Internal Revenue
bulletin

Bulletin No. 2000–52
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HIGHLIGHTS OF THIS ISSUE

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

INCOME TAX

Rev. Rul. 2000–55, page 595.

Section 1274A inflation-adjusted numbers for 2001. This ruling provides the dollar amounts, increased by the 2001 inflation adjustment, for section 1274A of the Code. Rev. Rul. 99–50 supplemented and superseded.

Rev. Rul. 2000–56, page 598.

CPI adjustment for below-market loans for 2001. The amount that section 7872(g) of the Code permits a taxpayer to lend to a qualified continuing care facility without incurring imputed interest is adjusted for years 1987–2001. Rev. Rul. 99–49 supplemented and superseded.

Rev. Proc. 2000–50, page 601.

Tax treatment of computer software expenditures. This procedure updates the guidelines contained in Rev. Proc. 69–21, relating to costs incurred to develop, purchase, lease, or license computer software, to be consistent with sections 167(f)(1) and 197 of the Code and the regulations thereunder. It also provides safe harbors and procedures for taxpayers to obtain consent to change to a method under this revenue procedure. Rev. Proc. 69–21 superseded. Rev. Procs. 97–50 and 99–49 modified.

EMPLOYEE PLANS

Notice 2000–66, page 600.

Retirement plans; year 2001 section 415(d) limitations. Cost-of-living adjustments effective January 1, 2001, applicable to the dollar limits on benefits under qualified defined benefit pension plans and to other provisions affecting (1) certain plans of deferred compensation and (2) "control employees," are set forth.

EMPLOYMENT TAX

T.D. 8909, page 596.
REG–114423–00, page 604.

Final, temporary, and proposed regulations under section 6302 of the Code relate to the deposit of federal employment taxes.

Page 602.

2001 social security contribution and benefit base; domestic employee coverage threshold. The Commissioner of the Social Security Administration has announced (1) the OASDI contribution and benefit base for remuneration paid in 2001 and self-employment income earned in taxable years beginning in 2001, and (2) the domestic employee coverage threshold amount for 2001.

TAX CONVENTIONS

Rev. Rul. 2000–59, page 593.

"Liable to Tax" treaty residence standard. Guidance is provided on the "liable to tax" standard for residence under U.S. income tax treaties.

ADMINISTRATIVE

Notice 2000–65, page 599.

LMSB industry issue resolution pilot program. This notice announces the pilot program to provide guidance to resolve frequently disputed tax issues that are common to a significant number of large or mid-size business taxpayers. This effort is part of the Service's strategy to resolve issues in a manner other than the traditional post-filing examination process. Taxpayers, as well as industry associations and other groups representing taxpayers, are invited to suggest issues and possible options for resolution.

(Continued on the next page)

Finding Lists begin on page ii.

Department of the Treasury
Internal Revenue Service

Announcement 2000–101, page 604.
This announcement includes the procedures for partnerships to request a waiver of the requirement for partnerships with more than 100 partners to electronically file Form 1065, *U.S. Partnership Return of Income*.

Announcement 2000–102, page 605.
This document contains corrections to the footnotes for the Actions Relating to Court Decisions published in 1999-40 I.R.B. on the page following the Introduction.

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.

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

Section 162.—Trade or Business Expenses

Under what circumstances may a taxpayer expense the costs of self-created computer software? See Rev. Proc. 2000–50, page 601.

Section 167.—Depreciation

How is the capitalized cost of computer software amortized? See Rev. Proc. 2000–50, page 601.

Section 197.—Amortization of Goodwill and Certain Other Intangibles

What is the proper tax treatment of the cost of computer software that is excluded from section 197? See Rev. Proc. 2000–50, page 601.

Section 446.—General Rule for Methods of Accounting

If a taxpayer changes to a method provided for in Rev. Proc. 2000–50, is this a change in method of accounting? See Rev. Proc. 2000–50, page 601.

Section 481.—Adjustments Required by Changes in Method of Accounting

Is a section 481(a) adjustment required for a change in the method of accounting under Rev. Proc. 2000–50 for the cost of computer software? See Rev. Proc. 2000–50, page 601.

Section 483.—Interest on Certain Deferred Payments

26 CFR 1.483–1: Computation of interest on certain deferred payments.

As defined by section 1274A, the definitions for both "qualified debt instruments" and "cash method debt instuments" have dollar ceilings on the stated principal amount. The limits to the stated principal amount are adjusted for inflation for sales or exchanges occurring in the 2001 calendar year. See Rev. Rul. 2000–55, page 595.

Section 894(a).—Income Affected by Treaty

26 CFR 1.894–1(a): Income affected by treaty. (Also sections 894(c); 1.894–1(d))

"Liable to Tax" treaty residence standard. Guidance is provided on the "liable to tax" standard for residence under U.S. income tax treaties.

