Internal Revenue
bulletin

Bulletin No. 2000–33
August 14, 2000

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.

EMPLOYEE PLANS

T.D. 8894, page 162.
REG–116495–99, page 179.
Final and proposed regulations under section 72(p) of the Code relate to loans made from a qualified employer plan to plan participants or beneficiaries. The proposed regulations address certain issues that were not addressed in the final regulations, including situations in which a loan is refinanced or more than one loan is made.

EMPLOYMENT TAX

Notice 2000–38, page 174.
Cash or deferred arrangements; nonqualified deferred compensation. This notice describes the withholding and reporting requirements applicable to eligible deferred compensation plans described under section 457(b) of the Code.

EXEMPT ORGANIZATIONS

Notice 2000–36, page 173.
IRS releases new Form 8871, *Political Organization Notice of Section 527 Status*. This notice announces the release of the new form required to be filed by political organizations under section 527(i) of the Code and outlines plans for implementing the new law.

Notice 2000–41, page 177.
IRS releases new Form 8872, *Political Organization Report of Contributions and Expenditures*. This notice announces the release of the new form required to be filed by political organizations under section 527(j) of the Code requiring the listing of contributions and expenditures.

Announcement 2000–69, page 183.
A list is provided of organizations that no longer qualify as organizations to which contributions are deductible under section 170 of the Code.

ADMINISTRATIVE

Rev. Proc. 2000–32, page 172.
This procedure provides the domestic asset/liability percentages and domestic investment yield percentages needed by foreign companies conducting insurance business in the United States to compute their minimum effectively connected net investment income.

Notice 2000–34, page 172.
Losses: Blue Cross Blue Shield organizations. This notice informs Blue Cross Blue Shield insurance organizations that the Service will challenge deductions for losses that relate to the termination of individual customer, provider, or employee contracts or relationships associated with customer lists, provider networks, and workforce in place with respect to which the taxpayer claims an adjusted basis derived from section 1012(c)(3)(A)(ii) of the Tax Reform Act of 1986.

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 72.—Annuities; Certain Proceeds of Endowment and Life Insurance Contracts

26 CFR 1.72(p)–1: Loans treated as distributions.

T.D. 8894

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Loans From a Qualified Employer Plan to Plan Participants or Beneficiaries

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to loans made from a qualified employer plan to plan participants or beneficiaries. These final regulations provide guidance on the application of section 72(p) of the Internal Revenue Code. These regulations affect administrators of, participants in, and beneficiaries of qualified employer plans that permit participants or beneficiaries to receive loans from the plan, including loans from section 403(b) contracts and other contracts issued under qualified employer plans.

DATES: *Effective Date*: These regulations are effective July 31, 2000.

Applicability Date: For dates of applicability, see §1.72(p)–1, Q&A-22 (a) through (c)(2).

FOR FURTHER INFORMATION CONTACT: Vernon S. Carter, (202) 622-6070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations (26 CFR Part 1) under section 72 of the Internal Revenue Code of 1986 (Code). These regulations provide guidance concerning the tax treatment of loans that are deemed to be distributed under section 72(p). Section 72(p) was added by section 236 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 324), and amended by the Technical Corrections Act of 1982 (96 Stat. 2365), the Deficit Reduction Act of 1984 (98 Stat. 494), the Tax Reform Act of 1986 (100 Stat. 2085), and the Technical and Miscellaneous Revenue Act of 1988 (102 Stat. 3342).

On December 21, 1995, a notice of proposed rulemaking (EE–106–82, 1996–1 C.B. 732) was published in the **Federal Register** (60 F.R. 66233) with respect to many of the issues arising under section 72(p)(2). The preamble to the 1995 proposed regulations requested comments on certain issues that were not addressed. Following publication of the 1995 proposed regulations, comments were received and a public hearing was held on June 28, 1996. One of the issues on which comments were requested and received was the effect of a deemed distribution on the tax treatment of subsequent distributions from a plan (such as whether a participant has tax basis as a result of a deemed distribution). After reviewing the written comments and comments made at the public hearing, additional proposed regulations addressing this issue were published January 2, 1998 (REG–209476–82, 1998–1 C.B. 594), in the **Federal Register** (63 F.R. 42). Written comments were received on the 1998 proposed regulations, but no public hearing was requested. After consideration of all comments received on both the 1995 and the 1998 proposed regulations, the proposed regulations are adopted as revised by this Treasury decision.

Explanation of Provisions

Section 72(p)(1)(A) provides that a loan from a qualified employer plan (including a contract purchased under a qualified employer plan) to a participant or beneficiary is treated as received as a distribution from the plan for purposes of section 72 (a deemed distribution). Section 72(p)(1)(B) provides that an assignment or pledge of (or an agreement to assign or pledge) any portion of a participant's or beneficiary's interest in a qualified employer plan is treated as a loan from the plan.

Section 72(p)(2) provides that section 72(p)(1) does not apply to the extent certain conditions are satisfied. Specifically, under section 72(p)(2), a loan from a qualified employer plan to a participant or beneficiary is not treated as a distribution from the plan if the loan satisfies requirements relating to the term of the loan and the repayment schedule, and to the extent the loan satisfies certain limitations on the amount loaned. For example, except in the case of certain home loans, the exception in section 72(p)(2) only applies to a loan that by its terms is to be repaid over not more than five years in substantially level installments.

For purposes of section 72, a qualified employer plan includes a plan that qualifies under section 401 (relating to qualified trusts), 403(a) (relating to qualified annuities) or 403(b) (relating to tax sheltered annuities[1]), as well as a plan (whether or not qualified) maintained by the United States, a State or a political subdivision thereof, or an agency or instrumentality thereof. A qualified employer plan also includes a plan which was (or was determined to be) a qualified plan or a government plan.

Summary of Comments Received and Changes Made and Summary of the Final Regulations

In general, comments received on the proposed regulations were favorable and, accordingly, the final regulations retain the general structure and substance of the proposed regulations, including a wide variety of examples illustrating the rules in the final regulations. However, commentators made a number of specific recommendations for modifications and clarifications of the regulations. The comments are summarized below, along with the IRS' and Treasury's consideration of those comments.

[1]With respect to coverage under Title I of the Employee Retirement Income Security Act of 1974 (88 Stat. 829) (ERISA), the Department of Labor (DOL) has advised the IRS that an employer's tax-sheltered annuity program would not necessarily fail to satisfy the Department's regulation at 29 CFR 2510.3–2(f) merely because the employer permits employees to make repayments of loans made in connection with the tax-sheltered annuity program through payroll deductions as part of the employer's payroll deduction system, if the program operates within the limitations set by that regulation.

A. Cure Period for Missed Payments

The 1995 proposed regulations stated that the section 72(p)(2)(C) requirement that repayments be made in level installments at least quarterly would not be violated if payments are not made until the end of a grace period that the plan administrator may allow, but only to the extent the grace period does not continue beyond the last day of the calendar quarter following the calendar quarter in which the required installment payment was due. Commentators suggested that the proposed regulations should specify how the grace period is to be established, such as whether the grace period must be contained in the plan document, a separate loan program that is deemed to be a part of the plan document pursuant to DOL 29 CFR 2550.408b–1(d)(2), or the summary plan description, and whether it is permissible for a plan to have grace periods on a participant by participant basis (so long as this did not discriminate in favor of the highly compensated employees).

Some commentators requested that a plan participant have a reasonable period of time (such as up to 30 days) to cure a default after the plan administrator has sent a notice of default, and that the section 72(p) regulations mandate that the plan administrator send a notice of default within a reasonable period of time (such as 30 days) after it has discovered the default. These commentators suggested that grace and cure periods might be conditioned upon the plan administrator having an appropriate procedure in place for timely identification of defaults and curing defects. Some commentators requested that final regulations permit a plan administrator to use his or her discretion, under special circumstances, to provide a grace period of up to one year from the date of a missed payment.

Many of these suggested changes relate to legal requirements other than section 72(p), such as the application of the fiduciary requirements of ERISA[2] and Federal and state laws that apply to debtors and creditors. The 1995 proposed regulations allowed a grace period up to the end of the next following quarter. Thus, a plan could select a grace period of, for example, 30 days or 90 days and could provide a special notice to the participant concerning the grace period. Thus, many of the suggested changes would involve the imposition of new and complicated rules for which there is no apparent basis in section 72(p) and which would in any case be difficult to enforce and to administer. Accordingly, the final regulations retain the same rules as the proposed regulations. However, the final regulations use the term *cure period* instead of *grace period*.

The final regulations also include a new cross-reference to section 414(u)(4), (relating to military service) which was added to the Code by the Small Business Job Protection Act of 1996 (110 Stat. 1755).

B. Treatment of Loans after Deemed Distribution.

The 1998 proposed regulations provide that once a loan is deemed distributed under section 72(p) of the Code, interest that accrues thereafter on that loan is not included in income and, for purposes of calculating the maximum permitted amount of any subsequent loan, a loan that has been deemed distributed is considered outstanding until the loan obligation has been satisfied. The majority of the comments on this issue urged that the positions taken in the 1998 proposed regulations addressing post-default interest be adopted in the final regulations. Some commentators asked that the regulations provide further guidance on or revise the treatment of interest that accrues on a loan that is a deemed distribution under section 72(p), as described in Q&A-19 of the 1998 proposed regulations. Commentators noted that, in the case of a plan that has chosen to permit additional loans after a default that has not been cured, the rule in the proposed regulations requiring interest to be taken into account in determining the maximum amount of any subsequent loan would involve costs to make system and procedural changes to calculate the accrued interest on the defaulted loan for this limited application. Other commentators urged that participants be taxed on the additional interest after a default, either annually or as an accumulated amount at the time of a loan offset, as an incentive for the participant to repay the loan.

One commentator raised the issue of how a deemed distribution would be taken into account in a plan with a graded vesting schedule.

The final regulations generally adopt the rules in the proposed regulations, but the regulations have been revised to indicate that a deemed distribution is not taken into account as a distribution for purposes of the requirements of §1.411(a)–7(d)(5) (relating to the determination of a participant's account balance if a distribution is made at a time when the participant's vesting percentage may increase).

C. Enforceable Agreement and New Technologies

The 1995 proposed regulations required that a loan be evidenced by a legally enforceable agreement and that the legally enforceable agreement be set forth in writing or in another form approved by the Commissioner. Commentators asked whether a participant needs to sign a loan agreement document and whether loans made electronically, such as over phone or voice response units, would be permitted.

Some comments requested elimination of the requirement that a loan be evi-

[2]The Department of Labor has advised the IRS that, with respect to plans covered by Title I of ERISA, the administration of a participant loan program involves the management of plan assets. Therefore, fiduciary conduct undertaken in the administration of such a loan program must conform to the rules that govern transactions involving plan assets. See, generally, ERISA sections 403, 404, and 406. Fiduciary conduct in the administration of a loan program would include decisions concerning the rules governing the program, including establishing standards to govern the appropriateness of making any particular loan and the appropriate treatment of any defaulted loan. Further, absent an exemption, any loan between a plan covered by Title I of ERISA and a party in interest to the plan (including plan participants and beneficiaries) would constitute a prohibited transaction under section 406(a)(1)(B) of ERISA. DOL has promulgated a regulation at 29 CFR 2550.408b–1 providing guidance regarding the statutory exemption contained in section 408(b)(1) of ERISA for plan loans to parties in interest who are participants or beneficiaries. Further, some loans by plans (whether or not covered under Title I of ERISA) may constitute prohibited transactions under section 4975(c)(1)(B) of the Internal Revenue Code. Under section 102 of Reorganization Plan No. 4 of 1978, (43 FR 47,713) (1978), the Secretary of Labor has jurisdiction to promulgate regulations under section 4975(d)(1) of the Internal Revenue Code, which provides a limited exemption to the prohibition of section 4975(c)(1)(B) of the Internal Revenue Code.

denced by a legally enforceable agreement. However, the final regulations retain this requirement. There is, arguably, no difference between a loan that is not legally enforceable and a cash distribution that the employee is permitted to return to the plan. The final regulations clarify that, as long as a signature is not required in order for the loan to be enforceable under applicable law, the agreement need not be signed.

The final regulations also require the agreement to be set forth in a written paper document or in another form approved by the Commissioner. However, the final regulations also treat this requirement as satisfied if the loan agreement is set forth in any electronic medium that satisfies certain standards. The standards in these final regulations for use of an electronic medium for a loan are the same as the standards for use of an electronic medium for a consent to a distribution under §1.411(a)–11(f)(2). 65 F.R. 6001 (February 8, 2000). Specifically, a loan agreement will not fail to satisfy section 72(p)(2) of the Code merely because the loan agreement is in an electronic medium reasonably accessible to the participant or the beneficiary under a system that is reasonably designed to preclude anyone other than the participant or the beneficiary from requesting a loan, that provides the participant or the beneficiary with a reasonable opportunity to review the terms of the loan and to confirm, modify, or rescind the terms of the loan before the loan is made, and that provides the participant or the beneficiary, within a reasonable period after the loan is made, with a confirmation of the loan terms through a written paper document or an electronic medium.[3] If an electronic medium is used to provide confirmation of the loan terms, the electronic medium must be reasonably accessible to the participant or the beneficiary and the electronic confirmation must be provided under a system reasonably designed to give the confirmation in a manner no less understandable to the participant or the beneficiary than a written paper document. Also, the participant or the beneficiary must be advised of the right to request and to receive a copy of the confirmation on a written paper document without charge.

The Electronic Signatures in Global and National Commerce Act (114 Stat. 464) (the Electronic Signatures Act) was signed on June 30, 2000. Title I of the Electronic Signatures Act, which is generally effective October 1, 2000, applies to certain electronic records and signatures in commerce. In the Notice of Proposed Rulemaking, REG–116495–99 on page 179, comments are requested on the impact of the Electronic Signatures Act on these regulations and on any future guidance that may be needed on the application of the Electronic Signatures Act to plan loan transactions.

