax on elected farm income allocated to a base year is made without any additional adjustments or determinations with respect to such year. For example, if a base year had a partially used capital loss, the remaining capital loss may not be applied to reduce the elected farm income allocated to such year. Similarly, if a base year had a partially used credit, the remaining credit may not applied to reduce the section 1 tax attributable to the elected farm income allocated to such year.

(2) *Base year was previously an election year or another base year.* If a base year for a current farm income averaging election was previously an election year for another farm income averaging election, the base year's section 1 tax is determined after reducing the base year's taxable income by the elected farm income for that prior election year. If a base year for a current farm income averaging election was previously a base year for another farm income averaging election, the base year's section 1 tax is determined after increasing the base year's taxable income by the elected farm income allocated to that year by that prior election.

(3) *Example.* The rules of paragraph (d)(2) of this section are illustrated by the following example:

Example. (i) In each of years 1996, 1997 and 1998, T had taxable income of $20,000. In 1999, T had taxable income of $30,000 (prior to any farm income averaging election) and electible farm income of $10,000. T makes a farm income averaging election with respect to $9,000 of his electible farm income for 1999. Thus, $3,000 of elected farm income is allocated to each of years 1996, 1997 and 1998. T's 1999 tax liability is the sum of—

(A) The section 1 tax on $21,000 (1999 taxable income minus elected farm income); plus

(B) For each of years 1996, 1997, and 1998, the section 1 tax on $23,000 minus the section 1 tax on $20,000 (the increase in section 1 tax attributable to the elected farm income allocated to such year).

(ii) In 2000, T has taxable income of $50,000 and electible farm income of $12,000. T makes a farm income averaging election with respect to all $12,000 of his electible farm income for 2000. Thus, $4,000 of elected farm income is allocated to each of years 1997, 1998 and 1999. T's 2000 tax liability is the sum of—

(A) The section 1 tax on $38,000 (2000 taxable income minus elected farm income); plus

(B) For each of years 1997 and 1998, the section 1 tax on $27,000 minus the section 1 tax on $23,000 (the increase in section 1 tax attributable to the elected farm income allocated to such years after increasing such years' taxable income by the elected income allocated to such year by the 1999 farm income averaging election); plus

(C) For year 1999, the section 1 tax on $25,000 minus the section 1 tax on $21,000 (the increase in section 1 tax attributable to the elected farm income allocated to such year after reducing such year's taxable income by the 1999 elected farm income).

(e) *Electible farm income*—(1) I*dentification of items attributable to a farming business*—(i) *In general.* Farm income includes items of income, deduction, gain, and loss attributable to the individual's farming business. Farm losses include a NOL carryover or carryback, or a net capital loss carryover, to an election year that is attributable to a farming business. Income, gain or loss from the sale of development rights, grazing rights, and other similar rights is not treated as attributable to a farming business. Farm income does not include wages.

(ii) *Gain or loss on sale or other disposition of property*—(A) *In general.* Gain or loss from the sale or other disposition of property (other than land, but including a structure affixed to the land) that was regularly used in the individual's farming business for a substantial period of time is treated as attributable to a farming business. Whether property was regularly used for a substantial period of time depends on all of the facts and circumstances.

(B) *Cessation of a farming business.* If gain or loss described in paragraph (e)(1)(ii)(A) of this section is realized after cessation of a farming business, such gain or loss is treated as attributable to a farming business if the property is sold within a reasonable time after cessation of the farming business. A sale or other disposition within one year of cessation of the farming business is presumed to be within a reasonable time. Whether a sale or other disposition that occurs more than one year after cessation of the farming business is within a reasonable time depends on all of the facts and circumstances.

(2) *Determination of amount that may be elected farm income*—(i) *Electible farm income.* The maximum amount of income that an individual may elect to average (electible farm income) is the sum of any farm income and gain minus any farm deductions or losses (including loss carryovers and carrybacks) that are allowed as a deduction in computing the individual's taxable income. However, electible farm income may not exceed taxable income. In addition, electible farm income from net capital gain attributable to a farming business cannot exceed total net capital gain. An individual who has both ordinary and net capital gain farm income may elect (up to electible farm income) any combination of such ordinary and net capital gain farm income.

(ii) *Examples.* The rules of paragraph (e)(2)(i) of this section are illustrated by the following examples:

Example 1. A has farm gross receipts of $200,000 and farm ordinary deductions of $50,000. A's taxable income is $150,000 ($200,000–$50,000). A's electible farm income is $150,000, all of which is ordinary income.

Example 2. B has ordinary farm income of $200,000 and nonfarm losses of $50,000. B's taxable income is $150,000 ($200,000–$50,000). B's electible farm income is $150,000, all of which is ordinary income.