Rev. Rul. 2000–59

This revenue ruling provides guidance on whether certain entities will be considered liable to tax under the laws of a foreign country for purposes of determining if such entities are residents within the meaning of the relevant Treaty. In order to obtain treaty benefits a person must be a resident of the applicable treaty jurisdiction and must meet all other applicable requirements for obtaining treaty benefits, including any applicable limitation on benefits provision and, in the case of an entity that is fiscally transparent under the laws of the United States or the entity's jurisdiction, the requirement that the entity derive the item of income for which treaty benefits are sought within the meaning of Treas. Reg. § 1.894–1(d).

FACTS

Situation 1

Entity A is a business organization in Country X, which has an income tax treaty in effect with the United States that is identical to the 1996 United States Model Income Tax Treaty (1996 U.S. Model). Under the laws of Country X, Entity A is an investment company taxable on income from all sources at the entity level by reason of being incorporated in Country X. Similar to other domestic corporations, distributions from a Country X investment company are generally treated as dividends and do not retain the character or source of the underlying income. However, net capital gains and, in some cases, tax exempt interest, retain their character when they are distributed to the investment company's interest holders. Further, a Country X investment company may deduct distributions of current income to its interest holders in computing taxable income. Entity A distributes its net income and capital gains on a current basis to its interest holders so that it will not actually bear a tax. Country X imposes a withholding tax on Entity A's dividend distributions to its foreign interest holders regardless of the source of Entity A's underlying income. If Entity A did not distribute such amounts, Entity A would be taxed by Country X on such amounts. Entity A receives dividend income from the United States.

Country X has not announced by public notice that investment companies such as Entity A are not residents of Country X, and there is no competent authority agreement providing that such entities are not residents of Country X. Further, the U.S. competent authority has not issued a public notice indicating that treaty benefits to such entities are being denied because, and to the extent that, Country X will not grant treaty benefits to similar U.S. entities.

Situation 2

Entity B is an investment company organized in Country Y, which has an income tax treaty in effect with the United States that is identical to the 1996 U.S. Model. Under the laws of Country Y, corporations organized in Country Y are generally taxable on income from all sources at the entity level by reason of being incorporated in Country Y. A specific provision in Country Y law, however, exempts the income of investment companies such as Entity B from taxation. Under Country Y law, the character and source of distributions from Entity B to all its interest holders are determined based on the distributions themselves rather than on the character and source of Entity B's underlying income. Further, Country Y imposes a withholding tax on distributions to its foreign interest holders regardless of the source of the underlying income. Entity B receives dividend income from the United States.

Country Y has not announced by public notice that investment companies such as Entity B are not residents of Country Y, and there is no competent authority agreement providing that such entities are not residents of Country Y. Further, the U.S. competent authority has not issued a public notice indicating that treaty benefits to such entities are being denied because, and to the extent that, Country Y will not grant treaty benefits to similar U.S. entities.

Situation 3

Entity C is a trust established and administered in Country Z, which has an in-

come tax treaty with the United States identical to the 1981 U.S. Model Income Tax treaty (1981 U.S. Model). The trust exclusively provides pension benefits. Entity C's trustee is a resident of Country Z. Under the laws of Country Z, because Entity C's trustee is a resident of Country Z, Entity C is treated as a resident trust taxable at the entity level. However, because Entity C is established and operated exclusively to provide pension benefits, a provision of Country Z law exempts Entity C from Country Z income tax. Entity C receives dividend income from the United States.

Country Z has not announced by public notice that entities such as Entity C are not residents of Country Z, and there is no competent authority agreement providing that such entities are not residents of Country Z. Further, the U.S. competent authority has not issued a public notice indicating that treaty benefits to such entities are being denied because, and to the extent that, Country Z will not grant treaty benefits to similar U.S. entities.

LAW AND ANALYSIS

Article 4 of the 1996 U.S. Model provides in relevant part:

> 1. Except as provided in this paragraph, for the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, citizenship, place of management, place of incorporation, or any other criterion of a similar nature.
>
> a) The term "resident of a Contracting State" does not include any person who is liable to tax in that state in respect only of income from sources in that State or of profits attributable to a permanent establishment.
>
> b) A legal person organized under the laws of a Contracting State and that is generally exempt from tax in that State and is established and maintained in that State either:
>
> i) exclusively for a religious, charitable, educational, scientific, or other similar purpose; or
>
> ii) to provide pension or other similar benefits to employees pursuant to a plan

is to be treated as a resident of the Contracting State where it is established.

The analogous portion of Article 4 of the 1981 U.S. Model provides:

> 1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who under the laws of the State, is liable to tax therein by reason of his domicile, residence, citizenship, place of management, place of incorporation, or any other criterion of a similar nature, provided, however, that
>
> (a) this term does not include any person who is liable to tax in that State in respect only of income from sources within that State or capital situated therein;

The phrase "liable to tax" as used in the above articles does not require actual taxation. Thus, the fact that a person is only nominally taxable does not preclude that person from meeting the applicable "liable to tax" standard of these residence articles. This is consistent with the position taken in the 1996 U.S. Model Technical Explanation to Article 4(1), which provides: "[c]ertain entities that are nominally subject to tax but that in practice rarely pay tax also would generally be treated as residents and therefore accorded treaty benefits. For example, RICs, REITs, and REMICs, are all residents of the United States for purposes of the treaty."