D. Mortgage Investment Program

Some commentators requested that the special rule in the 1995 proposed regulations under which section 72(p) would not apply to loans made under a residential mortgage investment program be revised to eliminate the requirement that the loans also be available to nonparticipants. This special rule is not based on an explicit statutory provision, but is based on legislative history[4] indicating the understanding that section 72(p) was not intended to apply to loans made in the ordinary course of a bona fide residential mortgage investment program. The IRS and Treasury have concluded that there is a risk that the intent of the section 72(p)(2) limitations might be thwarted if a category of loans extended solely to participants were not subject to section 72(p). However, the extension of this requirement to otherwise bona fide mortgage investment programs that were in effect at the time the 1995 proposed regulations were issued would be inappropriate and, accordingly, the final regulations permit plans with these preexisting programs to continue to make such loans. The special rule in the final regulations is not intended to provide guidance on whether, or to what extent, a plan that is covered by Title I of ERISA may make such residential mortgage loans available to participants or beneficiaries of the plan without violating the provisions of Title I of ERISA.[5]

E. Other Changes

The requirement that a loan be repaid within five years does not apply to a loan used to acquire a dwelling unit which will within a reasonable time be used as the principal residence of the participant. For this purpose, the 1995 proposed regulations provided that a principal residence has the same meaning as a principal residence under section 1034. To reflect the repeal of section 1034[6] and the use of the same term in section 121, the final regulations provide that a principal residence has the same meaning as a principal residence under section 121.[7]

F. Effective Date of Final Regulations

Both the 1995 and the 1998 proposed regulations were proposed to apply for assignments, pledges, and loans made on or after the first January 1 that is at least six months after the issuance of final regulations. Under certain limited conditions, the 1998 proposed regulations permitted loans made before this proposed general effective date to apply Q&A-19, relating to interest accruing after a deemed distribution, and Q&A-20, relating to basis resulting from repayments after a deemed distribution. Comments on these transition conditions were generally favorable, but one commentator requested that plan sponsors be permitted to rely on these rules for loans made before the general effective date if any reasonable and consistent method had been used to report deemed distributions before the general effective date. The rules in the 1998 proposed regulations for pre-effective date loans included carefully considered, specific conditions in order for such loans to be able to rely on Q&A-19 and Q&A-20 (including several detailed examples illustrating the application of these transition conditions) and these rules have been retained in the final regulations.

---

[3]Neither the regulations regarding use of electronic medium under section 411 nor these regulations apply for purposes of satisfying the requirements of section 417, including the requirement of section 417(a)(2)(A) that spousal consent be witnessed by a notary public or plan representative.

[4]H.R. Conf. Rep. No. 97–760, 97th Cong., 2d Sess. 620 (1982), 1982–2 C.B. 672 and S. Rep. No. 97–494, 97th Cong., 2d Sess. 319, 321 (1982).

[5]See, for example, PTCE 88–59.

[6]Section 1034 was repealed by section 312(b) of the Taxpayer Relief Act of 1997 (Public Law 105–34) (111 Stat. 788).

[7]Like the 1995 proposed regulations, the final regulations (at Q&A-7) apply the tracing rules of section 163(h)(3) of the Code to trace whether a loan is a principal residence plan loan. Notice 88–74 (1988–2 C.B. 385), sets forth certain standards applicable under section 163(h)(3).

Commentators also requested that the general effective date be the first January 1 that is at least 6 or 12 months after the date of the final regulations to allow for proper redesign and testing of plan loan administration systems. Consistent with the proposed effective date and these comments, the final regulations are applicable to assignments, pledges, and loans made on or after January 1, 2002.

Special Analyses

It has been determined that this Treasury decision 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, and because the regulations does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Vernon S. Carter, Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.72–17A is amended as follows:

1. Paragraphs (d)(1), (d)(2) and (d)(3) are redesignated as paragraphs (d)(2), (d)(3) and (d)(4), respectively.

2. New paragraph (d)(1) is added. The addition reads as follows:

§1.72–17A Special rules applicable to employee annuities and distributions under deferred compensation plans to self-employed individuals and owner-employees.

* * * * *

(d) * * * (1) The references in this paragraph (d) to section 72(m)(4) are to that section as in effect on August 13, 1982. Section 236(b)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 324) repealed section 72(m)(4), generally effective for assignments, pledges and loans made after August 13, 1982, and added section 72(p). See section 72(p) and §1.72(p)–1 for rules governing the income tax treatment of certain assignments, pledges and loans from qualified employer plans made after August 13, 1982.

* * * * *

Par. 3. Section 1.72(p)–1 is added to read as follows:

§1.72(p)–1 Loans treated as distributions.

The questions and answers in this section provide guidance under section 72(p) pertaining to loans from qualified employer plans (including government plans and tax-sheltered annuities and employer plans that were formerly qualified). The examples included in the questions and answers in this section are based on the assumption that a bona fide loan is made to a participant from a qualified defined contribution plan pursuant to an enforceable agreement (in accordance with paragraph (b) of Q&A-3 of this section), with adequate security and with an interest rate and repayment terms that are commercially reasonable. (The particular interest rate used, which is solely for illustration, is 8.75 percent compounded annually.) In addition, unless the contrary is specified, it is assumed in the examples that the amount of the loan does not exceed 50 percent of the participant's nonforfeitable account balance, the participant has no other outstanding loan (and had no prior loan) from the plan or any other plan maintained by the participant's employer or any other person required to be aggregated with the employer under section 414(b), (c) or (m), and the loan is not excluded from section 72(p) as a loan made in the ordinary course of an investment program as described in Q&A-18 of this section. The regulations and examples in this section do not provide guidance on whether a loan from a plan would result in a prohibited transaction under section 4975 of the Internal Revenue Code or on whether a loan from a plan covered by Title I of the Employee Retirement Income Security Act of 1974 (88 Stat. 829) (ERISA) would be consistent with the fiduciary standards of ERISA or would result in a prohibited transaction under section 406 of ERISA. The questions and answers are as follows:

Q-1: In general, what does section 72(p) provide with respect to loans from a qualified employer plan?

A-1: (a) *Loans*. Under section 72(p), an amount received by a participant or beneficiary as a loan from a qualified employer plan is treated as having been received as a distribution from the plan (a deemed distribution), unless the loan satisfies the requirements of Q&A-3 of this section. For purposes of section 72(p) and this section, a loan made from a contract that has been purchased under a qualified employer plan (including a contract that has been distributed to the participant or beneficiary) is considered a loan made under a qualified employer plan.

(b) *Pledges and assignments*. Under section 72(p), if a participant or beneficiary assigns or pledges (or agrees to assign or pledge) any portion of his or her interest in a qualified employer plan as security for a loan, the portion of the individual's interest assigned or pledged (or subject to an agreement to assign or pledge) is treated as a loan from the plan to the individual, with the result that such portion is subject to the deemed distribution rule described in paragraph (a) of this Q&A-1. For purposes of section 72(p) and this section, any assignment or pledge of (or agreement to assign or to pledge) any portion of a participant's or beneficiary's interest in a contract that has been purchased under a qualified employer plan (including a contract that has been distributed to the participant or beneficiary) is considered an assignment or pledge of (or agreement to assign or pledge) an interest in a qualified employer plan. However, if all or a portion of a participant's or beneficiary's interest in a qualified employer plan is pledged or assigned as security for a loan from the plan to the participant or the beneficiary, only the amount of the loan received by the participant or the beneficiary, not the amount pledged or assigned, is treated as a loan.

Q-2: What is a qualified employer plan for purposes of section 72(p)?

A-2: For purposes of section 72(p) and this section, a qualified employer plan means—

(a) A plan described in section 401(a) which includes a trust exempt from tax under section 501(a);

(b) An annuity plan described in section 403(a);

(c) A plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b);

(d) Any plan, whether or not qualified, established and maintained for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of the United States, a State or a political subdivision of a State; or

(e) Any plan which was (or was determined to be) described in paragraph (a), (b), (c), or (d) of this Q&A-2.

Q-3: What requirements must be satisfied in order for a loan to a participant or beneficiary from a qualified employer plan not to be a deemed distribution?

A-3: (a) *In general*. A loan to a participant or beneficiary from a qualified employer plan will not be a deemed distribution to the participant or beneficiary if the loan satisfies the repayment term requirement of section 72(p)(2)(B), the level amortization requirement of section 72(p)(2)(C), and the enforceable agreement requirement of paragraph (b) of this Q&A-3, but only to the extent the loan satisfies the amount limitations of section 72(p)(2)(A).

(b) *Enforceable agreement requirement*. A loan does not satisfy the requirements of this paragraph unless the loan is evidenced by a legally enforceable agreement (which may include more than one document) and the terms of the agreement demonstrate compliance with the requirements of section 72(p)(2) and this section. Thus, the agreement must specify the amount and date of the loan and the repayment schedule. The agreement does not have to be signed if the agreement is enforceable under applicable law without being signed. The agreement must be set forth either—

(1) In a written paper document;

(2) In an electronic medium that is reasonably accessible to the participant or the beneficiary and that is provided under a system that satisfies the following requirements:

(i) The system must be reasonably designed to preclude any individual other than the participant or the beneficiary from requesting a loan.

(ii) The system must provide the participant or the beneficiary with a reasonable opportunity to review and to confirm, modify, or rescind the terms of the loan before the loan is made.

(iii) The system must provide the participant or the beneficiary, within a reasonable time after the loan is made, a confirmation of the loan terms either through a written paper document or through an electronic medium that is reasonably accessible to the participant or the beneficiary and that is provided under a system that is reasonably designed to provide the confirmation in a manner no less understandable to the participant or beneficiary than a written document and, under which, at the time the confirmation is provided, the participant or the beneficiary is advised that he or she may request and receive a written paper document at no charge, and, upon request, that document is provided to the participant or beneficiary at no charge.

or

(3) In such other form as may be approved by the Commissioner.

Q-4: If a loan from a qualified employer plan to a participant or beneficiary fails to satisfy the requirements of Q&A-3 of this section, when does a deemed distribution occur?

A-4: (a) *Deemed distribution*. For purposes of section 72, a deemed distribution occurs at the first time that the requirements of Q&A-3 of this section are not satisfied, in form or in operation. This may occur at the time the loan is made or at a later date. If the terms of the loan do not require repayments that satisfy the repayment term requirement of section 72(p)(2)(B) or the level amortization requirement of section 72(p)(2)(C), or the loan is not evidenced by an enforceable agreement satisfying the requirements of paragraph (b) of Q&A-3 of this section, the entire amount of the loan is a deemed distribution under section 72(p) at the time the loan is made. If the loan satisfies the requirements of Q&A-3 of this section except that the amount loaned exceeds the limitations of section 72(p)(2)(A), the amount of the loan in excess of the applicable limitation is a deemed distribution under section 72(p) at the time the loan is made. If the loan initially satisfies the requirements of section 72(p)(2)(A), (B) and (C) and the enforceable agreement requirement of paragraph (b) of Q&A-3 of this section, but payments are not made in accordance with the terms applicable to the loan, a deemed distribution occurs as a result of the failure to make such payments. See Q&A-10 of this section regarding when such a deemed distribution occurs and the amount thereof and Q&A-11 of this section regarding the tax treatment of a deemed distribution.

(b) *Examples*. The following examples illustrate the rules in paragraph (a) of this Q&A-4 and are based upon the assumptions described in the introductory text of this section:

Example 1. (i) A participant has a nonforfeitable account balance of $200,000 and receives $70,000 as a loan repayable in level quarterly installments over five years.

(ii) Under section 72(p), the participant has a deemed distribution of $20,000 (the excess of $70,000 over $50,000) at the time of the loan, because the loan exceeds the $50,000 limit in section 72(p)(2)(A)(i). The remaining $50,000 is not a deemed distribution.

Example 2. (i) A participant with a nonforfeitable account balance of $30,000 borrows $20,000 as a loan repayable in level monthly installments over five years.

(ii) Because the amount of the loan is $5,000 more than 50% of the participant's nonforfeitable account balance, the participant has a deemed distribution of $5,000 at the time of the loan. The remaining $15,000 is not a deemed distribution. (Note also that, if the loan is secured solely by the participant's account balance, the loan may be a prohibited transaction under section 4975 because the loan may not satisfy 29 CFR 2550.408b–1(f)(2).)

Example 3. (i) The nonforfeitable account balance of a participant is $100,000 and a $50,000 loan is made to the participant repayable in level quarterly installments over seven years. The loan is not eligible for the section 72(p)(2)(B)(ii) exception for loans used to acquire certain dwelling units.

(ii) Because the repayment period exceeds the maximum five-year period in section 72(p)(2)(B)(i), the participant has a deemed distribution of $50,000 at the time the loan is made.

Example 4. (i) On August 1, 2002, a participant has a nonforfeitable account balance of $45,000 and borrows $20,000 from a plan to be repaid over five years in level monthly installments due at the end of each month. After making monthly payments through July 2003, the participant fails to make any of the payments due thereafter.

(ii) As a result of the failure to satisfy the requirement that the loan be repaid in level monthly installments, the participant has a deemed distribution. See paragraph (c) of Q&A-10 of this section regarding when such a deemed distribution occurs and the amount thereof.

Q-5: What is a principal residence for purposes of the exception in section 72(p)(2)(B)(ii) from the requirement that a loan be repaid in five years?

A-5: Section 72(p)(2)(B)(ii) provides that the requirement in section 72(p)(2)(B)(i) that a plan loan be repaid within five years does not apply to a loan used to acquire a dwelling unit which will within a reasonable time be used as the principal residence of the participant (a principal residence plan loan). For this purpose, a principal residence has the same meaning as a principal residence under section 121.

Q-6: In order to satisfy the requirements for a principal residence plan loan, is a loan required to be secured by the dwelling unit that will within a reasonable time be used as the principal residence of the participant?

A-6: A loan is not required to be secured by the dwelling unit that will within a reasonable time be used as the participant's principal residence in order to satisfy the requirements for a principal residence plan loan.

Q-7: What tracing rules apply in determining whether a loan qualifies as a principal residence plan loan?

A-7: The tracing rules established under section 163(h)(3)(B) apply in determining whether a loan is treated as for the acquisition of a principal residence in order to qualify as a principal residence plan loan.

Q-8: Can a refinancing qualify as a principal residence plan loan?

A-8: (a) *Refinancings*. In general, no, a refinancing cannot qualify as a principal residence plan loan. However, a loan from a qualified employer plan used to repay a loan from a third party will qualify as a principal residence plan loan if the plan loan qualifies as a principal residence plan loan without regard to the loan from the third party.

(b) *Example*. The following example illustrates the rules in paragraph (a) of this Q&A-8 and is based upon the assumptions described in the introductory text of this section:

Example. (i) On July 1, 2003, a participant requests a $50,000 plan loan to be repaid in level monthly installments over 15 years. On August 1, 2003, the participant acquires a principal residence and pays a portion of the purchase price with a $50,000 bank loan. On September 1, 2003, the plan loans $50,000 to the participant, which the participant uses to pay the bank loan.