Example 3. C has a farm capital gain of $50,000 and a nonfarm capital loss of $40,000. C also has ordinary farm income of $60,000. C has taxable income of $70,000 ($50,000–$40,000+$60,000). C's electible farm income is $70,000. C can elect up to $10,000 of farm capital gain and up to $60,000 of farm ordinary income.

Example 4. D has a nonfarm capital gain of $40,000 and a farm capital loss of $30,000. D also has ordinary farm income of $100,000. D has taxable income of $110,000 ($40,000–$30,000+ $100,000). D's electible farm income is $100,000 ordinary farm income minus $30,000 farm capital loss, or $70,000, all of which is ordinary income.

Example 5. E has a nonfarm capital gain of $20,000 and a farm capital loss of $30,000. E also has ordinary farm income of $100,000. E has taxable income of $97,000 ($20,000–$23,000 +$100,000). E has a farm capital loss carryover of $7,000 ($30,000–$23,000 allowed as a deduction). E's electible farm income is $100,000 ordinary farm income minus $23,000 farm capital loss, or $77,000, all of which is ordinary income.

(f) *Miscellaneous rules*—(1) *Short taxable year*—(i) *In general.* If a base year or an election year is a short taxable year, the rules of section 443 and the regula-

tions thereunder apply for purposes of calculating the section 1 tax.

(ii) *Base year is a short taxable year.* If a base year is a short taxable year, the increase in section 1 tax attributable to the elected farm income allocated to such year is determined after the taxable income for such year has been annualized.

(iii) *Election year is a short taxable year.* If an election year is a short taxable year, any elected farm income is first annualized before being allocated to the base years. The increase in section 1 tax attributable to the elected farm income allocated to the base years is the same part of the tax computed on an annual basis as the number of months in the short election year is of 12 months.

(2) *Changes in filing status.* An individual is not prohibited from making a farm income averaging election solely because the individual's filing status is not the same in an election year and the base years. For example, an individual who files married filing jointly in the election year, but filed as single in all of the base years, may still elect to average farm income.

(3) *Employment tax.* A farm income averaging election has no effect in determining the amount of wages for purposes of the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and the Collection of Income Tax at Source on Wages (Federal income tax withholding), or the amount of net earnings from self-employment for purposes of the Self-Employment Contributions Act (SECA).

(4) *Alternative minimum tax.* A farm income averaging election does not apply for purposes of determining the section 55 alternative minimum tax in the election year or any base year. However, an election will apply for purposes of determining the regular tax under sections 53(c) and 55(c).

(5) *Unearned income of minor child.* In an election year, if a minor child's investment income is taxable under section 1(g) and a parent makes a farm income averaging election, the tax rate used for purposes of applying section 1(g) is the rate determined after application of the election. With respect to a base year, however, the tax on a minor child's investment income is not affected by a farm income averaging election.

(g) *Effective date.* The rules of this section apply to taxable years ending on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register.**

John M. Dalrymple,
Acting Deputy Commissioner of Internal Revenue.

(Filed by the Office of the Federal Register on October 7, 1999, 8:45 a.m., and published in the issue of the Federal Register for October 8, 1999, 64 F.R. 54836)

The Department of the Treasury Study Regarding Taxpayer Confidentiality

Announcement 99–101

AGENCY: Department of the Treasury

ACTION: Solicitation for comment.

SUMMARY: This is a solicitation for public comment in connection with a study being conducted by the Department of the Treasury relating to the scope and use of provisions regarding taxpayer confidentiality. This study is required by section 3802 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206, 112 Stat. 782).

DATES: Written comments must be submitted by November 15, 1999.

ADDRESSES: Send comments to: Elizabeth P. Askey, Office of Tax Legislative Counsel, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Room 1321A, Washington, DC 20220. Comments may also be submitted to: **taxpolicy@do.treas.gov** – the subject line should contain the phrase "Confidentiality Study." All comments will be available for public inspection and copying.

FOR FURTHER INFORMATION CONTACT: Elizabeth Askey at 202-622-0224 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 6103 of the Internal Revenue Code (Code) prohibits the disclosure of tax returns or return information except as otherwise authorized by the Code. Permitted disclosures include: 1) disclosures to a taxpayer or the taxpayer's designee pursuant to the taxpayer's consent;

2) disclosures for purposes of tax administration (including state tax administration);

3) disclosures to federal, state, or local governmental agencies for nontax purposes such as child support enforcement and verifying taxpayers' eligibility for certain designated needs based programs, including food stamps, and certain Social Security benefits; and 4) disclosures for nontax law enforcement purposes. Permitted disclosures generally are subject to strict procedural safeguards. Unauthorized disclosure or inspection of returns and return information may result in civil damages against the United States and/or criminal penalties against individuals who unlawfully disclose or inspect tax information.