For purposes of these residence articles, whether a person will be liable to tax in, and thus a resident of, a jurisdiction depends on the facts and circumstances. However, in the context of a bilateral income tax treaty, a person will not be considered a resident of a contracting state if (1) the treaty partner has announced by public notice that such persons are not residents of that state; (2) there is a competent authority agreement or separate specific treaty provision providing that such persons are not residents of that state; or (3) the treaty partner would not treat similar U.S. persons as residents of the United States, and the Internal Revenue Service has issued a public notice indicating that treaty benefits to such entities are consequently being denied. Conversely, a person may be treated as a resident of a contracting state if there is a competent authority agreement or separate specific treaty provision providing that such persons are residents of that state. The Internal Revenue Service shall announce the terms of any relevant competent authority agreement or treaty partner's position.

Situation 1

Under the facts of Situation 1, notwithstanding that Entity A is only nominally taxable in Country X, Entity A is "liable to tax in [Country X] by reason of its place of incorporation," within the meaning of the U.S.- Country X treaty, because of the following factors. First, as a corporation incorporated in Country X, Entity A may be taxed by Country X on its worldwide income. Second, but for the deduction regime, Country X would have imposed a tax on Entity A as it would any corporation incorporated in Country X. Third, the character and source of certain distributions by Entity A are determined independent of the character and source of Entity A's income, and Country X imposes a withholding tax on such distributions by Entity A to its foreign interest holders regardless of the source of Entity A's underlying income.

Finally, Country X has not announced by public notice that persons such as Entity A are not residents of Country X; there is no competent authority agreement providing that such persons are not residents of Country X; and the U.S. competent authority has not issued a public notice indicating that treaty benefits to such persons are being denied because Country X will not grant treaty benefits to similar U.S. persons.

Accordingly, Entity A is liable to tax in Country X by reason of its place of incorporation within the meaning of Article 4 (1) of the U.S.-Country X treaty, and thus is a resident of Country X for purposes of the U.S.-Country X treaty. In order to obtain treaty benefits, however, Entity A must still meet all other applicable requirements for such benefits, including the applicable limitation on benefits provision and, if Entity A is viewed as fiscally transparent under the laws of either the United States or Country X, those provisions of Treas. Reg. § 1.894–1(d).

Situation 2

Under the facts of Situation 2, notwithstanding that Entity B is only nominally liable to tax in Country Y, Entity B is liable to tax by reason of its place of incorporation, within the meaning of the U.S.-Country Y treaty, because of the follow-

ing factors. First, as a corporation incorporated in Country Y, Entity B may be taxed by Country Y on its worldwide income. Second, but for the specific exemption in Country Y law, Country Y would have imposed a tax on Entity B as it would any corporation incorporated in Country Y. Third, the character and source of distributions by Entity B are determined independent of the character and source of the Entity B's underlying income, and Country Y imposes a withholding tax on distributions by Entity B to its foreign interest holders regardless of the source of Entity B's underlying income.

Finally, Country Y has not announced by public notice that persons such as Entity A are not residents of Country Y; there is no competent authority agreement providing that such persons are not residents of Country Y; and the U.S. competent authority has not issued a public notice indicating that treaty benefits to such persons are being denied because Country Y will not grant treaty benefits to similar U.S. persons.

Accordingly, Entity B is liable to tax in Country Y by reason of its place of incorporation within the meaning of Article 4 (1) of the U.S.-Country Y treaty, and thus B is a resident of Country Y for purposes of the U.S.-Country Y treaty. In order to obtain treaty benefits, however, Entity B must still meet all other applicable requirements for such benefits, including the applicable limitation on benefits provision and, if Entity B is viewed as fiscally transparent under the laws of either the United States or Country Y, those provisions of Treas. Reg. § 1.894–1(d).

Situation 3

Under the facts of Situation 3, notwithstanding that Entity C is only nominally taxable in Country Z, Entity C is liable to tax within the meaning of the U.S.-Country Z treaty because of the following. But for the exemption from tax for Country Z entities that provide pension benefits, Entity C would be taxable by Country Z at the entity level as a resident trust in Country Z. While the 1981 U.S. Model does not specifically provide that persons organized under the laws of a state that are generally exempt from tax and established and maintained exclusively to provide pension or other similar benefits are residents of that state (and the 1996 U.S. Model does so provide), the Treasury Department's Technical Explanation to the 1996 U.S. Model confirms that the specific provision in the 1996 U.S. Model merely clarifies the generally accepted practice that these entities are residents even though they may be entitled to a complete or partial exemption from tax.

Further, Country Z has not announced by public notice that persons such as Entity A are not residents of Country Z; there is no competent authority agreement providing that such persons are not residents of Country Z; and the U.S. competent authority has not issued a public notice indicating that treaty benefits to such persons are being denied because Country Z will not grant treaty benefits to similar U.S. persons.