(ii) Because the plan loan satisfies the requirements to qualify as a principal residence plan loan (taking into account the tracing rules of section 163(h)(3)(B)), the plan loan qualifies for the exception in section 72(p)(2)(B)(ii).

Q-9: Does the level amortization requirement of section 72(p)(2)(C) apply when a participant is on a leave of absence without pay?

A-9: (a) *Leave of absence*. The level amortization requirement of section 72(p)(2)(C) does not apply for a period, not longer than one year (or such longer period as may apply under section 414(u)), that a participant is on a bona fide leave of absence, either without pay from the employer or at a rate of pay (after income and employment tax withholding) that is less than the amount of the installment payments required under the terms of the loan. However, the loan (including interest that accrues during the leave of absence) must be repaid by the latest date permitted under section 72(p)(2)(B) (e.g., the suspension of payments cannot extend the term of the loan beyond 5 years, in the case of a loan that is not a principal residence plan loan) and the amount of the installments due after the leave ends (or, if earlier, after the first year of the leave or such longer period as may apply under section 414(u)) must not be less than the amount required under the terms of the original loan.

(b) *Military service*. See section 414(u)(4) for special rules relating to military service.

(c) *Example*. The following example illustrates the rules of paragraph (a) of this Q&A-9 and is based upon the assumptions described in the introductory text of this section:

Example. (i) On July 1, 2002, a participant with a nonforfeitable account balance of $80,000 borrows $40,000 to be repaid in level monthly installments of $825 each over 5 years. The loan is not a principal residence plan loan. The participant makes 9 monthly payments and commences an unpaid leave of absence that lasts for 12 months. Thereafter, the participant resumes active employment and resumes making repayments on the loan until the loan is repaid in full (including interest that accrued during the leave of absence). The amount of each monthly installment is increased to $1,130 in order to repay the loan by June 30, 2007.

(ii) Because the loan satisfies the requirements of section 72(p)(2), the participant does not have a deemed distribution. Alternatively, section 72(p)(2) would be satisfied if the participant continued the monthly installments of $825 after resuming active employment and on June 30, 2007 repaid the full balance remaining due.

Q-10: If a participant fails to make the installment payments required under the terms of a loan that satisfied the requirements of Q&A-3 of this section when made, when does a deemed distribution occur and what is the amount of the deemed distribution?

A-10: (a) *Timing of deemed distribution*. Failure to make any installment payment when due in accordance with the terms of the loan violates section 72(p)(2)(C) and, accordingly, results in a deemed distribution at the time of such failure. However, the plan administrator may allow a cure period and section 72(p)(2)(C) will not be considered to have been violated if the installment payment is made not later than the end of the cure period, which period cannot continue beyond the last day of the calendar quarter following the calendar quarter in which the required installment payment was due.

(b) *Amount of deemed distribution*. If a loan satisfies Q&A-3 of this section when made, but there is a failure to pay the installment payments required under the terms of the loan (taking into account any cure period allowed under paragraph (a) of this Q&A-10), then the amount of the deemed distribution equals the entire outstanding balance of the loan (including accrued interest) at the time of such failure.

(c) *Example*. The following example illustrates the rules in paragraphs (a) and (b) of this Q&A-10 and is based upon the assumptions described in the introductory text of this section:

Example. (i) On August 1, 2002, a participant has a nonforfeitable account balance of $45,000 and borrows $20,000 from a plan to be repaid over 5 years in level monthly installments due at the end of each month. After making all monthly payments due through July 31, 2003, the participant fails to make the payment due on August 31, 2003 or any other monthly payments due thereafter. The plan administrator allows a three-month cure period.

(ii) As a result of the failure to satisfy the requirement that the loan be repaid in level installments pursuant to section 72(p)(2)(C), the participant has a deemed distribution on November 30, 2003, which is the last day of the three-month cure period for the August 31, 2003 installment. The amount of the deemed distribution is $17,157, which is the outstanding balance on the loan at November 30, 2003. Alternatively, if the plan administrator had allowed a cure period through the end of the next calendar quarter, there would be a deemed distribution on December 31, 2003 equal to $17,282, which is the outstanding balance of the loan at December 31, 2003.

Q-11: Does section 72 apply to a deemed distribution as if it were an actual distribution?

A-11: (a) *Tax basis*. If the employee's account includes after-tax contributions or other investment in the contract under section 72(e), section 72 applies to a deemed distribution as if it were an actual distribution, with the result that all or a portion of the deemed distribution may not be taxable.

(b) *Section 72(t) and (m)*. Section 72(t) (which imposes a 10 percent tax on certain early distributions) and section 72(m)(5) (which imposes a separate 10 percent tax on certain amounts received by a 5-percent owner) apply to a deemed distribution under section 72(p) in the same manner as if the deemed distribution were an actual distribution.

Q-12: Is a deemed distribution under section 72(p) treated as an actual distribution for purposes of the qualification requirements of section 401, the distribution provisions of section 402, the distribution restrictions of section 401(k)(2)(B) or 403(b)(11), or the vesting requirements of §1.411(a)–7(d)(5) (which affects the application of a graded vesting schedule in cases involving a prior distribution)?

A-12: No; thus, for example, if a participant in a money purchase plan who is an active employee has a deemed distribution under section 72(p), the plan will not be considered to have made an in-service distribution to the participant in violation of the qualification requirements applicable to money purchase plans. Similarly, the deemed distribution is not eligible to be rolled over to an eligible retirement plan and is not considered an impermissible distribution of an amount attributable to elective contributions in a section 401(k) plan. See also §1.402(c)–2, Q&A-4(d) and §1.401(k)– 1(d)(6)(ii).

Q-13: How does a reduction (offset) of an account balance in order to repay a plan loan differ from a deemed distribution?

A-13: (a) *Difference between deemed distribution and plan loan offset amount*. (1) Loans to a participant from a qualified employer plan can give rise to two types of taxable distributions—

(i) A deemed distribution pursuant to section 72(p); and

(ii) A distribution of an offset amount.

(2) As described in Q&A-4 of this section, a deemed distribution occurs when the requirements of Q&A-3 of this section are not satisfied, either when the loan is made or at a later time. A deemed distribution is treated as a distribution to the participant or beneficiary only for certain tax purposes and is not a distribution of the accrued benefit. A distribution of a plan loan offset amount (as defined in §1.402(c)–2, Q&A-9(b)) occurs when, under the terms governing a plan loan, the accrued benefit of the participant or beneficiary is reduced (offset) in order to repay the loan (including the enforcement of the plan's security interest in the accrued benefit). A distribution of a plan loan offset amount could occur in a variety of circumstances, such as where the terms governing the plan loan require that, in the event of the participant's request for a distribution, a loan be repaid immediately or treated as in default.

(b) *Plan loan offset*. In the event of a plan loan offset, the amount of the account balance that is offset against the loan is an actual distribution for purposes of the Internal Revenue Code, not a deemed distribution under section 72(p). Accordingly, a plan may be prohibited from making such an offset under the provisions of section 401(a), 401(k)(2)(B) or 403(b)(11) prohibiting or limiting distributions to an active employee. See §1.402(c)–2, Q&A-9(c), *Example 6*. See also Q&A-19 of this section for rules regarding the treatment of a loan after a deemed distribution.

Q-14: How is the amount includible in income as a result of a deemed distribution under section 72(p) required to be reported?

A-14: The amount includible in income as a result of a deemed distribution under section 72(p) is required to be reported on Form 1099–R (or any other form prescribed by the Commissioner).

Q-15: What withholding rules apply to plan loans?

A-15: To the extent that a loan, when made, is a deemed distribution or an account balance is reduced (offset) to repay a loan, the amount includible in income is subject to withholding. If a deemed distribution of a loan or a loan repayment by benefit offset results in income at a date after the date the loan is made, withholding is required only if a transfer of cash or property (excluding employer securities) is made to the participant or beneficiary from the plan at the same time. See §§35.3405–1, f-4, and 31.3405(c)–1, Q&A-9 and Q&A-11, of this chapter for further guidance on withholding rules.

Q-16: If a loan fails to satisfy the requirements of Q&A-3 of this section and is a prohibited transaction under section 4975, is the deemed distribution of the loan under section 72(p) a correction of the prohibited transaction?

A-16: No, a deemed distribution is not a correction of a prohibited transaction under section 4975. See §§141.4975–13 and 53.4941(e)–1(c)(1) of this chapter for guidance concerning correction of a prohibited transaction.

Q-17: What are the income tax consequences if an amount is transferred from a qualified employer plan to a participant or beneficiary as a loan, but there is an express or tacit understanding that the loan will not be repaid?

A-17: If there is an express or tacit understanding that the loan will not be repaid or, for any reason, the transaction does not create a debtor-creditor relationship or is otherwise not a bona fide loan, then the amount transferred is treated as an actual distribution from the plan for purposes of the Internal Revenue Code, and is not treated as a loan or as a deemed distribution under section 72(p).

Q-18: If a qualified employer plan maintains a program to invest in residential mortgages, are loans made pursuant to the investment program subject to section 72(p)?

A-18: (a) Residential mortgage loans made by a plan in the ordinary course of an investment program are not subject to section 72(p) if the property acquired with the loans is the primary security for such loans and the amount loaned does not exceed the fair market value of the property. An investment program exists only if the plan has established, in advance of a specific investment under the program, that a certain percentage or amount of plan assets will be invested in residential mortgages available to persons purchasing the property who satisfy commercially customary financial criteria. A loan will not be considered as made under an investment program if—

(1) Any of the loans made under the program matures upon a participant's termination from employment;

(2) Any of the loans made under the program is an earmarked asset of a participant's or beneficiary's individual account in the plan; or

(3) The loans made under the program are made available only to participants or beneficiaries in the plan.

(b) Paragraph (a)(3) of this Q&A-18 shall not apply to a plan which, on December 20, 1995, and at all times thereafter, has had in effect a loan program under which, but for paragraph (a)(3) of this Q&A-18, the loans comply with the conditions of paragraph (a) of this Q&A-18 to constitute residential mortgage loans in the ordinary course of an investment program.

(c) No loan that benefits an officer, director, or owner of the employer maintaining the plan, or their beneficiaries, will be treated as made under an investment program.

(d) This section does not provide guidance on whether a residential mortgage loan made under a plan's investment program would result in a prohibited transaction under section 4975, or on whether such a loan made by a plan covered by Title I of ERISA would be consistent with the fiduciary standards of ERISA or would result in a prohibited transaction under section 406 of ERISA. See 29 CFR 2550.408b–1.

Q-19: If there is a deemed distribution under section 72(p), is the interest that accrues thereafter on the amount of the deemed distribution an indirect loan for income tax purposes?

A-19: (a) *General rule*. Except as provided in paragraph (b) of this Q&A-19, a deemed distribution of a loan is treated as a distribution for purposes of section 72. Therefore, a loan that is deemed to be distributed under section 72(p) ceases to be an outstanding loan for purposes of section 72, and the interest that accrues thereafter under the plan on the amount deemed distributed is disregarded in applying section 72 to the participant or beneficiary. Even though interest continues to accrue on the outstanding loan (and is taken into account for purposes of determining the tax treatment of any subsequent loan in accordance with paragraph (b) of this Q&A-19), this additional interest is not treated as an additional loan (and, thus, does not result in an additional deemed distribution) for purposes of section 72(p). However, a loan that is deemed distributed under section 72(p) is not considered distributed for all purposes of the Internal Revenue Code. See Q&A-11 through Q&A-16 of this section.

(b) *Exception for purposes of applying section 72(p)(2)(A) to a subsequent loan*. In the case of a loan that is deemed distributed under section 72(p) and that has not been repaid (such as by a plan loan offset), the unpaid amount of such loan, including accrued interest, is considered outstanding for purposes of applying section 72(p)(2)(A) to determine the maximum amount of any subsequent loan to the participant or beneficiary.

Q-20: May a participant refinance an outstanding loan or have more than one loan outstanding from a plan?

A-20: [Reserved]

Q-21: Is a participant's tax basis under the plan increased if the participant repays the loan after a deemed distribution?

A-21: (a) *Repayments after deemed distribution*. Yes, if the participant or beneficiary repays the loan after a deemed distribution of the loan under section 72(p), then, for purposes of section 72(e), the participant's or beneficiary's investment in the contract (tax basis) under the plan increases by the amount of the cash repayments that the participant or beneficiary makes on the loan after the deemed distribution. However, loan repayments are not treated as after-tax contributions for other purposes, including sections 401(m) and 415(c)(2)(B).

(b) *Example*. The following example illustrates the rules in paragraph (a) of this Q&A-21 and is based on the assumptions described in the introductory text of this section:

Example. (i) A participant receives a $20,000 loan on January 1, 2003, to be repaid in 20 quarterly installments of $1,245 each. On December 31, 2003, the outstanding loan balance ($19,179) is deemed distributed as a result of a failure to make quarterly installment payments that were due on September 30, 2003 and December 31, 2003. On June 30, 2004, the participant repays $5,147 (which is the sum of the three installment payments that were due on September 30, 2003, December 31, 2003, and March 31, 2004, with interest thereon to June 30, 2004, plus the installment payment due on June 30, 2004). Thereafter, the participant resumes making the installment payments of $1,245 from September 30, 2004 through December 31, 2007. The loan repayments made after December 31, 2003 through December 31, 2007 total $22,577.

(ii) Because the participant repaid $22,577 after the deemed distribution that occurred on December 31, 2003, the participant has investment in the contract (tax basis) equal to $22,577 (14 payments of $1,245 each plus a single payment of $5,147) as of December 31, 2007.

Q-22: When is the effective date of section 72(p) and the regulations in this section?

A-22: (a) *Statutory effective date*. Section 72(p) generally applies to assignments, pledges, and loans made after August 13, 1982.

(b) *Regulatory effective date*. This section applies to assignments, pledges, and loans made on or after January 1, 2002.

(c) *Loans made before the regulatory effective date*—(1) *General rule*. A plan is permitted to apply Q&A-19 and Q&A-21 of this section to a loan made before the regulatory effective date in paragraph (b) of this Q&A-22 (and after the statutory effective date in paragraph (a) of this Q&A-22) if there has not been any deemed distribution of the loan before the transition date or if the conditions of paragraph (c)(2) of this Q&A-22 are satisfied with respect to the loan.

(2) *Consistency transition rule for certain loans deemed distributed before the regulatory effective date*. (i) The rules in this paragraph (c)(2) of this Q&A-22 apply to a loan made before the regulatory effective date in paragraph (b) of this Q&A-22 (and after the statutory effective date in paragraph (a) of this Q&A-22) if there has been any deemed distribution of the loan before the transition date.