Section 6104 makes available to the public certain tax information related to tax-exempt organizations and certain other entities. In the case of any tax-exempt organization, section 6104 generally provides that the organization's application for tax exemption and supporting documents, IRS determination letter, and annual information returns filed under section 6033 are available for public inspection at certain IRS offices and at the organization's principal office (and certain regional and district offices). In addition, copies of such documents are generally available upon request made to the organization or the IRS. Section 6104 also authorizes the Secretary to disclose to certain state officials charged with overseeing charitable organizations described in section 501(c)(3) information relating to any organization's failure to qualify for, or subsequent loss of, section 501(c)(3) status, or the mailing of certain notices of tax deficiency.

Section 3802 of the IRS Restructuring and Reform Act of 1998 requires the Secretary of the Treasury to study the scope and use of provisions regarding taxpayer confidentiality. Specifically, the study is to examine:

1. the present protections for taxpayer privacy,

2. any need for third parties to use tax return information,

3. whether greater levels of voluntary

compliance may be achieved by allowing the public to know who is legally required to file tax returns, but does not file tax returns,

4. the interrelationship of the taxpayer confidentiality provisions in the Internal Revenue Code of 1986 with provisions in other Federal law, including 5 U.S.C. 552a (commonly known as the Freedom of Information Act),

5. the impact on taxpayer privacy of the sharing of income tax return information for purposes of enforcement of state and local tax laws other than income tax laws, including the impact on the taxpayer privacy intended to be protected at the Federal, state, and local levels under Public Law 105-35, the Taxpayer Browsing Protection Act of 1997, and,

6. whether the public interest would be served by greater disclosure of information relating to tax-exempt organizations described in section 501 of the Internal Revenue Code of 1986.

Request for Public Comment

The Department of the Treasury invites comments relative to the six topics described. In particular, the Department of the Treasury invites comments with respect to the following:

1. How is the privacy protection provided by section 6103 beneficial to taxpayers?

2. How is the section 6103 statutory scheme burdensome for taxpayers? Does section 6103 affect the IRS's ability to deliver quality customer service and, if so, in what ways?

3. Is the statutory structure and/or administration of section 6103 consistent, simple, administrable, and fair? What changes, if any, should be made to the content and/or administration of section 6103?

4. What is the relationship between taxpayer confidentiality as provided by section 6103 and compliance with the internal revenue laws? What effect, if any, might publishing the names of nonfilers have on compliance with the internal revenue laws? What effect, if any, might broadening the scope of permissible disclosures have on compliance with the internal revenue laws?

5. What impact has technology had on the protection of taxpayer privacy and what, if any, additional safeguards may be necessary as a result? As the IRS moves toward electronic filing and maintenance of tax records, what, if any, changes should be made to the confidentiality rules under section 6103?

6. What impact have taxpayer privacy protections had on the ability of federal, state, and local agencies to receive information critical to their operation, particularly information not easily obtainable from other sources?

7. Should tax information be used for nontax purposes? If so, what factors should influence whether agencies and others should be permitted direct access under section 6103 to taxpayer information for nontax purposes? What factors should influence whether agencies and others should be allowed to obtain such information by consent from the taxpayer, for example, as a condition to approval of mortgages or other loans, or for obtaining government benefits? Should there be any conditions or restrictions on the recipient's use of tax information obtained by consent?

8. What factors should influence whether federal, state, or local agencies that receive tax information to carry out particular programs, and who use private contractors for data processing and other services, should be permitted to disclose tax information to those contractors for the purpose of performing those programs?

9. What changes, if any, should be made to either the safeguard program or the consent process?

10. What, if any, additional restrictions should be placed on the ability of those who receive tax information to redisclose the information to other parties? What means should be used to implement any such redisclosure protections?

11. How can taxpayer privacy concerns and a desire for more information-sharing within government be balanced?

12. Would the public interest be served by allowing greater sharing of information between the IRS and other federal and state agencies for joint investigations relating to the enforcement of federal and state laws affecting tax-exempt organizations? What restrictions, if any, should be imposed on use of the information by those agencies?

13. Do the public inspection provisions of section 6104 and section 6110 provide adequate disclosure of IRS determinations affecting tax-exempt organizations? If not, what additional information should be made available?

14. Is the information currently reported by tax-exempt organizations to the IRS adequate to ensure effective oversight? If not, what additional information should be reported? Should there be more detailed disclosure regarding transactions between tax-exempt organizations and their subsidiaries or other affiliates?

Joseph Mikrut,
Tax Legislative Counsel.