Accordingly, Entity C is liable to tax in Country Z within the meaning of Article 4(1) of the Treaty, and thus is a resident of Country Z for purposes of the Treaty. In order to obtain treaty benefits, however, Entity C must still meet all other applicable requirements for such benefits, including the applicable limitation on benefits provision and, if Entity C is viewed as fiscally transparent under the laws of either the United States or Country Z, those provisions of Treas. Reg. § 1.894–1(d).

DRAFTING INFORMATION

The principal author of this revenue ruling is Shawn R. Pringle of the Office of Associate Chief Counsel (International). For further information regarding this revenue ruling, contact Elizabeth U. Karzon or Karen Rennie-Quarrie at (202) 622-3880 (not a toll-free call).

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

26 CFR 1.1274A–1: Special rules for certain transactions where stated principal amount does not exceed $2,800,000.

As defined by section 1274A, the definitions for both "qualified debt instruments" and "cash method debt instruments" have dollar ceilings on the stated principal amount. The limits to the stated principal amount are adjusted for inflation for sales or exchanges occurring in the 2001 calendar year. See Rev. Rul. 2000–55 on this page.

Section 1274A.—Special Rules for Certain Transactions Where Stated Principal Amount Does Not Exceed $2,800,000

(Also §§ 1274, 483; 1.1274A-1, 1.483–1)

Section 1274A inflation-adjusted numbers for 2001. This ruling provides the dollar amounts, increased by the 2001 inflation adjustment, for section 1274A of the Code. Rev. Rul. 99–50 supplemented and superseded.

Rev. Rul. 2000-55

This revenue ruling provides the dollar amounts, increased by the 2001 inflation adjustment, for § 1274A of the Internal Revenue Code.

BACKGROUND

In general, §§ 483 and 1274 determine the principal amount of a debt instrument given in consideration for the sale or exchange of nonpublicly traded property. In addition, any interest on a debt instrument subject to § 1274 is taken into account under the original issue discount provisions of the Code. Section 1274A, however, modifies the rules under §§ 483 and 1274 for certain types of debt instruments.

In the case of a "qualified debt instrument," the discount rate used for purposes of §§ 483 and 1274 may not exceed 9 percent, compounded semiannually. Section 1274A(b) defines a qualified debt instrument as any debt instrument given in consideration for the sale or exchange of property (other than new § 38 property within the meaning of § 48(b), as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990) if the stated principal amount of the instrument does not exceed the amount specified in § 1274A(b). For debt instruments arising out of sales or exchanges before January 1, 1990, this amount is $2,800,000.

In the case of a "cash method debt instrument," as defined in § 1274A(c), the borrower and lender may elect to use the cash receipts and disbursements method of accounting. In particular, for any cash method debt instrument, § 1274 does not apply, and interest on the instrument is ac-

counted for by both the borrower and the lender under the cash method of accounting. A cash method debt instrument is a qualified debt instrument that meets the following additional requirements: (A) In the case of instruments arising out of sales or exchanges before January 1, 1990, the stated principal amount does not exceed $2,000,000; (B) the lender does not use an accrual method of accounting and is not a dealer with respect to the property sold or exchanged; (C) § 1274 would have applied to the debt instrument but for an election under § 1274A(c); and (D) an election under § 1274A(c) is jointly made with respect to the debt instrument by the borrower and lender. Section 1.1274A–1(c)(1) of the Income Tax Regulations provides rules concerning the time for, and manner of, making this election.

Section 1274A(d)(2) provides that, for any debt instrument arising out of a sale or exchange during any calendar year after 1989, the dollar amounts stated in § 1274A(b) and § 1274A(c)(2)(A) are increased by the inflation adjustment for the calendar year. Any increase due to the inflation adjustment is rounded to the nearest multiple of $100 (or, if the increase is a multiple of $50 and not of $100, the increase is increased to the nearest multiple of $100). The inflation adjustment for any calendar year is the percentage (if any) by which the CPI for the preceding calendar year exceeds the CPI for calendar year 1988. Section 1274A(d)(2)(B) defines the CPI for any calendar year as the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of that calendar year.

INFLATION-ADJUSTED AMOUNTS

For debt instruments arising out of sales or exchanges after December 31, 1989, the inflation-adjusted amounts under § 1274A are shown in Table 1.

Rev. Rul. 2000–55 Table 1

Inflation-Adjusted Amounts Under § 1274A

Calendar Year of Sale or Exchange	*1274A(b) Amount (qualified debt instrument)*	*1274A(c)(2)(A) Amount (cash method debt instrument)*
1990	$2,933,200	$2,095,100
1991	$3,079,600	$2,199,700
1992	$3,234,900	$2,310,600
1993	$3,332,400	$2,380,300
1994	$3,433,500	$2,452,500
1995	$3,523,600	$2,516,900
1996	$3,622,500	$2,587,500
1997	$3,723,800	$2,659,900
1998	$3,823,100	$2,730,800
1999	$3,885,500	$2,775,400
2000	$3,960,100	$2,828,700
2001	$4,085,900	$2,918,500

Note: These inflation adjustments were computed using the All-Urban, Consumer Price Index, 1982-1984 base, published by the Bureau of Labor Statistics.