(ii) The plan is permitted to apply Q&A-19 and Q&A-21 of this section to the loan beginning on any January 1, but only if the plan reported, in Box 1 of Form 1099–R, for a taxable year no later than the latest taxable year that would be permitted under this section (if this section had been in effect for all loans made after the statutory effective date in paragraph (a) of this Q&A-22), a gross distribution of an amount at least equal to the initial default amount. For purposes of this section, the initial default amount is the amount that would be reported as a gross distribution under Q&A-4 and Q&A-10 of this section and the transition date is the January 1 on which a plan begins applying Q&A-19 and Q&A-21 of this section to a loan.

(iii) If a plan applies Q&A-19 and Q&A-21 of this section to such a loan, then the plan, in its reporting and withholding on or after the transition date, must not attribute investment in the contract (tax basis) to the participant or beneficiary based upon the initial default amount.

(iv) This paragraph (c)(2)(iv) of this Q&A-22 applies if—

(A) The plan attributed investment in the contract (tax basis) to the participant or beneficiary based on the deemed distribution of the loan;

(B) The plan subsequently made an actual distribution to the participant or beneficiary before the transition date; and

(C) Immediately before the transition date, the initial default amount (or, if less, the amount of the investment in the contract so attributed) exceeds the participant's or beneficiary's investment in the contract (tax basis). If this paragraph (c)(2)(iv) of this Q&A-22 applies, the plan must treat the excess (the loan transition amount) as a loan amount that remains outstanding and must include the excess in the participant's or beneficiary's income at the time of the first actual distribution made on or after the transition date.

(3) *Examples*. The rules in paragraph (c)(2) of this Q&A-22 are illustrated by the following examples, which are based on the assumptions described in the introductory text of this section (and, except as specifically provided in the examples, also assume that no distributions are made to the participant and that the participant has no investment in the contract with respect to the plan). *Example 1*, *Example 2*, and *Example 4* of this paragraph (c)(3) of this Q&A-22 illustrate the application of the rules in paragraph (c)(2) of this Q&A-22 to a plan that, before the transition date, did not treat interest accruing after the initial deemed distribution as resulting in additional deemed distributions under section 72(p). *Example 3* of this paragraph (c)(3) of this Q&A-22 illustrates the application of the rules in paragraph (c)(2) of this Q&A-22 to a plan that, before the transition date, treated interest accruing after the initial deemed distribution as resulting in additional deemed distributions under section 72(p). The examples are as follows:

Example 1. (i) In 1998, when a participant's account balance under a plan is $50,000, the participant receives a loan from the plan. The participant makes the required repayments until 1999 when there is a deemed distribution of $20,000 as a result of a failure to repay the loan. For 1999, as a result of the deemed distribution, the plan reports, in Box 1 of Form 1099–R, a gross distribution of $20,000 (which is the initial default amount in accordance with paragraph (c)(2)(ii) of this Q&A-22) and, in Box 2 of Form 1099–R, a taxable amount of $20,000. The plan then records an increase in the participant's tax basis for the same amount ($20,000). Thereafter, the plan disregards, for purposes of section 72, the interest that accrues on the loan after the 1999 deemed distribution. Thus, as of December 31, 2001, the total taxable amount reported by the plan as a result of the deemed distribution is $20,000 and the plan's records show that the participant's tax basis is the same amount ($20,000). As of January 1, 2002, the plan decides to apply Q&A-19 of this section to the loan. Accordingly, it reduces the participant's tax basis by the initial default amount of $20,000, so that the participant's remaining tax basis in the plan is zero. Thereafter, the amount of the outstanding loan is not treated as part of the account balance for purposes of section 72. The participant attains age 59-1/2 in the year 2003 and receives a distribution of the full account balance under the plan consisting of $60,000 in cash and the loan receivable. At that time, the plan's records reflect an offset of the loan amount against the loan receivable in the participant's account and a distribution of $60,000 in cash.

(ii) For the year 2003, the plan must report a gross distribution of $60,000 in Box 1 of Form 1099–R and a taxable amount of $60,000 in Box 2 of Form 1099–R.

Example 2. (i) The facts are the same as in *Example 1*, except that in 1999, immediately prior to the deemed distribution, the participant's account balance under the plan totals $50,000 and the participant's tax basis is $10,000. For 1999, the plan reports, in Box 1 of Form 1099–R, a gross distribution of $20,000 (which is the initial default amount in accordance with paragraph (c)(2)(ii) of this Q&A-22) and reports, in Box 2 of Form 1099–R, a taxable amount of $16,000 (the $20,000 deemed distribution minus $4,000 of tax basis ($10,000 times ($20,000/$50,000)) allocated to the deemed distribution). The plan then records an increase in tax basis equal to the $20,000 deemed distribution, so that the participant's remaining tax basis as of December 31, 1999, totals $26,000 ($10,000 minus $4,000 plus $20,000). Thereafter, the plan disregards, for purposes of section 72, the interest that accrues on the loan after the 1999 deemed distribution. Thus, as of December 31, 2001, the total taxable amount reported by the plan as a result of the deemed distribution is $16,000 and the plan's records show that the participant's tax basis is $26,000. As of January 1, 2002, the plan decides to apply Q&A-19 of this section to the loan. Accordingly, it reduces the participant's tax basis by the initial default amount of $20,000, so that the participant's remaining tax basis in the plan is $6,000. Thereafter, the amount of the outstanding loan is not treated as part of the account balance for purposes of section 72. The participant attains age 59-1/2 in the year 2003 and receives a distribution of the full account balance under the plan consisting of $60,000 in cash and the loan receivable. At that time, the plan's records reflect an offset of the loan amount against the loan receivable in the participant's account and a distribution of $60,000 in cash.

(ii) For the year 2003, the plan must report a gross distribution of $60,000 in Box 1 of Form 1099–R and a taxable amount of $54,000 in Box 2 of Form 1099–R.

Example 3. (i) In 1993, when a participant's account balance in a plan is $100,000, the participant receives a loan of $50,000 from the plan. The participant makes the required loan repayments until 1995 when there is a deemed distribution of $28,919 as a result of a failure to repay the loan. For 1995, as a result of the deemed distribution, the plan reports, in Box 1 of Form 1099–R, a gross distribution of $28,919 (which is the initial default amount in accordance with paragraph (c)(2)(ii) of this Q&A-22) and, in Box 2 of Form 1099–R, a taxable amount of $28,919. For 1995, the plan also records an increase in the participant's tax basis for the same amount ($28,919). Each year thereafter through 2001, the plan reports a gross distribution equal to the interest accruing that year on the loan balance, reports a taxable amount equal to the interest accruing that year on the loan balance reduced by the participant's tax basis allocated to the gross distribution, and records a net increase in the participant's tax basis equal to that taxable amount. As of December 31, 2001, the taxable amount reported by the plan as a result of the loan totals $44,329 and the plan's records for purposes of section 72 show that the participant's tax basis totals the same amount ($44,329). As of January 1, 2002, the plan decides to apply Q&A-19 of this section. Accordingly, it reduces the participant's tax basis by the initial default amount of $28,919, so that the participant's remaining tax basis in the plan is $15,410 ($44,329 minus $28,919). Thereafter, the amount of the outstanding loan is not treated as part of the account balance for purposes of section 72. The participant attains age 59-1/2 in the year 2003 and receives a distribution of the full account balance under the plan consisting of $180,000 in cash and the loan receivable equal to the $28,919 outstanding loan amount in 1995 plus interest accrued thereafter to the payment date in 2003. At that time, the plan's records reflect an offset of the loan amount against the loan receivable in the participant's account and a distribution of $180,000 in cash.

(ii) For the year 2003, the plan must report a gross distribution of $180,000 in Box 1 of Form 1099–R and a taxable amount of $164,590 in Box 2 of Form 1099–R ($180,000 minus the remaining tax basis of $15,410).

Example 4. (i) The facts are the same as in *Example 1*, except that in 2000, after the deemed distribution, the participant receives a $10,000 hardship distribution. At the time of the hardship distribution, the participant's account balance under the plan totals $50,000. For 2000, the plan reports, in Box 1 of Form 1099–R, a gross distribution of $10,000 and, in Box 2 of Form 1099–R, a taxable amount of $6,000 (the $10,000 actual distribution minus

$4,000 of tax basis ($10,000 times ($20,000/$50,000)) allocated to this actual distribution). The plan then records a decrease in tax basis equal to $4,000, so that the participant's remaining tax basis as of December 31, 2000, totals $16,000 ($20,000 minus $4,000). After 1999, the plan disregards, for purposes of section 72, the interest that accrues on the loan after the 1999 deemed distribution. Thus, as of December 31, 2001, the total taxable amount reported by the plan as a result of the deemed distribution plus the 2000 actual distribution is $26,000 and the plan's records show that the participant's tax basis is $16,000. As of January 1, 2002, the plan decides to apply Q&A-19 of this section to the loan. Accordingly, it reduces the participant's tax basis by the initial default amount of $20,000, so that the participant's remaining tax basis in the plan is reduced from $16,000 to zero. However, because the $20,000 initial default amount exceeds $16,000, the plan records a loan transition amount of $4,000 ($20,000 minus $16,000). Thereafter, the amount of the outstanding loan, other than the $4,000 loan transition amount, is not treated as part of the account balance for purposes of section 72. The participant attains age 59-1/2 in the year 2003 and receives a distribution of the full account balance under the plan consisting of $60,000 in cash and the loan receivable. At that time, the plan's records reflect an offset of the loan amount against the loan receivable in the participant's account and a distribution of $60,000 in cash.

(ii) In accordance with paragraph (c)(2)(iv) of this Q&A-22, the plan must report in Box 1 of Form 1099–R a gross distribution of $64,000 and in Box 2 of Form 1099–R a taxable amount for the participant for the year 2003 equal to $64,000 (the sum of the $60,000 paid in the year 2003 plus $4,000 as the loan transition amount).

Robert E. Wenzel,
Deputy Commissioner of Internal Revenue.

Approved July 13, 2000.

Jonathan Talisman,
Deputy Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on July 28, 2000, 8:45 a.m., and published in the issue of the Federal Register for July 31, 2000, 65 F.R. 46588)

Section 457.—Deferred Compensation Plans of State and Local Governments and Tax-Exempt Organizations

26 CFR 1.457–1: Compensation deferred under eligible deferred compensation plans.

This notice describes the withholding and reporting requirements applicable to eligible deferred compensation plans described in section 457(b) of the Internal Revenue Code of 1986. See Notice 2000–38, page 174.

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.

Rev. Proc. 2000–32

SECTION 1. PURPOSE

This revenue procedure provides the domestic asset/liability percentages and domestic investment yields needed by foreign life insurance companies and foreign property and liability insurance companies to compute their minimum effectively connected net investment income under section 842(b) of the Internal Revenue Code for taxable years beginning after December 31, 1998. Instructions are provided for computing foreign insurance companies' liabilities for the estimated tax and installment payments of estimated tax for taxable years beginning after December 31, 1998. For more specific guidance regarding the computation of the amount of net investment income to be included by a foreign insurance company on its U.S. income tax return, see Notice 89–96, 1989–2 C.B. 417. For the domestic asset/liability percentage and domestic investment yield, as well as instructions for computing foreign insurance companies' liabilities for estimated tax and installment payments of estimated tax for taxable years beginning after December 31, 1997, see Rev. Proc. 99–30, 1999–31 I.R.B. 221.

SECTION 2. CHANGES

.01 DOMESTIC ASSET/LIABILITY PERCENTAGES FOR 1999. The Secretary determines the domestic asset/liability percentage separately for life insurance companies and property and liability insurance companies. For the first taxable year beginning after December 31, 1998, the relevant domestic asset/liability percentages are:

113.8 percent for foreign life insurance companies, and

169.4 percent for foreign property and liability insurance companies.

.02 DOMESTIC INVESTMENT YIELDS FOR 1999. The Secretary is required to prescribe separate domestic investment yields for foreign life insurance companies and for foreign property and liability insurance companies. For the first taxable year beginning after December 31, 1998, the relevant domestic investment yields are:

7.6 percent for foreign life insurance companies, and

6.1 percent for foreign property and liability insurance companies.

.03 SOURCE OF DATA FOR 1999. The section 842(b) percentages to be used for the 1999 tax year are based on tax return data following the same methodology used for the 1998 year.

SECTION 3. APPLICATION — ESTIMATED TAXES

To compute estimated tax and the installment payments of estimated tax due for taxable years beginning after December 31, 1998, a foreign insurance company must compute its estimated tax payments by adding to its income other than net investment income the greater of (i) its net investment income as determined under section 842(b)(5), that is actually effectively connected with the conduct of a trade or business within the United States for the relevant period, or (ii) the minimum effectively connected net investment income under section 842(b) that would result from using the most recently available domestic asset/liability percentage and domestic investment yield. Thus, for installment payments due after the publication of this revenue procedure, the domestic asset/liability percentages and the domestic investment yields provided in this revenue procedure must be used to compute the minimum effectively connected net investment income. However, if the due date of an installment is less than 20 days after the date this revenue procedure is published in the Internal Revenue Bulletin, the asset/liability percentages and domestic investment yields provided in Rev. Proc. 99–30 may be used to compute the minimum effectively connected net investment income for such installment. For further guidance in computing estimated tax, see Notice 89–96.

SECTION 4. EFFECTIVE DATE

This revenue procedure is effective for taxable years beginning after December 31, 1998.

DRAFTING INFORMATION

The principal author of this revenue procedure is John W. Rogers III of the Office of the Associate Chief Counsel (International). For further information regarding this revenue procedure, please contact Mr. Rogers at (202) 622-3870 (not a toll-free call), or write to the Internal Revenue Service, Office of the Associate Chief Counsel (International), 1111 Constitution Avenue, NW, Washington, DC 20224, Attention: CC:INTL:Br5, Room 4554.

Losses Claimed on Certain Intangible Assets

Notice 2000–34

This notice informs Blue Cross Blue Shield insurance organizations ("BCBS organizations") that the Internal Revenue Service will challenge deductions for losses for the termination of individual customer, provider, or employee contracts or relationships associated with customer lists, provider networks, and workforce in place with respect to which the taxpayer claims an adjusted basis derived from § 1012(c)(3)(A)(ii) of the Tax Reform Act of 1986 (the Act).