Reporting Requirements of Tax-Exempt Owners of Disregarded Entities

Announcement 99–102

On January 13, 1997, final regulations under section 7701 of the Internal Revenue Code pertaining to the classification of certain business organizations under an elective regime were published in the Federal Register. See 26 C.F.R. 301.7701–1 *et seq.* These regulations provide that an entity wholly owned by a single owner may be disregarded as an entity separate from the owner. When an entity is disregarded as separate from its owner its operations are treated as a branch or division of the owner. Therefore, an owner that is exempt from taxation under section 501(a) of the Internal Revenue Code must include, as its own, information pertaining to the finances and operations of a disregarded entity in its annual information return. Accordingly, the instructions to the 1999 Forms 990, 990-EZ, 990-T, and 990-PF will be modified.

The principal authors of this announcement are Lynn Kawecki and Marvin Friedlander. For further information regarding this notice contact Mr. Kawecki at (202) 622-7922 or Mr. Friedlander at (202) 622-8715 (not toll free numbers).

Foundations Status of Certain Organizations

Announcement 99–103

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

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

2 M & O Counties Head Start, Inc., Boynton, OK
Abode Multi-Service Center, Inc., Detroit, MI
Affordable Home Ownership Corporation, Jacksonville, FL
Agricultural Housing for Georgia, Inc., Lyons, GA
Alabama Boychoir, Inc., Tuscaloosa, AL
Alabama Education Foundation for K Through Grade 12 Public Schools, Montgomery, AL
Alamo Community Telecommunications Initiatives, Inc., DBA Salsa Net, San Antonio, TX
Alchini Binitsekees Naholzhooh Foundation, Inc., Tohatchi, NM
Alexandria Inside Edges, Alexandria, MN
Alumni Chamber Choir, Lapeer, MI
American Institute for Nonprofit Management, Inc., Sarasota, FL
American Institute of Pakistan Studies, State University, AR
Andrews Air Force Base Fisher House, Inc., Andrews AFB, MD
Asociacion de Nayaritas de California, Wilmington, CA
Audubon Recreation Association, Trooper, PA
Bayou la Batre-Coden Tourism Commission, Coden, AL
Bells Loving Care, Inc., Mt. Morris, MI
Berkshire Worker Ownership Center, Inc., Pittsfield, MA
Big Valley 4-H Cluster Fair, Fosston, MN
Birmingham Kwanzaa & Heritage Foundation, Inc., Birmingham, AL
Bloomingdale Civic Association, Washington, DC
Boys and Girls Club of Cheyenne Wyoming, Inc., Cheyenne, WY
Brevard County Alliance Southeastern Consortium Minorities In Engineering, Merritt Island, FL
Broward Affordable Housing Coalition, Inc., Ft. Lauderdale, FL
Building Blocks Child Nutrition, Houston, TX
Burning Bush International, Inc., Englewood, CO
Calhoun County Family Support Network, Homer, MI
Casa de Amigos VIII, Inc., Mission, TX
Cause for Adventure, Inc., Norwood, MA
Center for Community and Economic Development, Fairfield, AL
Central Indiana Baseball Association, Inc., Indianapolis, IN
Charlevoix County Area Love for Children, Charlevoix, MI
Cherrystone Foundation, Inc., Coscob, CT
Chesapeake Youth Organization, Inc., Baltimore, MD
Choice City Wrestling Club, Inc., Fort Collins, CO
Christian Interactive Network, Inc., Fort Lauderdale, FL
Christmas in April-Northern New Mexico, Inc., Santa Fe, NM
Circles Restored, St. Paul, MN
Clarke County Youth Facility 701 Clarke St., Grove Hill, AL
Clinton Riverboat Days Foundation, Clinton, IA
Clinton Valley Softball League, Inc., Mt. Clemens, MI
Colorado Institute of Music, Denver, CO
Committee for New Arts, Incorporated, Fort Myers, FL
Community Project Development Corporation, S. Charleston, WV
Community Special Transportation Svcs., Southfield, MI
Coral-Aires of Southwest Florida, Inc., Port Charlotte, FL
Creative Child Care, Inc., Lafayette, IN
Crime Stoppers of Sumter County, Inc., Livingston, AL
Dade Urban Development Corporation, Miami, FL
Dale County Humane Society, Inc., Ozark, AL
Dan Ashnic, Inc., Inkster, MI
Dayton Aviators, Inc., Brookville, OH
Delaware Indoor Recreation Campaign Committee, Delaware, OH
Dietert Claim Senior Citizens Center, Inc., Kerrville, TX
Diotex Enterprises c/o A Youth Development Foundation, Dallas, TX
District of Columbia Resident Council Advisory Board, Washington, DC
Drug Free Shoals, Inc., Florence, AL
Drug-Off, Memphis, TN
Drum Corps Associates of Pennsylvania, Philadelphia, PA
East Knoxville Athletic Association, Knoxville, TN
Eastern Wisconsin Community Service Corporation, Sheboygan, WI
Economic Opportunity Commission of Rockland County, Inc., Spring Valley, NY
Emergency Fire & Disaster Relief Corporation, Tucson, AZ
Emulate, Inc., Smyrna, GA
Fairview Home Health Services, Inc., Downers Grove, IL
Faith Housing, Inc., Worth, IL
Families Forward, Inc., Greenfield, WI
Forest Meadow East Resident Management Corporation, Jacksonville, FL
Foundation for Immunological Research, Inc., Palm Beach, FL
Freedom Flight International, Inc., Boca Raton, FL
Friends of Boyce Ditto Municipal Library, Mineral Wells, TX
Friends of Onahan School, Chicago, IL
Friends of the Polk County Parks Foundation, Inc., Bartow, FL
Fund for Large Enterprises in Russia, New York, NY
Garland Clean & Green, Inc., Garland, TX
Glimpses of Grace, Inc., Batesville, MS
Golden Angels Drum & Bugle Corps., Midvale, UT
Good Shepherd Society, Inc., St. Clair, MI
Grace Baptist Church Foundation, Inc., Toccoa, GA
Green Globe USA, Columbus, OH