EFFECT ON OTHER DOCUMENTS

Rev. Rul. 99–50, 1999–50 I.R.B. 656 is supplemented and superseded.

DRAFTING INFORMATION

The principal author of this revenue ruling is Courtney Shepardson of the Office of Assistant Chief Counsel (Financial Institutions and Products). For further information regarding this revenue ruling, contact Ms. Shepardson at (202) 622-3930 (not a toll-free call).

Section 6302.—Mode or Time of Collection

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

T.D. 8909

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Part 31

Federal Employment Tax Deposits—*De Minimis* Rule

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary and final regulations.

SUMMARY: This document contains temporary and final regulations relating to the deposit of Federal employment taxes. The regulations change the *de minimis* deposit rule for quarterly and annual return

periods. The regulations affect taxpayers required to make deposits of Federal employment taxes. The text of the temporary regulations also serves as the text of the proposed regulations (REG–114423–00) set forth in the notice of proposed rulemaking on page 604.

DATES: *Effective date*: These regulations are effective Wednesday, December 6, 2000.

Applicability date: For dates of applicability, see §31.6302–1T(f)(4).

FOR FURTHER INFORMATION CONTACT: Brinton T. Warren, (202) 622-4940 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains amendments to 26 CFR part 31, Employment Taxes and Collection of Income Tax at the Source. Section 31.6302-1(f)(4) provides that if the total amount of accumulated employment taxes for a return period is less than $1,000 and the amount is fully deposited or remitted with a timely filed return for the quarter, the amount deposited or remitted will be deemed to be timely deposited.

The temporary regulations change the $1,000 threshold to $2,500. Thus, a taxpayer that has accumulated employment taxes of less than $2,500 for a return period (quarterly or annual, as the case may be) does not have to make deposits but may remit its full liability with a timely filed return for the return period.

The *de minimis* threshold is being raised as part of the IRS and Treasury's continued efforts to reduce burden on the small business community. On June 16, 1998, temporary regulations (T.D. 8771, 1998–2 C.B. 72) that raised the *de minimis* threshold from $500 to $1,000 were published in the **Federal Register** (63 F.R. 32735). This increase of the threshold to $1,000 was made final on June 17, 1999, (T.D. 8822, 1999–2 C.B. 5) in regulations published in the **Federal Register** (64 F.R. 32408).

Having conducted further study, the IRS now seeks additional changes in deposit requirements to reduce taxpayer burden. The IRS and Treasury have determined that another increase in the *de minimis* threshold is a simple and straightforward step that will reduce burden on small businesses.

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 also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses.

Drafting Information

The principal author of the regulations is Brinton T. Warren of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 31 is amended as follows:

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

Paragraph 1. The authority citation for part 31 is amended by adding an entry in numerical order to read in part as follows:

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

Section 31.6302–1T also issued under 26 U.S.C. 6302(a) and (c). * * *

Par. 2. In §31.6302–1, a new sentence is added at the end of paragraph (f)(4) to read as follows:

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

* * * * *

(f) * * *

(4) * * * For guidance regarding *de minimis* amounts for quarterly or annual return periods beginning on or after January 1, 2001, see §31.6302–1T(f)(4).

* * * * *

Par. 3. Section 31.6302–1T is added to read as follows:

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

(a) through (f)(3). [Reserved] For further guidance, see §31.6302–1(a) through (f)(3).

(f)(4) *De Minimis rule*. For quarterly and annual return periods beginning on or after January 1, 2001, if the total amount of accumulated employment taxes for the return period is less than $2,500 and the amount is fully deposited or remitted with a timely filed return for the return period, the amount deposited or remitted will be deemed to have been timely deposited.

(f)(5) through (n). [Reserved] For further guidance, see §31.6302–1(f)(5) through (n).

Charles O. Rossotti,
Commissioner of Internal Revenue.

Approved November 21, 2000.

Jonathan Talisman,
Assistant Secretary for Tax Policy.

(Filed by the Office of the Federal Register on December 5, 2000, 8:45 a.m., and published in the issue of the Federal Register for December 6, 2000, 65 F.R. 76152)

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

CPI adjustment for below-market loans for 2001. The amount that section 7872(g) of the Code permits a taxpayer to lend to a qualified continuing care facility without incurring imputed interest is published and adjusted for inflation for years

1987–2001. Rev. Rul. 99–49 supplemented and superseded.

Rev. Rul. 2000–56

This revenue ruling publishes the amount that § 7872(g) of the Internal Revenue Code permits a taxpayer to lend to a qualifying continuing care facility without incurring imputed interest. The amount is adjusted for inflation for the years after 1986.