Section 1012 of the Act revoked the tax-exempt status of BCBS organizations and added § 833 of the Internal Revenue Code (the "Code"), which treats those organizations as taxable stock insurance companies. Under § 1012(c)(3)(A)(ii) of the Act, each organization's adjusted bases in its assets, for purposes of determining gain or loss, is deemed equal to the assets' fair market values as of the first day of its first taxable year beginning after December 31, 1986.

The Conference Committee Report accompanying the Act states that this fair market value basis adjustment was provided "solely for purposes of determining gain or loss upon the sale or exchange of the assets, not for purposes of determining amounts of depreciation or for other purposes." H.R. Conf. Rept. 841, 99th Cong., 2d Sess. II- 350 (1986). The Conference Report further clarifies that the basis adjustment was provided because the conferees believed that the formerly tax-exempt organizations should not be taxed on unrealized appreciation or depreciation that accrued during the period the organization was not generally subject to income taxation. *Id*.

The Service has learned that some BCBS organizations are claiming annual or periodic loss deductions under § 165 of the Code with respect to certain intangible assets, including customer lists, provider networks, and workforce in place using the fair market value basis provided under § 1012(c)(3)(A)(ii) of the Act for purposes of determining gain or loss. For example, some BCBS organizations are claiming loss deductions in the year in which a customer terminates its relationship with the BCBS plan, on the theory that each customer relationship is a separate asset for federal income tax purposes.

The Service believes that BCBS organizations are not entitled to these loss deductions. In addition to carefully scrutinizing the valuations obtained for the assets at issue, the Service will challenge the loss deductions under various theories, as appropriate, including the following:

- These individual customer, provider, or employee contracts or relationships are not separate assets. The Supreme Court's decision in *Newark Morning Ledger Co. v. United States*, 507 U.S. 546 (1993), did not disturb earlier authority denying current loss deductions upon the termination of an individual customer, provider, or employee contract or relationship or similar component of a single asset. *See, e.g.*, *Golden State Towel and Linen Service v. United States*, 373 F.2d 938 (Ct. Cl. 1967). In *Newark Morning Ledger*, the Supreme Court cited *Golden State Towel* with approval.
- Under the facts set forth above, annual or periodic loss deductions are the functional equivalent of amortizing the single assets composed of individual customer, provider, or employee contracts or relationships, and as such are contrary to Congress's express prohibition against using the § 1012(c)(3)(A)(ii) basis for amortization purposes. That is, some BCBS organizations are using these annual loss deductions as a mechanism for regularly converting a portion of a single intangible asset's § 1012(c)(3)(A)(ii) basis into an offset against current income, producing the same tax effect as amortizing that asset's § 1012(c)(3)(A)(ii) basis.
- By enacting § 1012 of the Act, Congress intended to take away the advantage the BCBS organizations enjoyed as tax-exempt entities in competing with commercial insurance companies by subjecting the BCBS organizations to the payment of federal income taxes to the same extent as commercial insurance providers. H.R. Rep. No. 426, 99th Cong., 1st Sess. 664 (1985). The legislative history to the Act indicates that Congress expected to remedy this inequity immediately, with the BCBS organizations beginning to pay tax in their initial years as taxable entities. The annual use of a portion of the § 1012(c)(3)(A)(ii) basis to offset a substantial amount of taxable income immediately upon becoming taxable would permit BCBS organizations to maintain the competitive advantage they enjoyed prior to the Act by effectively delaying for many years their obligation to pay federal income taxes to the same extent as other commercial insurance providers.
- By not having claimed loss deductions upon the termination of individual customer, provider, or employee contracts or relationships in prior years, BCBS organizations effectively adopted a method of accounting that treats customer lists, provider networks, and workforce in place as single assets composed of individual customer, provider, or employee contracts or relationships. A method of accounting cannot be changed without permission from the Secretary. Section 446(e); Rev. Rul. 90–38, 1990–1 C.B. 57. BCBS insurance organizations that file claims for refund to begin recovering the basis in individual customer, provider, or employee contracts or relationships that terminated in prior years are attempting to make an unauthorized change in method of accounting. *See* Treas. Reg. § 1.446–1(e)(2)(ii)(a).

DRAFTING INFORMATION

The principal author of this notice is Grace Matuszeski of the Office of the Associate Chief Counsel (Income Tax & Accounting). For further information regarding this notice contact Kay Hossofsky of the Office of the Associate Chief Counsel (Financial Institutions & Products) at (202) 622-3970 (not a toll-free call).

IRS Releases New Form 8871, *Political Organization Notice of Section 527 Status*

Notice 2000–36

The Internal Revenue Service on July 12, 2000, announced the release of the new form that section 527 political organizations must file and detailed plans for implementing other aspects of the new law governing these groups.

Starting immediately, section 527 political organizations must file Form 8871 with the IRS. This notice of organization must be filed by July 31, 2000.

The IRS action follows a new law approved last month by Congress and signed July 1, 2000, by President Clinton. The legislation creates a new set of rules for political organizations established under section 527 of the Internal Revenue Code. Under the new law, these 527 groups will be required to publicly disclose details about their organization, contributors, expenditures, annual returns and other information.

"The IRS is moving quickly to put these new rules in place. We want to make information from these organizations available to the public as soon as possible," IRS Commissioner Charles O. Rossotti said.

The IRS has also released new forms and other details involving reporting and disclosure requirements for 527 organizations.

The first step is the release of Form 8871, *Political Organization Notice of Section 527 Status*. The form is now available at the IRS web site, www.irs.gov, in the "Forms and Pubs" section.

Organizations must file Form 8871 both electronically and in writing. The form can be filed electronically at www.irs.gov/bus_info/eo/pol-file.html.

Every political organization under section 527 must file Form 8871 unless it reasonably expects annual gross receipts to always be less than $25,000 in each taxable year. Political committees also do not have to submit this form if they are required to file reports with the Federal Election Commission. Section 501(c) organizations such as social welfare groups, labor unions and trade associations that file Form 1120-POL and pay taxes under section 527(f)(1) also will not have to submit Form 8871.

The law requires newly established organizations to file Form 8871 within 24 hours of their creation. However, the IRS realizes some of these section 527 organizations may not yet be aware of this requirement. Consequently, the IRS has extended the due date for filing Form 8871 until July 31, 2000, for any organizations established after June 30, 2000. Organizations already in existence on June 30, 2000, already have until July 31, 2000, to file Form 8871.

Form 8871 contains a variety of information about 527 organizations, including the organization's purpose, a list of related entities, contact persons, record custodians, e-mail addresses and lists of officers, directors and highly compensated employees.

By August 15, 2000, the IRS will make available on its Internet site a list of organizations filing Form 8871. Copies of the Form 8871 will be available through the 527 organizations. The IRS is working on procedures to make copies of the forms available for public inspection as soon as possible.

The IRS has also released another form that 527 organizations will use to periodically disclose contributions and expenditures made after July 1, 2000. Form 8872, *Political Organization Report of Contributions and Expenditures*, will include names, addresses, employers and occupations for contributors of $200 or more annually. Organizations or individuals receiving $500 or more annually from 527 organizations also will be listed on these forms.

For more information about Form 8872, see Notice 2000–41, page 177.

Information from filed Forms 8872 will be available for public inspection.

The IRS also is in the process of determining which forms will be used as annual returns by 527 organizations with gross receipts of $25,000 or more. These returns also will be available for public review.

"Putting these new rules in place poses a major challenge for the IRS given the short time frame available," Rossotti said. "However, we are committed to serving taxpayers by implementing this important new law in a timely and convenient manner."

DRAFTING INFORMATION

The principal author of this notice is Judith E. Kindell of the Exempt Organizations Division. For further information regarding this announcement contact Judith E. Kindell on (202) 622-6494 (not a toll-free call).

Eligible Deferred Compensation Plans under Section 457

Notice 2000–38

I. PURPOSE AND SCOPE

This notice describes the withholding and reporting requirements "applicable to eligible deferred compensation plans described in § 457(b) of the Internal Revenue Code of 1986 ("§ 457(b) plans").

Specifically, this notice addresses —

- income tax withholding and reporting with respect to annual deferrals made to a § 457(b) plan;
- income tax withholding and reporting with respect to distributions from a § 457(b) plan;
- Federal Insurance Contributions Act (FICA) payment and reporting with respect to annual deferrals under a § 457(b) plan;
- employer identification numbers (EINs) used in connection with trusts established under § 457(g); and
- the application of annual reporting requirements to § 457(b) plan administrators and trustees holding assets of a § 457(b) plan in accordance with § 457(g).

This notice addresses only reporting and withholding rules that apply to § 457(b) plan participants who are or were employees of state and local governments or tax-exempt organizations and does not cover special reporting rules that may apply to § 457(b) plan participants who are or were independent contractors.

II. BACKGROUND

Section 457 provides rules for nonqualified deferred compensation plans established by eligible employers. State and local governments and tax-exempt organizations are eligible employers. They can establish either eligible plans that meet the requirements of § 457(b) or plans that do not meet the requirements of § 457(b) and that are therefore subject to tax treatment under § 457(f).

Section 1448 of the Small Business Job Protection Act of 1996, ("SBJPA"), 1996–3 C.B. 155, 212, amended § 457 by adding § 457(g), which requires that § 457(b) plans maintained by state or local government employers hold all plan assets and income in trust, or in custodial accounts or annuity contracts described in § 401(f), for the exclusive benefit of participants and their beneficiaries. Section 457(g) applies generally to assets and income held by a governmental § 457(b) plan on and after August 20, 1996. However, with respect to a governmental § 457(b) plan in existence on August 20, 1996, a trust (or a custodial account or annuity contract) was not required to have been established before January 1, 1999. Section 457(g) does not apply to a § 457(b) plan established by a tax-exempt organization that is not a state or local governmental entity.

Notice 98–8, 1998–1 C.B. 355, provides guidance regarding the amendments made to § 457(b) by the SBJPA. Following publication of the 1998 notice, the Service received additional inquiries regarding the statutory changes made in § 457(b) by the SBJPA and the Taxpayer Relief Act of 1997, Pub. L. No. 105–34. Specifically, taxpayers, employers, and plan administrators asked what employment and income tax reporting requirements apply with respect to § 457(b) plans and whether a trustee or administrator of a trust established under § 457(g) must file annual information returns relating to the trust, such as Form 990, Return of Organization Exempt From Income Tax, or an appropriate version of Form 5500, Annual Return/Report of Employee Benefit Plan.

III. INCOME TAX WITHHOLDING AND REPORTING ON ANNUAL DEFERRALS

Section 457(a) provides that annual deferrals under a § 457(b) plan and any income attributable to the amounts so deferred will not be includible in a participant's gross income until that amount is paid or made available to the participant or beneficiary. Therefore, annual deferrals under a § 457(b) plan are not subject to income tax withholding at the time of the deferral. However, a participant's annual deferrals during the taxable year under a § 457(b) plan are reported on Form W-2, Wage and Tax Statement, in the manner described in the instructions to that form. "Annual deferrals", as used in this notice, means the amount of compensation deferred under the plan in accordance with section 457(b) whether by salary reduction or nonelective employer contribution, during a taxable year.

IV. INCOME TAX WITHHOLDING AND REPORTING ON § 457(b) PLAN DISTRIBUTIONS

A. Income Tax Withholding on § 457(b) Plan Distributions

"Distributions" from a § 457(b) plan to a participant or former participant include all amounts that are paid or made available under a § 457(b) plan. Distributions to a participant or former participant from a § 457(b) plan are wages under § 3401(a) that are subject to income tax withholding in accordance with the income tax withholding requirements of § 3402(a). The pension withholding rules of § 3405 do not apply. See § 35.3405–1, a–23, Q&A of the Temporary Employment Tax and Collection of Income Tax at Source Regulations.

Income tax withholding on distributions to a participant or former participant under a § 457(b) plan is calculated in the same manner as withholding on other types of wage payments. For guidance on the use of the flat rate withholding method as a supplement to regular wage withholding in cases where the payor is paying wages to the participant in addition to the distribution from the § 457(b) plan, see § 31.3402(g)–1(a) of the Employment Tax Regulations and Rev. Rul. 82–46, 1982–1 CB 158. If an eligible payor uses the flat rate of withholding as an alternative to regular wage withholding on a lump sum payment, section 13273 of the Omnibus Budget Reconciliation Act of 1993, 1993–3 C.B. 130 provides that a 28 percent flat rate must be used.

B. Person Responsible for Income Tax Withholding on Distributions

Section 3402(a) requires every employer making payment of wages to withhold income tax on these wages. However, § 3401(d)(1) provides that if the person for whom an individual performed services as an employee does not have control of the payment of the wages for those services, the person having control of the payment of the wages is responsible for income tax withholding on those wages. See § 31.3401(d)–1(f). Thus, if distributions are made by a § 457(g) trustee of a plan established by a state or local government, the trustee is responsible for income tax withholding and reporting on the distributions. Similarly, if distributions are made by a § 457(g) custodian or insurance carrier treated as a trustee under § 457(g), the custodian or insurance carrier is responsible for income tax withholding on the distributions. Subsections C, D, and E of this Section IV provide additional information regarding how the trustee (or custodian or insurance carrier) should withhold, deposit, and report distributions.

When distributions are made under a § 457(b) plan established by a tax-exempt organization, the tax-exempt organization or any other person having control of the payment of the distributions is responsible for income tax withholding on the distributions.

C. Reporting on Form W-2 for Distributions from a § 457(b) Plan

Distributions to a participant or former participant during a taxable year under a § 457(b) plan are reported on Form W-2, Wage and Tax Statement, in the manner described in the instructions to that form. See also Rev. Rul. 82–46, supra. Income tax withheld from § 457(b) plan distributions is reported quarterly on Form 941, Employer's Quarterly Federal Tax Return.

D. Reporting Death Benefit Payments

Distributions to a beneficiary of a deceased participant under a § 457(b) plan are reported on Form 1099–R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc. See Rev. Rul. 86–109, 1986–2 C.B. 196. No income tax withholding is required for distributions from § 457(b) plans to beneficiaries. See Rev. Rul. 59–64, 1959–1 C.B. 31. The instructions for Form 1099–R describe how this form is completed for distributions made to a beneficiary from a nonqualified deferred compensation plan, such as a § 457(b) plan.