Hawkins McKinley and Stanley Independent Living Center, Houston, TX
Heart-Led Evangelical Church, Pasadena, MD
Heart of Texas Foundation for Mental Health Research, Belton, TX
Helios Arts & Events, Inc., Athens, GA
Heritage Village, Kankakee, IL
Hispanic Educational Telecommunications System, Inc., Edinburg, TX
Hiwasse Fire Auxillary, Hiwasse, AR
Home Hospice Support Systems, Inc., Southfield, MI
Home Vision Youth Charities, Inc., Brunswick, ME
Hospice House of Friends, Inc., a New Jersey Nonprofit Corporation, Denville, NJ
Housing Corporation of Charlotte County, Port Charlotte, FL
Hulbert Area Program for Seniors, Inc., Hulbert, OK
Independent Opportunities of Michigan, Inc., Shelby Township, MI
Intown Arts Center & Gallery, Bangor, ME
Irmo Little League, Bellentine, SC
Isaiah Project, Dallas, TX
Jesus Tapes, Mission Viejo, CA
Kiwanis Club of Botetourt County Charitable Foundation, Troutville, VA
Kiwanis Foundation of Silver Creek, NY, Inc., Silver Creek, NY
L A S T, Inc., Oklahoma City, OK
Lake Como Area Council, Incorporated, Fort Worth, TX
Las Americas, La Feria, TX
Leesburg Downtown Partnership, Inc., Leesburg, FL
Little League Poland Foundation, South Williamsport, PA
Londonderry Police Relief Assoc., Inc., Londonderry, NH
Loving Care Childrens Center and Food Nutritional Program, Houston, TX
Manorly Court, Inc., Provo, UT
Marquette Hockey Club Parents Assoc., Inc., Chesterfield, MO
Mentors and Students, Inc., Fresno, TX
Metro-Broward Economic Development Corporation, Ft. Lauderdale, FL
Metro Disability Coalition, Inc., Simpsonville, KY
Michigan Cities in Schools, Grand Rapids, MI
Michigan Soldiers Aid Society, Comstock Park, MI
Midnight Basketball League of Meridian, Inc., Meridian, MS
Monterey High School Instrumental Music Boosters, Monterey, CA
Mission, Inc., Hattiesburg, MS
Multi-Cultural Resources, Inc., Orlando, FL
N A T U R E Foundation, Inc., Glenwood, CO
National Alliance Against Violence, Washington, DC
National Center to Rehabilitate Violent Youth Inc., Washington, DC
National Institute for Community Enpowerment, Dallas, TX
National Pet Assistance and Adoption Network, Inc., Bowling Green, KY
National Race Car Drivers Memorial Fund, Harrisburg, NC
New Hampshire Water Ski Association, Inc., Manchester, NH
Noahs Arc Transition Center, Inc., Columbia, SC
North Dakota Indian Arts Association, Bismarck, ND
Northwest Area Arts Council, Inc., Crystal Lake, IL
Onondaga Valley Lacrosse Association, Inc., Syracuse, NY
Optimist Foundation of Holiday Texas, Holliday, TX
Ottumwa Sesquicentennial Committee, Inc., Ottumwa, IA
Outreach Institute of Learning, Lakeland, FL
Outreach Unlimited, Inc., Culuota, FL
Pacific Health Institute, Vancouver, WA
Paducah Bank & Trust Co., Paducah, KY
Paulsen & Company, St. Paul, MN
Pennsylvania Association of Community Partnerships, Inc., Shillington, PA
Penquis Rural Health Centers, Inc., Dexter, ME
People Live-In Center, Inc., Bayside, NY
Picture Tomorrow, Missoula, MT
Pikes Peak Amateur Basketball, Inc., Colorado Springs, CO
Pittsylvania County Crime Stoppers, Inc., Chatham, VA
Premier Ask-A-Nurse, Columbia, SC
Progeny, Lancaster, OH
Psi Zeta of Lambda Chi Alpha Educational Foundation, Inc., Lafayette, IN
Pullman Summer Games, Pullman, WA
Randolph Family Day Care Association, Randolph, MA
Rape Crisis Center of Comal County, New Braunfels, TX
Recovery Solutions-Plus, Inc., Arlington, TX
Southeastern Housing Foundation, Inc., Roswell, GA
Region II Regional Support Council, Inc., Carbon Hill, AL
Region V Regional Support Council, Birmingham, AL
Rehabilitation Technology Center, Dayton, OH
Residential Provider Services, Inc., Grosse Pointe, MI
Rhode Island Resource Conservation and Development Area, E. Greenwich, RI
Ricks Institute Alumni Ass. USA, Inc., Silver Spring, MD
Rocky Mountain Student Theater Project, Boulder, CO
Rural Education System Network, Garland, TX
Safety Harbor Alcohol & Drug Objectors, Safety Harbor, FL
Sarapiqui Conservation Learning Institute, Inc., Gainesville, FL
Save A Life Today Foundation, St. Louis, MO
SBC Community Life Center, Inc., Metuchen, NJ
School-Work Program Foundation, Inc., Washington, DC
Secaucus Public Education Fundation, Inc., Secaucus, NJ
Shelter Hope and Dignity of Women Searching, Inc., Natick, MA
Silent Link Society, Inc., Miami, FL
Soaring Unlimited, Lansing, MI
Somerset County Child Abuse and Neglect Council, Skowaegan, ME
Sonoma County Lesbian & Gay Pride Committee, Forestville, CA
South Central Houston Action Council, Inc., Houston, TX
South Elementary Parents Association, Zimmerman, MN
South Mountain JROTC Parents Club, Phoenix, AZ
Special Institute, Detroit, MI
Starbase Oregon, Inc., Salem, OR
State Association of Community Services Block Grant Providers, Provo, UT
Statewide Coalition for Americans with Disabilities Act, Wilmington, DE