Section 7872 generally treats loans bearing a below-market interest rate as if they bore interest at the market rate.

Section 7872(g)(1) provides that, in general, § 7872 does not apply for any calendar year to any below-market loan made by a lender to a qualified continuing care facility pursuant to a continuing care contract if the lender (or the lender's spouse) attains age 65 before the close of the year.

Section 7872(g)(2) provides that, in the case of loans made after October 11, 1985, and before 1987, § 7872(g)(1) applies only to the extent that the aggregate outstanding amount of any loan to which § 7872(g) applies (determined without regard to § 7872(g)(2)), when added to the aggregate outstanding amount of all other previous loans between the lender (or the lender's spouse) and any qualified continuing care facility to which § 7872(g)(1) applies, does not exceed $90,000.

Section 7872(g)(5) provides that, for loans made during any calendar year after 1986 to which § 7872(g)(1) applies, the $90,000 limit specified in § 7872(g)(2) is increased by an inflation adjustment. The inflation adjustment for any calendar year is the percentage (if any) by which the Consumer Price Index (CPI) for the preceding calendar year exceeds the CPI for calendar year 1985. Section 7872(g)(5) states that the CPI for any calendar year is the average of the CPI as of the close of the 12-month period ending on September 30 of that calendar year.

Table 1 sets forth the amount specified in § 7872(g)(2) of the Code. The amount is increased by the inflation adjustment for the years 1987-2001.

REV. RUL. 2000–56 TABLE 1

Limit under 7872(g)(2)

Year	*Amount*
Before 1987	$ 90,000
1987	$ 92,200
1988	$ 94,800
1989	$ 98,800
1990	$103,500
1991	$108,600
1992	$114,100
1993	$117,500
1994	$121,100
1995	$124,300
1996	$127,800
1997	$131,300
1998	$134,800
1999	$137,000
2000	$139,700
2001	$144,111

Note: These inflation adjustments were computed using the All-Urban, Consumer Price Index 1982-1984 base, published by the Bureau of Labor Statistics.

EFFECT ON OTHER DOCUMENTS

Rev. Rul. 99–49, 1999–50 I.R.B. 667, is supplemented and superseded.

DRAFTING INFORMATION

The author of this revenue ruling is Courtney Shepardson of the Office of Assistant Chief Counsel (Financial Institutions and Products). For further information regarding this revenue ruling, contact Ms. Shepardson at (202) 622-3930 (not a toll-free call).

Part III. Administrative, Procedural, and Miscellaneous

Industry Issue Resolution Pilot Program

Notice 2000–65

1. INTRODUCTION OF A PILOT PROGRAM

This Notice announces the *Industry Issue Resolution Pilot Program.* The objective of the program is to provide guidance to resolve frequently disputed tax issues that are common to a significant number of large or mid-size business taxpayers. This effort is part of the IRS's strategy to resolve issues in a manner other than the traditional post-filing examination process. The Large and Mid-size Business Division (LMSB) of the IRS will undertake much of the operational responsibility for the projects in the program.

We invite taxpayers as well as industry associations and other groups representing taxpayers to suggest issues and possible options for resolution. Parties submitting suggestions may be asked to meet with government representatives and to provide additional information. After analysis and review, the IRS and Treasury intend to select issues to address in this pilot program. Taxpayers or groups may contact Richard Druk of LMSB's Pre-filing and Technical Guidance Office at (202) 283-8387 (not a toll-free number) to ask questions or to discuss this program.

The form of resulting guidance may vary depending on the issue. However, the most likely form of guidance will be a Revenue Procedure that permits taxpayers to adopt a recommended treatment of the issue on future returns. In many cases, this may require filing a request for a change in method of accounting. Examples of the types of Revenue Procedures that could be issued under this program include: Rev. Proc. 2000–38, 2000–40 I.R.B. 310, on the treatment of mutual fund distributor commissions; Rev. Proc. 99–26, 1999–24 I.R.B. 38, on employee benefits secured by letters of credit; Rev. Proc. 97–44, 1997–2 C.B. 496, on the LIFO conformity requirement for automobile dealers.

The principal focus of the program is to resolve issues arising in future years. However, depending on the circumstances, resolution also may be provided for certain issues for prior years.

Suggestions for issues for the pilot program should be forwarded as provided in section 3 of this Notice by February 28, 2001. LMSB, the IRS Office of Chief Counsel and the Treasury Office of Tax Policy will evaluate the suggestions with a view to selecting approximately five issues, drawn from diverse industries, for the pilot program. In reviewing potential issues for the program, the selection criteria will include the suitability of the issue for the program, the likelihood that timely guidance can be provided, and the availability of appropriate staffing and other resources. Projects selected for this program will be handled in a manner similar to items listed on the Treasury and IRS Guidance Priority List.

Parties whose topics are included in the pilot will be notified and may be asked to provide additional information and legal analysis of the issue. The issues selected for the pilot program will be announced publicly. After completing the pilot, the IRS and Treasury will evaluate the program and may then continue the program on a permanent basis.