E. EINs and Income Tax Deposits with respect to § 457(g) Trust Accounts

Generally, the income tax withheld on distributions should be reported on the Form 941 of the person responsible for withholding, as described in section IV-B of this notice, and aggregated with other amounts reported by that person on Form 941 to determine the frequency of federal tax deposits under § 31.6302–1. This is the same as the first alternative described in Announcement 84–40, 1984–17 IRB 31. Alternatively, the IRS will permit trustees of § 457(g) trusts, or custodians or insurance carriers treated as trustees under § 457(g)(3) to use the other two alternatives contained in Announcement 84–40 for the tax administration of such withholdings:

1. The trustee, custodian, or insurance carrier may request an EIN solely for the purpose of reporting the aggregated withholding from the distributions of every § 457(g) trust, custodial account, or annuity contract under its control, making deposits and filing Form 941 accordingly.
2. The trustee, custodian, or insurance carrier may request and use a separate EIN for each § 457(g) trust (or custodial account or insurance contract), making deposits and filing Form 941 accordingly.

The trustee, custodian, or insurance carrier exercising any of the above alternatives for depositing and reporting the tax withheld from § 457(g) trust distributions must also follow the same option in filing the related information returns, such as Forms W-2 (in the case of distributions to participants or former participants) or 1099–R (in the case of distributions to beneficiaries). That is, the trustee, custodian, or insurance carrier must use the same name and EIN on Forms W-2 or 1099–R as that under which the tax was deposited and the quarterly return filed. The trustee, custodian, or insurance carrier must aggregate and deposit all taxes pursuant to § 31.6302–1 under the EIN chosen. The above-described options relate only to trusts, annuity contracts or custodial accounts established pursuant to section 457(g) for amounts deferred under § 457(a). For information on the remittance of social security, Medicare, and FUTA taxes by the employer, see section V-D below.

V. FICA AND FUTA TAXES AND REPORTING

A. Scope

The rules described in this notice relating to FICA (social security and Medicare) tax apply to employees of state and local governments only if they are subject to social security or Medicare tax under section 3121(u) (relating to Medicare), section 3121(b)(7)(E) (relating to agreements entered into pursuant to section 218 of the Social Security Act), or other provisions of the Code, such as section 3121(b)(7)(F) (relating to state and local government employees who are not members of a state or local retirement system). The FICA rules discussed in this notice generally apply to employees of tax-exempt organizations, unless a specific exclusion is applicable. The FICA tax discussed in this Section V includes the employer's share of the FICA tax imposed under section 3111 as well as the employee's share imposed under sections 3101 and 3102.

The rules described in this notice relating to the Federal Unemployment Tax Act (FUTA) do not apply to service for a state or local governmental entity because section 3306(c)(7) provides a FUTA exemption for service performed in the employ of a state or any political subdivision thereof or any instrumentality of any one or more of the foregoing. The rules described in this notice relating to FUTA apply to service for a tax-exempt organization other than a tax-exempt organization described in section 501(c)(3). See section 3306(c)(8).

B. Time Social Security, Medicare, and FUTA Taxes Imposed

Sections 3121(a) (relating to social security and Medicare) and 3306(b) (relating to FUTA) define "wages" as all remuneration for employment, unless specifically excluded (see section V-A, above). If social security, Medicare, or FUTA taxes apply, sections 3121(v)(2) and 3306(r)(2) contain special timing rules that apply in determining when amounts deferred under a nonqualified deferred compensation plan are required to be taken into account. Under these sections, an amount deferred under a nonqualified deferred compensation plan, including a § 457(b) plan, is required to be taken into account for purposes of social security, Medicare, and FUTA taxes as of the later of when the services are performed or when there is no substantial risk of forfeiture of the rights to such amount.

Thus, if a § 457(b) plan provides that annual deferrals are fully and immediately vested, annual deferrals are subject to social security, Medicare, and FUTA taxes at the time of deferral. However, if the annual deferrals are not fully and immediately vested, but are subject to a substantial risk of forfeiture, the annual deferrals (and earnings thereon) are generally taken into account for purposes of social security, Medicare, and FUTA at the time such amounts are no longer subject to a substantial risk of forfeiture. For purposes of social security, Medicare, and FUTA taxes, the determination of whether a substantial risk of forfeiture exists is made in accordance with the principles of section 83 and the regulations thereunder. See §§ 31.3121(v)(2)–1(e)(3) and 31.3306(r)(2)–1.

If amounts deferred under a § 457(b) plan are properly taken into account as social security, Medicare, and FUTA wages when deferred (or, if later, when they cease to be subject to a substantial risk of forfeiture), the amounts subsequently paid or made available to a participant or beneficiary under the § 457(b) plan are not subject to social security, Medicare, or FUTA taxes. See §§ 3121(v)(2)(B) and 3306(r)(2)(B) and § 31.3121(v)(2)–1(a)(2)(iii) and 31.3121(v)(2)–1(d)(2). If an amount deferred for a period is not properly taken into account, distributions attributable to that amount, including income on the amounts deferred, may be wages for FICA purposes when paid or made available. See § 31.3121(v)(2)–1(d)(1)(ii). Additional special rules apply to § 457(b) plans other than plans where benefits are based on a participant's account balance. See § 31.3121(v)(2)–1(e)(4).

C. Examples

The application of social security and Medicare tax is illustrated by the following examples:

Example 1. (i) State R's § 457(b) plan provides for elective deferrals from current salary, as well as a one percent of salary nonelective contribution for each employee who participates in the plan and who is employed with State R during the plan year. All employees who participate in the plan are covered by an agreement under section 218 of the Social Security Act. All deferrals and contributions, including the state's contribution, are fully and immediately vested.

(ii) Because these contributions are not subject to a substantial risk of forfeiture (and the services to which they relate have already been performed), the elective deferrals are required to be taken into account as wages at the time of the deferral and State R's nonelective contribution is required to be taken into account as wages at the time of the contribution for purposes of the social security and Medicare tax.

Example 2. (i) Assume the same facts as in Example 1, except that the plan has three-year vesting for State R's nonelective contribution. Therefore, an employee's rights to the nonelective contributions (and the associated earnings) are subject to a substantial risk of forfeiture until the employee has been employed by State R for three years.

(ii) State R's nonelective contributions (and earnings thereon) are not wages for purposes of the social security and Medicare tax until the employee has completed three years of service. At that time, the aggregate amount of State R's nonelective contributions, plus earnings thereon, is required to be taken into account as wages for purposes of the social security and Medicare tax. Once an individual has met the vesting requirements, future nonelective contributions by State R are required to be taken into account as wages for purposes of the social security and Medicare tax at the time of the contribution.

D. Deposit and Reporting of Social Security, Medicare and FUTA Taxes

The employer must aggregate and deposit social security and Medicare taxes associated with a § 457(b) plan (including the employer's share of social security and Medicare taxes under section 3111) with all other social security, and

Medicare taxes and withheld income taxes paid on behalf of its employees in accordance with § 31.6302–1 and must report these taxes on Form 941. Employers subject to FUTA must aggregate and deposit FUTA amounts associated with a § 457(b) plan with all other FUTA amounts paid on behalf of its employees in accordance with § 31.6302(c)–3 and must report these payments on Form 940.

VI. ANNUAL REPORTING FOR § 457 PLANS

A. Section 457(b) Plans of Tax-Exempt Organizations

Annual deferrals and payments to certain participants in a § 457(b) plan of a tax-exempt organization are reported on the organization's Form 990 in the manner described in the instructions to that form.

B. § 457(g) Trusts

A trust described in § 457(g) is not required to file Form 990, Return of Organization Exempt From Income Tax, Form 1041, U.S. Income Tax Return for Estates and Trusts, Form 1120, U.S. Corporation Income Tax Return, or Form 5500, Annual Return/Report of Employee Benefits Plans. See, for example, Rev. Proc. 95–48, 1995–2 C.B. 418, which provides that governmental units and affiliates of governmental units that are exempt from federal income tax under § 501(a) are not required to file annual information returns on Form 990, Return of Organization Exempt From Income Tax. A trust described in § 457(g) may be required to file Form 990–T, Exempt Organization Business Income Tax Return. See §§ 1.6012–2(e) and 1.6012–3(a)(5) for the requirements for filing Form 990–T.

VII. OTHER INFORMATION AVAILABLE

Further information regarding the reporting, payment and deposit of employment taxes such as social security, Medicare, FUTA, and withheld income tax can be found in Publication 15, Circular E, Employer's Tax Guide; Publication 15-A, Employer's Supplemental Tax Guide; and Publication 963, Federal-State Reference Guide: Social Security Coverage and FICA Reporting by State and Local Government Employers. These publications will be revised, as appropriate, to reflect the proper treatment of trusts under section 457(g).

VIII. EFFECTIVE DATE

This notice is applicable with respect to deferrals and distributions made after December 31, 2001. Plan sponsors, plan administrators and taxpayers may rely on this Notice for distributions and deferrals before January 1, 2002.

IX. REQUEST FOR COMMENTS

The Internal Revenue Service requests comments concerning this notice, and welcomes comments on any other useful approaches the Service might consider regarding the administration of § 457(b) plans, including alternatives to Form W-2 reporting. Comments can be addressed to the Internal Revenue Service, Office of Associate Chief Counsel, CC:TEGE:EB:QP2, Room 5201, 1111 Constitution Avenue, Washington, D.C. 20224. In addition, comments may be submitted electronically via the Internet by sending them in an e-mail to: *joel.s.rutstein@m1.irscounsel.treas.gov* and specifying that the comments concern Notice 2000–38.

DRAFTING INFORMATION

The principal author of this notice is John Tolleris of the Office of the Associate Chief Counsel/Division Counsel (Tax Exempt/ Government Entities). However, other personnel from the IRS and Treasury participated in its development. For further information regarding this notice, contact John Tolleris at (202) 622-6060 (not a toll-free number).

IRS Releases New Form 8872, *Political Organization Report of Contributions and Expenditures*

Notice 2000–41

The Internal Revenue Service on July 17, 2000, announced the release of the new form that section 527 political organizations must use to provide details about contributions and expenditures. The agency also extended the filing deadline until July 31, 2000, for groups required to file this month.

Form 8872, *Political Organization Report of Contributions and Expenditures*, will require groups to list contributors of $200 or more annually and expenditures of $500 or more annually.

This marks the second new IRS form covering section 527 organizations. This follows a new law approved in June 2000 by Congress and signed July 1, 2000, by President Clinton that creates a new set of rules for political organizations established under section 527 of the Internal Revenue Code. Under the new law, these 527 groups will be required to publicly disclose details about their organization, contributors, expenditures, annual returns and other information.

"The IRS continues moving forward with this important project as quickly as possible," IRS Commissioner Charles O. Rossotti said. "Putting these new rules in place is a top priority."

Form 8872 and related instructions are now available at the IRS web site, www.irs.gov, under the "Forms and Pubs" section. Look under "What's Hot in Tax Forms." Form 8872 can be downloaded at ftp.fedworld.gov/pub/irs-fill/f8872.pdf. The Form 8872 instructions are available at ftp.fedworld.gov/pub/irs-pdf/i8872.pdf.

The new form requires 527 organizations to list the name, address, employer and occupation of contributors who give $200 or more annually to the organization. Similar information will be listed for groups or individuals receiving $500 or more annually from 527 organizations. The disclosure covers contributions received and expenditures made after July 1, 2000.

The due dates for filing Form 8872 vary depending on whether it is an election or non-election year. In non-election years, the forms must be filed semi-annually or monthly. In election years, the forms must be filed quarterly or monthly and in connection to election dates. A complete listing of these filing periods can be found in the Form 8872 instructions.

Some organizations potentially face July 2000 filing deadlines for pre-election reports. However, the IRS realizes many 527 organizations may not yet be aware of this deadline, so the agency has decided to extend the deadline for any July 2000 filings of Form 8872 until July 31, 2000.

The IRS made the decision to give groups additional time to learn about the new requirements.

This follows a similar IRS decision to set July 31, 2000, as the deadline for these organizations to file Form 8871, *Political Organization Notice of Section 527 Status*. This notice of organization is also available at the IRS web site in the "Forms and Pubs" section. See Notice 2000–36, page 173, for more information about Form 8871.

Generally, section 527 organizations must file Form 8872 if they accept contributions or make expenditures during a calendar year. However, organizations do not file Form 8872 if:

- The organization is not required to file Form 8871, or
- They are the state or local committee of a political party or the political committee of a state or local candidate.

However, the IRS wants to alert many other state and local political organizations that they may need to file Forms 8871 and 8872. The new law generally covers 527 organizations active in state and local political campaigns as well as 527 organizations active in federal elections.

The IRS will assess penalties if an organization fails to file Form 8872 by the due date. Penalties will also be assessed if the organization fails to report all of the information required on the form or reports incorrect information. The penalty is 35 percent of the total amount of contributions and expenditures not properly reported.

Organizations must make copies of filed Forms 8872 and 8871 available for public inspection. In addition, the IRS is working on procedures to make these available for public inspection.

"We are doing everything we can to make information from these groups publicly available as soon as possible," Rossotti said.

The IRS also is in the process of determining which forms will be used as annual returns by 527 organizations with gross receipts of $25,000 or more. These returns also will be available for public review.

DRAFTING INFORMATION

The principal author of this notice is John Francis Reilly of the Exempt Organizations Division. For further information regarding this announcement contact John Francis Reilly on (202) 622-7352 (not a toll-free call).

Part IV. Items of General Interest

Notice of Proposed Rulemaking

Loans From a Qualified Employer Plan to Plan Participants or Beneficiaries

REG–116495–99

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed Income Tax Regulations relating to loans made from a qualified employer plan to plan participants or beneficiaries. These regulations affect administrators of, participants in, and beneficiaries of qualified employer plans that permit participants or beneficiaries to receive loans from the plan, including loans from section 403(b) contracts and other contracts issued under qualified employer plans.

DATES: Written and electronic comments and requests for a public hearing must be received by October 31, 2000.

ADDRESSES: Send submissions to: CC:MSP:RU (REG–116495–99), 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:MSP:RU (REG–116495–99), 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.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Vernon S. Carter, (202) 622-6070; concerning submissions Sonya Cruse (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 72 of the Internal Revenue Code of 1986 (Code).

Explanation of Provisions

Section 72(p)(1)(A) provides that a loan from a qualified employer plan (including a contract purchased under a qualified employer plan) by a participant or beneficiary is treated as received as a distribution from the plan for purposes of section 72 (a deemed distribution). Section 72(p)(1)(B) provides that an assignment or pledge of (or an agreement to assign or pledge) any portion of a participant's or beneficiary's interest in a qualified employer plan is treated as a loan from the plan.