Suncoast Epilepsy Services, Inc., Pinellas Park, FL
Sunrise Optimist Foundation of North Topeka, Inc., Topeka, KS
Tampa Smokers, Inc., Tampa, FL
Tateya Topa Ho, Winner, SD
Team Lima Boosters Club, Lima, OH
Teatros Nacionales de Aztlan, Denver, CO
The Center for Minority Business Research and Development, Inc., Baltimore, MD
The Cynthia A Ward Foundation, Incorporated, Newbury, MA
The Energetic Crusaders Incorporated, Washington, DC
The Holy Land Redemption Organization, Inc., Miami, FL
The North America Hispanic Development Corporation – NAHDC, Washington, DC
The Progressive Club of the Blind of New Jersey, Incorporated, Trenton, NJ
The Transplant Educational Foundation, Pittsburgh, PA
Touraine Community Housing Corporation, New Bedford, MA
Trauma Service Area-H Regional Advisory Council, Nacogdoches, TX
Unique Cultural Variations Community Development Corp., Inc., Miami, FL
Urban Network Organization, Inc., Vineland, NJ
Utica Area Community Action Team, Shelby Township, MI
Van Buren County Soil Conservation District Foundation, Inc., Paw Paw, MI
Variety Club of South Dakota, Inc., Sioux Falls, SD
Victims of Violence Memorial, Washington, DC
Vietnam Veterans of the 2nd Battalion, Palermo, NJ
Vineyard Housing Associates, Inc., Cranston, RI
Waco Housing Opportunities Corporation, Waco, TX
Wisconsin Families for the Behavioral Treatment of Autism, Inc., Madison, WI
Women Business Owners of Michigan Educational Alliance, Midland, MI
Your Ride II, Inc., Casper, WY
Youth Achievement Foundation, St. Louis, MO
Youth Center of Central Alabama, Inc., Selma, AL

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

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in law or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in the new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C.—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contribution Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign Corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statements of Procedral Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

Numerical Finding List[1]

Bulletins 1999–27 through 1999–42

Announcements:

Notices:

Proposed Regulations:

Proposed Regulations—Continued

Revenue Procedures:

Revenue Rulings:

Treasury Decisions:

[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.