We believe that the Industry Issue Resolution program offers significant and timely benefits for taxpayers as well as the IRS, and invites interested parties to participate.

2. ISSUES APPROPRIATE FOR THE PROGRAM

The objective of this program is to provide guidance to resolve frequently disputed tax issues that are common to a significant number of large or mid-size taxpayers. Therefore, issues most appropriate to the program generally will have the following characteristics:

- There is uncertainty about the appropriate tax treatment of a given factual situation.
- The uncertainty has resulted in frequent, often repetitive examinations of the same issue.
- The issue impacts a significant number of taxpayers within an industry group, many of which are larger businesses (those with gross assets in excess of $5 million).
- Factual determination is a major component of the issue.

For purposes of the pilot, the following issues would not be suitable:

- Issues unique to one or a small number of taxpayers.
- Issues under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division (e.g., employee plans).
- Issues regarding transactions that lack a *bona fide* business purpose or have as their principal purpose the reduction of federal taxes.
- Issues involving transfer pricing or international tax treaties.

3. REQUESTING CONSIDERATION UNDER THE PROGRAM

No particular format is required for submissions in response to this Notice. However, submissions should briefly describe the issue recommended for the pilot and explain why there is a need for guidance. Submissions may include an analysis of how the issue may be resolved. In addition, submissions should state the number of taxpayers estimated to be affected by the issue. All submissions will be available for public inspection and copying in their entirety. Therefore, comments should not include taxpayer-specific information of a confidential nature. Letters should include the name and telephone number of a person to contact should further clarification be needed.

The address to submit an issue for consideration under the pilot program is:

Internal Revenue Service
Att'n: Richard Druk
Large and Mid-size Business Division
LM:PFTG
Mint Building. 3rd Floor M-3-321
1111 Constitution Avenue NW
Washington, DC 20224

Alternatively, submissions may be faxed to 202-283-8427 or e-mailed to pftg2@irs.gov.

4. ADDITIONAL INFORMATION ABOUT THE PROGRAM

Project staffing. The IRS and Treasury intend to staff each project with a team

(the IIR team) that will analyze such information as may be appropriate and propose a resolution. This resolution will require the approval of those officials normally responsible for approving the type of guidance to be issued.

An IIR team will be composed of appropriate personnel from the IRS field, the IRS Office of Chief Counsel, Appeals, the LMSB Office of Pre-filing and Technical Guidance, and the Treasury Office of Tax Policy. A Technical Advisor (formally referred to as an Industry Specialist) also may be a team member. In some circumstances, the IRS may find it necessary to hire outside experts.

Communication with requesting taxpayer or group and other interested parties. As part of its efforts to formulate a recommendation for a resolution position, the IIR team may meet with the submitting taxpayer or group, and possibly with other interested parties. It is anticipated that the submitting party and other interested parties will be given the opportunity to present factual data and legal analysis. The IIR team may seek additional factual development or legal analysis from the submitting party or other sources.

Any solicitation of input from affected persons will be done within the requirements of the Federal Advisory Committee Act (FACA). The IRS does not intend to form advisory committees during this process. Input is welcome from interested parties, but they will not be invited to enter into negotiations or to participate in the decision-making process with respect to the proposed resolution of the issue.

Potential inspection of books and records. An IIR team may consider the inspection of an individual taxpayer's records desirable as part of the factual research necessary to develop its position. Although a team may request such inspection, any such inspection will be voluntary. Any inspection of a taxpayer's records under this program, whether at the initiative of the taxpayer or the team, will not preclude or impede (under section 7605(b) of the Internal Revenue Code or any IRS administrative provisions) a later examination or inspection of records with respect to any tax year, nor subject the IRS to any procedural restrictions (such as providing notice under section 7605(b)) that otherwise might apply before beginning such examination or inspection.

Disclosure of information provided by interested parties. Interested parties are encouraged to provide whatever information is necessary to permit the IRS and Treasury to reach an appropriate resolution of an issue. However, this information may be subject to disclosure under the Freedom of Information Act (FOIA).

5. COMMENTS

The IRS invites interested persons to comment and provide feedback on this program. Comments should be sent to the address provided in section 3 of this Notice.

6. FURTHER INFORMATION

For further information regarding this Notice, contact Richard Druk of the LMSB Pre-filing and Technical Guidance Office at (202) 283-8387 (not a toll-free number).

2001 Limitations Adjusted as Provided in Section 415(d), Etc.[1]

Notice 2000–66

Section 415 of the Internal Revenue Code (the Code) provides for dollar limitations on benefits and contributions under qualified retirement plans. Section 415 also requires that the Commissioner annually adjust these limits for cost-of-living increases. Other limitations applicable to qualified retirement plans, other deferred compensation plans, and fringe benefits are also affected by these adjustments.