Section 72(p)(2) provides that section 72(p)(1) does not apply to the extent certain conditions are satisfied. Specifically, under section 72(p)(2), a loan from a qualified employer plan to a participant or beneficiary is not treated as a distribution from the plan if the loan satisfies requirements relating to the term of the loan and the repayment schedule, and to the extent the loan satisfies certain limitations on the amount loaned.

Section 1704(n) of the Small Business Job Protection Act of 1996, Public Law 104–188 (110 Stat. 1755), added section 414(u) of the Code. Section 414(u)(4) provides that if a plan suspends the obligation to repay a loan made to an employee from the plan for any part of a period during which the employee is performing service in the uniformed services, that suspension is not to be taken into account for purposes of section 72(p).[1] The proposed regulations provide a rule clarifying that, under section 414(u)(4), if a plan provides for the suspension of a participant's obligation to repay a loan for any part of any leave of absence for a period of military service (as defined in chapter 43 of title 38, United States Code), the suspension will not cause the loan to be deemed distributed, even if the leave exceeds one year, as long as loan repayments resume upon the completion of the military service, the amount then remaining due on the loan is repaid in substantially level installments thereafter, and the loan is fully repaid by the end of the period equal to the original term of the loan plus the period of the military service.

Regulations were proposed in 1995[2] with respect to many of the issues arising under section 72(p)(2). The preamble to the 1995 proposed regulations requested comments on whether further guidance should be provided on issues that were not addressed and how the issues should be resolved, including (1) the effect of a deemed distribution on the tax treatment of subsequent distributions from a plan (such as whether a participant has basis), (2) the application of the $50,000 limitation to multiple loan arrangements, and (3) the application of section 72(p)(2) to a refinancing and to multiple loan arrangements. Following publication of the 1995 proposed regulations, various comments were received and a public hearing was held on June 28, 1996. After reviewing the written comments and comments made at the public hearing, proposed regulations generally addressing the first issue were published in the **Federal Register** (63 F.R. 42) on January 2, 1998 (REG–209476–82, 1998–1 C.B. 594).

Final regulations for the issues addressed in the 1995 and 1998 proposed regulations are being published in T.D. 8894, page 162. These proposed regulations address the remaining issues on which comments were requested in the preamble to the 1995 proposed regulations, namely, situations in which a loan is refinanced or more than one loan is made.

These proposed regulations provide that if a loan is deemed distributed to a participant or beneficiary and has not been repaid, then no payment made thereafter to the participant or beneficiary will be treated as a loan for purposes of section 72(p)(2), unless certain conditions are satisfied. Specifically, there must be an arrangement among the plan, the participant or beneficiary, and the employer, enforceable under applicable law, under which repayments will be made by payroll withholding or the plan must receive adequate security for the additional loan

[1] Rev. Proc. 96–49 (1996–2 C.B. 369), includes a model amendment that may be used to reflect section 414(u)(4).

[2] Proposed §1.72(p)–1 was published in the **Federal Register** (60 F.R. 66233) on December 21, 1995.

(in addition to the participant's accrued benefit under the plan).[3]

The proposed regulations also provide that while a loan can be refinanced and additional amounts may be borrowed, the refinancing and multiple loan arrangements must satisfy the requirements in section 72(p)(2)(B) and (C) that each loan be repaid in level installments, not less often than quarterly, over five years (or longer for certain home loans). Under the proposed regulations, a refinancing is, in effect, treated as a new loan that is then applied to repay a prior loan if the new loan both replaces a prior loan and has a later repayment date. Thus, the transaction will result in a deemed distribution if the amount of the new loan plus the prior outstanding loan exceeds the amount limitations of section 72(p)(2)(A). This rule does not apply to a refinancing loan under which the amount of the prior loan is to be repaid by the original repayment date of the prior loan. These standards are illustrated in examples.[4]

[3]The Department of Labor (DOL) has advised the IRS that, with respect to plans covered by Title I of the Employee Retirement Income Security Act of 1974 (88 Stat. 829) (ERISA), the administration of a participant loan program involves the management of plan assets. Therefore, fiduciary conduct undertaken in the administration of such a loan program must conform to the rules that govern transactions involving plan assets. In particular, a loan program must be administered in a prudent manner, solely in the interest of the participants and beneficiaries, and for the exclusive purpose of providing benefits to participants and beneficiaries. See, generally, ERISA sections 403, 404, and 406. In the view of DOL, it is questionable whether a participant loan program of a plan covered by Title I of ERISA that does not provide for timely repayment of loans (through payroll withholding or otherwise), regular and effective collection efforts following a default, and adequate security for the plan in the event of default would be in compliance with the rules applicable under Title I of ERISA to transactions involving plan assets. In the view of DOL, it is also questionable whether such a program would qualify for the relief provided under section 408(b)(1) of ERISA. See Preamble to 29 CFR 2550.408b–1, (54 F.R. 30520, 30521) (July 20, 1989). Further, a plan may make a second loan to a defaulting participant whose prior loan remains unpaid only if such a loan would be in accordance with the applicable standards of Title I. A fiduciary must take steps to ensure, inter alia, that such a loan is bona fide and not a mere transfer of plan assets, that the loan is adequately secured, and that the plan's assets will be preserved in the event of default. See Preamble to 29 CFR 2550.408b–1, (54 F.R. at 30521).

[4]The examples in the new proposed regulations are based on the same assumptions described in §1.72(p)–1 introductory text of the final regulations.

In addition, a participant may borrow more than once from the plan under section 72(p)(2), but, in order to ensure that additional loans are not used to circumvent the requirements of section 72(p), a deemed distribution of a loan will occur if two loans have previously been made from the plan to the participant or beneficiary during the year.

Electronic Signatures Act

The Electronic Signatures in Global and National Commerce Act (114 Stat. 464) (the Electronic Signatures Act) was signed on June 30, 2000. Title I of the Electronic Signatures Act, which is generally effective October 1, 2000, applies to certain electronic records and signatures in commerce. Comments are requested on the impact of the Electronic Signatures Act on the final regulations under section 72(p) that appear in the Federal Register and on any future guidance that may be needed on the application of the Electronic Signatures Act to plan loan transactions.

Proposed Effective Date

The regulations are proposed to be effective with respect to loans made on or after the first January 1 that is at least six months after publication as final regulations. However, Q&A-19(b)(2) of the proposed regulations would not apply to loans, whenever made, under an insurance contract that is in effect before a date that is 12 months after publication as final regulations if the insurance carrier is required under the insurance contract to offer loans to contractholders that are not secured (other than being secured by the participant's or beneficiary's benefit under the contract).

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, and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) 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 Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Vernon S. Carter, Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

Proposed Amendments 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 continues to read, in part, as follows:

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

Par. 2. Section 1.72(p)–1 is amended as follows:

1. Q&A-9(b) and (c), Q&A-19 and Q&A-20 are revised.

2. Q&A-22 is amended by adding new paragraph (d).

The revisions and addition read as follows:

§1.72(p)–1 Loans treated as distributions.

* * * * *

A-9: * * *

(b) *Military service*. In accordance with section 414(u)(4), if a plan suspends the obligation to repay a loan made to an employee from the plan for any part of a period during which the employee is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code), whether or not qualified military service, such suspension shall not be taken into account for purposes of section 72(p) or this section. Thus, if a plan suspends loan repayments for any part of a period during which the employee is performing military service described in the preceding sentence, such suspension shall not cause the loan to be deemed distributed even if the suspension exceeds one year and even if the term of the loan is extended. However, the loan will not satisfy the repayment term requirement of section 72(p)(2)(B) and the level amortization requirement of section 72(p)(2)(C) unless loan repayments resume upon the completion of such period of military service, the frequency of the periodic installments due during the period beginning when the military service ends and ending when the loan is repaid in full, and the amount of each periodic installment, is not less than the frequency and amount of the periodic installments required under the terms of the original loan, and the loan is repaid in full (including interest that accrues during the period of military service) by the end of the period equal to the original term of the loan plus the period of such military service.

(c) *Examples*. The following examples illustrate the rules of paragraph (a) and (b) of this Q&A-9 and are based upon the assumptions described in the introductory text of this section:

Example 1. (i) On July 1, 2001, a participant with a nonforfeitable account balance of $80,000 borrows $40,000 to be repaid in level monthly installments of $825 each over 5 years. The loan is not a principal residence plan loan. The participant makes 9 monthly payments and commences an unpaid leave of absence that lasts for 12 months. The participant was not performing military service during this period. Thereafter, the participant resumes active employment and resumes making repayments on the loan until the loan is repaid. The amount of each monthly installment is increased to $1,130 in order to repay the loan by June 30, 2006.

(ii) Because the loan satisfies the requirements of section 72(p)(2), the participant does not have a deemed distribution. Alternatively, section 72(p)(2) would be satisfied if the participant continued the monthly installments of $825 after resuming active employment and on June 30, 2006 repaid the full balance remaining due.

Example 2. (i) The facts are the same as in *Example 1*, except the participant was on leave of absence performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) for two years. After the military service ends on April 2, 2004, the participant resumes active employment on April 19, 2004, continues the monthly installments of $825 thereafter, and on June 30, 2008 repays the full balance remaining due ($10,527).

(ii) Because the loan satisfies the requirements of section 72(p)(2) and paragraph (b) of this Q&A-9, the participant does not have a deemed distribution. Alternatively, section 72(p)(2) would also be satisfied if the amount of each monthly installment after April 19, 2004, is increased to $983 in order to repay the loan by June 30, 2008 (without any balance remaining due then).

* * * * *

Q-19: If there is a deemed distribution under section 72(p), is the interest that accrues thereafter on the amount of the deemed distribution an indirect loan for income tax purposes and what effect does the deemed distribution have on subsequent loans?

A-19: (a) *General rule*. Except as provided in paragraph (b) of this Q&A-19, a deemed distribution of a loan is treated as a distribution for purposes of section 72. Therefore, a loan that is deemed to be distributed under section 72(p) ceases to be an outstanding loan for purposes of section 72, and the interest that accrues thereafter under the plan on the amount deemed distributed is disregarded for purposes of applying section 72 to the participant or the beneficiary. Even though interest continues to accrue on the outstanding loan (and is taken into account for purposes of determining the tax treatment of any subsequent loan in accordance with paragraph (b) of this Q&A-19), this additional interest is not treated as an additional loan (and, thus, does not result in an additional deemed distribution) for purposes of section 72(p). However, a loan that is deemed distributed under section 72(p) is not considered distributed for all purposes of the Internal Revenue Code. See Q&A-16 of this section.

(b) *Effect on subsequent loans*—(1) *Application of section 72(p)(2)(A)*. A loan that is deemed distributed under section 72(p) (including interest accruing thereafter) and that has not been repaid (such as by a plan loan offset) is considered outstanding for purposes of applying section 72(p)(2)(A) to determine the maximum amount of any subsequent loan to the participant or beneficiary.

(2) *Additional security for subsequent loans*. If a loan is deemed distributed to a participant or beneficiary under section 72(p) and has not been repaid (such as by a plan loan offset), then no payment made thereafter to the participant or beneficiary shall be treated as a loan for purposes of section 72(p)(2) unless the loan otherwise satisfies section 72(p)(2) and this section and either of the following conditions is satisfied:

(i) There is an arrangement among the plan, the participant or beneficiary, and the employer, enforceable under applicable law, under which repayments will be made by payroll withholding. For this purpose, an arrangement will not fail to be enforceable merely because a party has the right to revoke the arrangement prospectively.

(ii) The plan receives adequate security from the participant or beneficiary that is in addition to the participant's or beneficiary's accrued benefit under the plan.

(3) *Condition no longer satisfied*. If, following a deemed distribution that has not been repaid, a payment is made to a participant or beneficiary that satisfies the conditions in paragraph (b)(2) of this Q&A-19 for treatment as a plan loan and, subsequently, before repayment of the second loan, the conditions in paragraph (b)(2) of this Q&A-19 are no longer satisfied with respect to the second loan (for example, if the loan recipient revokes consent to payroll withholding), the amount then outstanding on the second loan is treated as a deemed distribution under section 72(p).

Q-20: May a participant refinance an outstanding loan or have more than one loan outstanding from a plan?

A-20: (a) *Refinancings and multiple loans*—(1) *General rule*. A participant who has an outstanding loan that satisfies section 72(p)(2) and this section may refinance that loan or borrow additional amounts, if, under the facts and circumstances, the loans collectively satisfy the amount limitations of section 72(p)(2)(A) and the prior loan and the additional loan each satisfy the requirements of section 72(p)(2)(B) and (C) and this section. For this purpose, a refinancing includes any situation in which one loan replaces another loan.

(2) *Loans that repay a prior loan and have a later repayment date*. For purposes of section 72(p)(2) and this section (including paragraph (a)(3) of this Q&A-20 and the amount limitations of section 72(p)(2)(A)), if a loan that satisfies section 72(p)(2) is replaced by a loan (a replacement loan) and the term of the replacement loan ends after the term of the loan it replaces (the replaced loan), the replacement loan and the replaced loan are both treated as outstanding on the date of the transaction. For purposes of the preceding sentence, the term of the replaced loan is determined under the terms of that loan as in effect immediately prior to the making of the replacement loan. Thus, for example, the replacement loan results in a deemed distribution if the sum of the amount of the replacement loan plus the outstanding balance of all other loans on the date of the transaction, including the replaced loan, fails to satisfy the amount limitations of section 72(p)(2)(A). This paragraph (a)(2) of this Q&A-20 does not apply to a replacement loan if the terms of the replacement loan would satisfy section 72(p)(2) and this section determined as if the replacement loan consisted of two separate loans, the replaced loan (amortized in substantially level payments over a period ending not later than the last day of the term of the replaced loan) and a new loan based on the difference between the amount of the replacement loan and the amount of the replaced loan.

(3) *Multiple loans*. For purposes of section 72(p)(2) and this section, a loan to a participant or beneficiary shall be treated as a deemed distribution if two or more loans have previously been made from the plan to the participant or beneficiary during the year. This limitation applies on the basis of a calendar year unless the plan applies this limit on the basis of the plan year or another consistent 12-month period.

(b) *Examples*. The following examples illustrate the rules in paragraph (a) of this Q&A-20 and are based on the assumptions described in the introductory text of this section:

Example 1. (i) A participant with a vested account balance that exceeds $100,000 borrows $40,000 from a plan on January 1, 2003, to be repaid in 20 quarterly installments of $2,491 each. Thus, the term of the loan ends on December 31, 2007. On January 1, 2004, when the outstanding balance on the loan is $33,322, the loan is refinanced and is replaced by a new $40,000 loan from the plan to be repaid in 20 quarterly installments. Under the terms of the refinanced loan, the loan is to be repaid in level quarterly installments (of $2,491 each) over the next 20 quarters. Thus, the term of the new loan ends on December 31, 2008.