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

Bulletins 1999–27 through 1999–42

Announcements:

99–59
Corrected by
Ann. 99–67, 1999–28 I.R.B. *31*

Notices:

83–10
Modified by
Notice 99–44, 1999–35 I.R.B. *326*

96–64
Modified by
Notice 99–40, 1999–35 I.R.B. *324*

97–26
Modified by
Notice 99–41, 1999–35 I.R.B. *325*

97–50
Modified and superseded by
Notice 99–41, 1999–35 I.R.B. *325*

97–73
Modified by
Notice 99–37, 1999–30 I.R.B. *124*

98–7
Modified by
Notice 99–37, 1999–30 I.R.B. *124*

98–46
Modified by
Notice 99–37, 1999–30 I.R.B. *124*

98–47
Modified and superseded by
Notice 99–41, 1999–35 I.R.B. *325*

98–54
Modified by
Notice 99–37, 1999–30 I.R.B. *124*

98–59
Modified by
Notice 99–37, 1999–30 I.R.B. *124*

Proposed Regulations:

REG–208156–91
Corrected by
Ann. 99–65, 1999–27 I.R.B. *9*

Revenue Procedures:

65–17
Superseded by
Rev. Proc. 99–32, 1999–34 I.R.B. *296*

65–31
Superseded by
Rev. Proc. 99–32, 1999–34 I.R.B. *296*

70–23
Superseded by
Rev. Proc. 99–32, 1999–34 I.R.B. *296*

71–35
Superseded by
Rev. Proc. 99–32, 1999–34 I.R.B. *296*

72–22
Superseded by
Rev. Proc. 99–32, 1999–34 I.R.B. *296*

Revenue Procedures—Continued

72–46
Superseded by
Rev. Proc. 99–32, 1999–34 I.R.B. *296*

72–48
Superseded by
Rev. Proc. 99–32, 1999–34 I.R.B. *296*

72–53
Superseded by
Rev. Proc. 99–32, 1999–34 I.R.B. *296*

89–48
Obsoleted (after Jan. 31, 2000) by
Notice 99–42, 1999–35 I.R.B. *325*

89–49
Obsoleted (after Jan. 31, 2000) by
Notice 99–42, 1999–35 I.R.B. *325*

96–9
Superseded by
Rev. Proc. 99–28, 1999–29 I.R.B. *109*

97–19
Modified by
Notice 99–41, 1999–35 I.R.B. *325*

98–22
Clarified and supplemented by
Rev. Proc. 99–31, 1999–34 I.R.B. *280*

98–35
Superseded by
Rev. Proc. 99–29, 1999–31 I.R.B. *138*

98–37
Superseded by
Rev. Proc. 99–34, 1999–40 I.R.B. *450*

Revenue Rulings:

77–475
Modified and superseded by
Rev. Rul. 99–40, 1999–40 I.R.B. *441*

82–80
Superseded by
Rev. Proc. 99–32, 1999–34 I.R.B. *296*

84–58
Modified and superseded by
Rev. Rul. 99–40, 1999–40 I.R.B. *441*

88–98
Modified and superseded by
Rev. Rul. 99–40, 1999–40 I.R.B. *441*

99–23
Corrected by
Ann. 99–89, 1999–36 I.R.B. *408*

Treasury Decisions:

8476
Corrected by
Ann. 99–74, 1999–30 I.R.B. *133*

8742
Corrected by
Ann. 99–73, 1999–30 I.R.B. *133*

8793
Corrected by
Ann. 99–75, 1999–30 I.R.B. *134*

8805
Corrected by
Ann. 99–66, 1999–27 I.R.B. *9*

Treasury Decisions—Continued

8806
Corrected by
Ann. 99–84, 1999–33 I.R.B. *248*

8819
Corrected by
Ann. 99–47, 1999–28 I.R.B. *29*

8823
Corrected by
Ann. 99–86, 1999–35 I.R.B. *332*

8825
Corrected by
Ann. 99–100, 1999–42 I.R.B. *522*

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

Notes

Notes

Notes

Superintendent of Documents Publications and Subscriptions Order Form

New Deposit Account?

Order processing code: ***3119**

Check here ☐

NOTE: All prices include regular domestic postage and handling. Subscription prices are subject to change at any time. International customers, please add 25%. To fax your orders (202) 512-2250.