(ii) Under section 72(p)(2)(A), the amount of the new loan, when added to the outstanding balance of all other loans from the plan, must not exceed $50,000 reduced by the excess of the highest outstanding balance of loans from the plan during the 1-year period ending on December 31, 2003 over the outstanding balance of loans from the plan on January 1, 2004, with such outstanding balance to be determined immediately prior to the new $40,000 loan. Because the term of the new loan ends later than the term of the loan it replaces, both the new loan and the loan it replaces must be taken into account for purposes of applying section 72(p)(2), including the amount limitations in section 72(p)(2)(A). The amount of the new loan is $40,000, the outstanding balance on January 1, 2004 of the loan it replaces is $33,322 and the highest outstanding balance of loans from the plan during 2003 was $40,000. Accordingly, under section 72(p)(2)(A), the sum of the new loan and the outstanding balance on January 1, 2004 of the loan it replaces must not exceed $50,000 reduced by $6,678 (the excess of the $40,000 maximum outstanding loan balance during 2003 over the $33,322 outstanding balance on January 1, 2004, determined immediately prior to the new loan) and thus, must not exceed $43,322. The sum of the new loan ($40,000) and the outstanding balance on January 1, 2004 of the loan it replaces ($33,322) is $73,322. Since $73,322 exceeds the $43,322 limit under section 72(p)(2)(A) by $30,000, there is a deemed distribution of $30,000 on January 1, 2004.

(iii) However, no deemed distribution would occur if, under the terms of the refinanced loan, the amount of the first 16 installments on the refinanced loan were equal to $2,907, which is the sum of the $2,491 originally scheduled quarterly installment payment amount under the first loan, plus $416 (which is the amount required to repay, in level quarterly installments over five years beginning on January 1, 2004, the excess of the refinanced loan over the January 1, 2004 balance of the first loan ($40,000 minus $33,322 equals $6,678)), and the amount of the 4 remaining installments were equal to $416. The refinancing would not be subject to paragraph (a)(2) of this Q&A-20 because the terms of the new loan would satisfy section 72(p)(2) and this section (including the substantially level amortization requirements of section 72(p)(2)(B) and (C)) determined as if the new loan consisted of two loans, one of which is in the amount of the first loan ($33,322) and is amortized in substantially level payments over a period ending December 31, 2007 (the last day of the term of the first loan) and the other of which is in the additional amount ($6,678) borrowed under the new loan. Similarly, the transaction also would not result in a deemed distribution (and would not be subject to paragraph (a)(2) of this Q&A-20) if the terms of the refinanced loan provided for repayments to be made in level quarterly installments (of $2,990 each) over the next 16 quarters.

Example 2. (i) The facts are the same as in *Example 1*, except that the applicable interest rate used by the plan when the loan is refinanced is significantly lower due to a reduction in market rates of interest and, under the terms of the refinanced loan, the amount of the first 16 installments on the refinanced loan is equal to $2,848 and the amount of the next 4 installments on the refinanced loan is equal to $406. The $2,848 amount is the sum of $2,442 to repay the first loan by December 31, 2007 (the term of the first loan), plus $406 (which is the amount to repay, in level quarterly installments over five years beginning on January 1, 2004, the $6,678 excess of the refinanced loan over the January 1, 2004 balance of the first loan).

(ii) The transaction does not result in a deemed distribution (and is not subject to paragraph (a)(2) of this Q&A-20) because the terms of the new loan would satisfy section 72(p)(2) and this section (including the substantially level amortization requirements of section 72(p)(2)(B) and (C)) determined as if the new loan consisted of two loans, one of which is in the amount of the first loan ($33,322) and is amortized in substantially level payments over a period ending December 31, 2007 (the last day of the term of the first loan) and the other of which is in the additional amount ($6,678) borrowed under the new loan. The transaction would also not result in a deemed distribution (and not be subject to paragraph (a)(2) of this Q&A-20) if the terms of the new loan provided for repayments to be made in level quarterly installments (of $2,931 each) over the next 16 quarters.

Example 3. (i) A participant with a vested account balance that exceeds $100,000 borrows $20,000 from a plan on January 1, 2005 to be repaid in 20 quarterly installments of $1,245 each. On March 31, 2005, when the first installment is due, the participant receives a second loan equal to $1,245, with that March loan to be repaid in 20 quarterly installments of $78 each. On June 30, 2005, when the second installment is due on the January loan and the first installment is due on the March loan, the participant receives a third loan equal to $1,323 (which is the sum of the $1,245 installment and the $78 installment then due), with that June loan to be repaid in 20 quarterly installments of $82 each. On September 30, 2005, when the third installment is due on the January loan, the second installment is due on the March loan, and the first installment is due on the June loan, the participant receives a fourth loan equal to $1,405 (which is the sum of the $1,245 installment, the $78 installment and the $82 installment then due), with that September loan to be repaid in 20 quarterly installments of $88 each. On December 31, 2005, when the fourth installment is due on the January loan, the third installment is due on the March loan, the second installment is due on the June loan, and the first installment is due on the September loan, the participant receives a fifth loan equal to $1,493 (which is the sum of the $1,245 installment, the $78 installment, the $82 installment, and the $88 installment then due), with that December loan to be repaid in 20 quarterly installments of $93 each.

(ii) Under paragraph (a)(3) of this Q&A-20, the participant has deemed distributions on June 30, 2005 equal to $1,323 (which is the amount of the June loan), on September 30, 2005 equal to $1,405 (which is the amount of the September loan), and on December 31, 2005 equal to $1,493 (which is the amount of the December loan) because on each of these dates the participant had previously received two loans from the plan during the year.

* * * * *

A-22: * * *

(d) *Effective date for Q&A-19(b)(2) and Q&A-20*. Paragraph (b)(2) of Q&A-19 and Q&A-20 of this section apply to loans made on or after the first January 1 that is at least 6 months after publication of final regulations in the **Federal Register**, except that paragraph (b)(2) of Q&A-19 of this section does not apply to loans, whenever made, under an insurance contract that is in effect before the date that is 12 months after publication of final regulations in the **Federal Register** under which the insurance carrier is required to offer loans to contractholders that are not secured (other than being secured by the participant's or beneficiary's benefit under the contract).

Robert E. Wenzel,
Deputy Commissioner of Internal Revenue.

(Filed by the Office of the Federal Register on July 28, 2000, 8:45 a.m., and published in the issue of the Federal Register for July 31, 2000, 65 F.R. 46677)

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

Announcement 2000–69

The names of organizations that no longer qualify as organizations described in section 170(c)(2) of the Internal Revenue Code of 1986 are listed below.

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

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on August 14, 2000, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428 (c)(1). For individual contributors, the maximum deduction protected is $1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Dayspring Group Home a/k/a Dayspring Group, Inc.
San Bernardino, CA

Ecologically Aware, Inc.
National City, CA

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

Numerical Finding List[1]

Bulletins 2000–27 through 2000–32

Announcements:

2000–57, 2000–28 I.R.B. *115*
2000–58, 2000–30 I.R.B. *135*
2000–59, 2000–29 I.R.B. *120*
2000–60, 2000–31 I.R.B. *149*
2000–61, 2000–30 I.R.B. *136*
2000–62, 2000–30 I.R.B. *137*
2000–63, 2000–31 I.R.B. *149*
2000–64, 2000–31 I.R.B. *149*
2000–65, 2000–31 I.R.B. *150*
2000–66, 2000–32 I.R.B. *160*
2000–67, 2000–32 I.R.B. *160*
2000–68, 2000–32 I.R.B. *161*

Court Decisions:

2068, 2000–28 I.R.B. *109*

Notices:

2000–33, 2000–27 I.R.B. *97*
2000–35, 2000–29 I.R.B. *118*
2000–37, 2000–29 I.R.B. *118*
2000–39, 2000–30 I.R.B. *132*
2000–40, 2000–30 I.R.B. *134*

Proposed Regulations:

REG–105316–98, 2000–27 I.R.B. *98*

Railroad Retirement Quarterly Rate:

2000–28, I.R.B. *112*
2000–29, I.R.B. *117*

Revenue Procedures:

2000–28, 2000–27 I.R.B. *60*
2000–29, 2000–28 I.R.B. *113*
2000–30, 2000–28 I.R.B. *113*
2000–31, 2000–31 I.R.B. *146*

Revenue Rulings:

2000–32, 2000–27 I.R.B. *1*
2000–33, 2000–31 I.R.B. *142*
2000–34, 2000–29 I.R.B. *116*
2000–35, 2000–31 I.R.B. *138*
2000–36, 2000–31 I.R.B. *140*
2000–37, 2000–32 I.R.B. *156*
2000–38, 2000–32 I.R.B. *157*

Treasury Decisions:

8886, 2000–27 I.R.B. *3*
8888, 2000–27 I.R.B. *3*
8889, 2000–30 I.R.B. *124*
8890, 2000–30 I.R.B. *122*
8891, 2000–32 I.R.B. *152*
8892, 2000–32 I.R.B. *158*
8893, 2000–31 I.R.B. *143*

[1] A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2000–1 through 2000–26 is in Internal Revenue Bulletin 2000–27, dated July 3, 2000.

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

Bulletins 2000–27 through 2000–32

Proposed Regulations:

FI–42–90
Withdrawn by
Announcement 2000–63, 2000–31 I.R.B. *149*

IA–38–93
Withdrawn by
Announcement 2000–68, 2000–32 I.R.B. *161*

REG–107644–98
Corrected by
Announcement 2000–66, 2000–32 I.R.B. *160*

Revenue Procedures:

98–50
Modified and superseded by
Rev. Proc. 2000–31, 2000–31 I.R.B. *146*

98–51
Modified and superseded by
Rev. Proc. 2000–31, 2000–31 I.R.B. *146*

99–18
Modified by
Rev. Proc. 2000–29, 2000–28 I.R.B. *113*

99–34
Superseded by
Rev. Proc. 2000–28, 2000–27 I.R.B. *60*

Treasury Decisions:

8883
Corrected by
Announcement 2000–57, 2000–28 I.R.B. *115*

[1] A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2000–1 through 2000–26 is in Internal Revenue Bulletin 2000–27, dated July 3, 2000.

United States Government INFORMATION

PUBLICATIONS ★ PERIODICALS ★ ELECTRONIC PRODUCTS

Order processing code

*** 3333**

VISA MasterCard DISCOVER NOVUS

New Deposit Account?

Check here ❑

Publications

Qty.	Stock Number	Title	Price Each	Total Price
	021–066–00005–2	Subject Bibliography listing Cum. Bulletins available thru 1998–2	FREE	FREE
	048–004–02333–4	Cum. Bulletin 1994-2 (July-Dec)	$62	
	048–004–02335–1	Cum. Bulletin 1995-1 (Jan-June)	63	
	048–004–02338–5	Cum. Bulletin 1995-2 (July-Dec)	58	
	048–004–02366–1	Cum. Bulletin 1996-1 (Jan-June)	77	
	048–004–02376–8	Cum. Bulletin 1996-2 (July-Dec)	57	
	048–004–02384–9	Cum. Bulletin 1996-3 (1996 Tax Legislation)	84	
	048–004–02385–7	Cum. Bulletin 1997-1 (Jan-June)	75	
	048–004–02397–1	Cum. Bulletin 1997-2 (July-Dec)	68	
	048–004–02424–1	Cum. Bulletin 1997-3	62	
	048–004–02425–0	Cum. Bulletin 1997-4 Vol. 1	74	
	048–004–02430–6	Cum. Bulletin 1997-4 Vol. 2	76	
	048–004–02405–5	Cum. Bulletin 1998-1 (Jan-June)	86	
	048–004–02422-5	Cum. Bulletin 1998-2 (July-Dec)	70	
		Total for Publications		

Subscriptions

Qty.	List ID	Title	Price Each	Total Price
	IRB	Internal Revenue Bulletin	$170	
		Optional – Add $50 to open Deposit Account. Also check box in upper right.		
		Total for Subscriptions		
		Total for Publications and Subscriptions		

NOTE: All prices include regular shipping and handling. Subscription prices are subject to change at any time. International customers, please add 25%.

Check method of payment:

❑ Check payable to Superintendent of Documents

❑ Deposit Account ☐☐☐☐☐☐☐ – ☐

❑ VISA ❑ MasterCard ❑ Discover/NOVUS

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (expiration date)

Thank you for your order!

Authorizing signature

7/00

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, Zip code

Daytime phone with area code

E-mail address

Purchase order number (optional)

Standing Order Service *

To automatically receive future editions of *Internal Revenue Cumulative Bulletins* without having to initiate a new purchase order, sign below for Standing Order Service.

Qty.	Standing Order	Title
	ZIRSC	Internal Revenue Cumulative Bulletins

Authorization

I hereby authorize the Superintendent of Documents to charge my account for Standing Order Service:

(enter account information at right)

❑ VISA ❑ MasterCard ❑ Discover/NOVUS

❑ Superintendent of Documents Deposit Account

Authorizing signature (Standing orders not valid unless signed.)

Please print or type your name.

Daytime phone number (_______) ______________________

SuDocs 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 Superintendent of Documents Deposit Account.

❑ **YES!** Open a Deposit Account for me so I can order future publications quickly and easily. I'm enclosing the $50 initial deposit.

Phone orders: (202) 512–1800
Fax orders: (202) 512–2250
Mail orders: Superintendent of Documents
P.O. Box 371954
Pittsburgh, PA 15250–7954
Online orders: http://bookstore.gpo.gov/irs

DO NOT SEND THIS ORDER FORM TO IRS.

* Standing Order Service

Just sign the authorization above to charge selected items to your existing Deposit Account, VISA, or MasterCard Discover/NOVUS 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. Service begins with the next issue released of each item you select.

You will receive written acknowledgement for each item you choose to receive by Standing Order Service.

If you wish to cancel your Standing Order Service, please notify the Superintendent of Documents in writing (telephone cancellations are accepted but must be followed up with a written cancellation within 10 days).

Important: Please include this completed order form with your payment.

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.gov) or write to the IRS Bulletin Unit, OP:FS:FP:P:1, Room 5617, 1111 Constitution Avenue NW, Washington, DC 20224.

Internal Revenue Service
Washington, DC 20224

Official Business
Penalty for Private Use, $300