Publications

Qty.	Stock Number	Title	Price Each	Total Price
	021-066-00909-2	Subject Bibliography listing Cum. Bulletins prior to 1988 SB-066	FREE	FREE
	048-004-02277-0	Cum. Bulletin 1988-1 (Jan-June)	$42	
	048-004-02279-6	Cum. Bulletin 1988-2 (July-Dec)	$41	
	048-004-02291-5	Cum. Bulletin 1988-3	$40	
	048-004-02286-9	Cum. Bulletin 1989-1 (Jan-June)	$44	
	048-004-02292-3	Cum. Bulletin 1989-2 (July-Dec)	$40	
	048-004-02295-8	Cum. Bulletin 1990-1 (Jan-June)	$38	
	048-004-02300-8	Cum. Bulletin 1990-2 (July-Dec)	$41	
	048-004-02305-9	Cum. Bulletin 1991-1 (Jan-June)	$44	
	048-004-02309-1	Cum. Bulletin 1991-2 (July-Dec)	$45	
	048-004-02310-5	Cum. Bulletin 1992-1 (Jan-June)	$51	
	048-004-02317-2	Cum. Bulletin 1992-2 (July-Dec)	$47	
		Total for Publications		

Subscriptions

Qty.	List ID	Title	Price Each	Total Price
	N-914	Priority Announcements for Accountants	FREE	FREE
	IRB	Internal Revenue Bulletin	$123	
		Optional—Add $50 to open new Deposit Account and please check box in upper right corner		
		Total Cost of Order		

FUTURE EDITIONS of Internal Revenue Cumulative Bulletins are available through "STANDING ORDER SERVICE." Get these future editions—automatically—without having to initiate a purchase order.

AUTHORIZATION FOR STANDING ORDER SERVICE

I hereby authorize the Superintendent of Documents to charge my:

☐ VISA, ☐ MasterCard, or ☐ Superintendent of Documents Deposit Account for the Standing Order item below selected and shipped to me.

Authorizing signature (Standing Orders not valid unless signed.)

Please print or type your name.

Office Phone Number (_____) _____

Qty.	Standing Order	Title
	ZIRSC	Internal Revenue Cumulative Bulletins

GPO DEPOSIT ACCOUNT

A Deposit Account will enable you to use Standing Order Service to receive subsequent volumes quickly and automatically. For an initial deposit of $50 you can establish your GPO Deposit Account.

☐ **YES!** Open a Deposit Account for me so I can order future publications quickly and easily. I'm enclosing the $50.00 initial deposit.

FREE Priority Announcement Service

You can find out about new publications for tax practitioners and accountants—as they are released—through our FREE Priority Announcement Service. See above.

For privacy protection, check the box below:

☐ Do not make my name available to other mailers

Check method of payment:

☐ Check payable to Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐ – ☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

(Authorizing Signature) 4/93

Purchase Order No. _____

(If purchase order included.)

Please type or print

(Company or Personal Name)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

(Daytime phone including area code)

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

Standing Order Service

Just sign the authorization above to charge selected items to your existing Deposit Account, VISA, or MasterCard account. Or open a Deposit Account with an initial deposit of $50 or more. Your account will be charged only as each volume is issued and mailed. Sufficient money must be kept in your account to insure that items are shipped.

Standing Orders remain in effect until canceled in writing (telephone cancellations are accepted but must be followed up with a written cancellation within 10 days) or canceled by the Superintendent of Documents.

Service begins with the next issue released of each item selected. An acknowledgment card is sent for each Standing Order item selected.

INTERNAL REVENUE BULLETIN

The Introduction at the beginning of this issue describes the purpose and content of this publication. The weekly Internal Revenue Bulletin is sold on a yearly subscription basis by the Superintendent of Documents. Current subscribers are notified by the Superintendent of Documents when their subscriptions must be renewed.

CUMULATIVE BULLETINS

The contents of this weekly Bulletin are consolidated semiannually into a permanent, indexed, Cumulative Bulletin. These are sold on a single copy basis and *are not* included as part of the subscription to the Internal Revenue Bulletin. Subscribers to the weekly Bulletin are notified when copies of the Cumulative Bulletin are available. Certain issues of Cumulative Bulletins are out of print and are not available. Persons desiring available Cumulative Bulletins, which are listed on the reverse, may purchase them from the Superintendent of Documents.

HOW TO ORDER

Check the publications and/or subscription(s) desired on the reverse, complete the order blank, enclose the proper remittance, detach entire page, and mail to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Please allow two to six weeks, plus mailing time, for delivery.

WE WELCOME COMMENTS ABOUT THE INTERNAL REVENUE BULLETIN

If you have comments concerning the format or production of the Internal Revenue Bulletin or suggestions for improving it, we would be pleased to hear from you. You can e-mail us your suggestions or comments through the IRS Internet Home Page (www.irs.ustreas.gov) or write to the IRS Bulletin Unit, OP:FS:FP:P:1, Room 5617, 1111 Constitution Avenue NW, Washington, DC 20224.