Effective January 1, 2001, the limitation for the annual benefit under § 415(b)(1)(A) for a defined benefit plan is increased from $135,000 to $140,000. For participants who separated from service before January 1, 2001, the limitation for defined benefit plans under § 415(b)(1)(B) is computed by multiplying the participant's compensation limitation, as adjusted through 2000 by 1.0351. The limitation for defined contribution plans under § 415(c)(1)(A) is increased from $30,000 to $35,000.

[1]Based on News Release IR-2000-82, dated November 20, 2000.

The Code provides that various other dollar amounts are to be adjusted at the same time and in the same manner as the dollar limitation of § 415(b)(1)(A) is adjusted. These dollar amounts and the adjusted amounts are as follows:

The limitation under § 402(g)(1) on the exclusion for elective deferrals described in § 402(g)(3) remains unchanged at $10,500. This limitation affects elective deferrals to § 401(k) plans and to the federal government's Thrift Savings Plan, among other plans.

The dollar amount under § 409(o)(1)–(C)(ii) for determining the maximum account balance in an employee stock ownership plan subject to a 5-year distribution period is increased from $755,000 to $780,000, while the dollar amount used to determine the lengthening of the 5-year distribution period is increased from $150,000 to $155,000.

The limitation used in the definition of a highly compensated employee under § 414(q)(1)(B) remains unchanged at $85,000.

The annual compensation limit under §§ 401(a)(17) and 404(l) remains unchanged at $170,000. The annual compensation limit under § 401(a)(17) for eligible participants in certain governmental plans that, under the plan as in effect on July 1, 1993, allowed cost-of-living adjustments to the compensation limitation under the plan under § 401(a)(17) to be taken into account, is increased from $275,000 to $285,000.

The compensation amount under § 408(k)(2)(C) regarding simplified employee pension plans (SEPs) remains unchanged at $450. The compensation amount under § 408(k)(3)(C) for SEPs remains unchanged at $170,000.

The limitation under § 408(p)(2)(A) regarding simple retirement accounts is increased from $6,000 to $6,500.

The limitation on deferrals under § 457(b)(2) and (c)(1) concerning eligible deferred compensation plans of state and local governments and of tax-exempt organizations is increased from $8,000 to $8,500.

The compensation amount under § 1.61–21(f)(5)(i) of the Income Tax Regulations concerning the definition of "control employee" for fringe benefit valuation purposes remains unchanged at

$75,000. The compensation amount under § 1.61–21(f)(5)(iii) is increased from $150,000 to $155,000.

Administrators of defined benefit or defined contribution plans that have received favorable determination letters should not request new determination letters solely because of yearly amendments to adjust maximum limitations in the plans.

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26 CFR 601.201: Rulings and determination letters. (Also Part I, §§ 162, 167, 197, 446, 481; 1.162–11, 1.167(a)–14, 1.197–2, 1.446–1.)

REV. PROC. 2000–50

SECTION 1. PURPOSE

This revenue procedure provides guidelines on the treatment of the costs of computer software.

SECTION 2. DEFINITION

For the purpose of this revenue procedure, "computer software" is any program or routine (that is, any sequence of machine-readable code) that is designed to cause a computer to perform a desired function or set of functions, and the documentation required to describe and maintain that program or routine. It includes all forms and media in which the software is contained, whether written, magnetic, or otherwise. Computer programs of all classes, for example, operating systems, executive systems, monitors, compilers and translators, assembly routines, and utility programs as well as application programs, are included. Computer software also includes any incidental and ancillary rights that are necessary to effect the acquisition of the title to, the ownership of, or the right to use the computer software, and that are used only in connection with that specific computer software. Computer software does not include any data or information base described in § 1.197–2(b)(4) of the Income Tax Regulations (for example, data files, customer lists, or client files) unless the data base or item is in the public domain and is incidental to a computer program. Nor does it include any cost of procedures that are external to the computer's operation.

SECTION 3. BACKGROUND

.01 In the preamble to the final regulations issued January 25, 2000, under §§ 167(f) and 197 of the Internal Revenue Code (T.D. 8865, 2000–7 I.R.B. 589), the Internal Revenue Service advised taxpayers that they may not rely on the procedures in Rev. Proc. 69–21, 1969–2 C.B. 303, to the extent the procedures are inconsistent with § 167(f) or § 197, or the final regulations thereunder.

.02 Except as otherwise expressly provided, §§ 446(e) and 1.446–1(e) provide that a taxpayer must obtain the consent of the Commissioner of Internal Revenue before changing a method of accounting for federal income tax purposes. Section 1.446–1(e)(3)(ii) authorizes the Commissioner to prescribe administrative procedures setting forth the limitations, terms, and conditions deemed necessary to permit a taxpayer to obtain consent to change a method of accounting.

SECTION 4. SCOPE

This revenue procedure applies to all costs of computer software as defined in section 2 of this revenue procedure. This revenue procedure does not apply to any computer software that is subject to amortization as an "amortizable section 197 intangible" as defined in § 197(c) and the regulations thereunder, or to costs that a taxpayer has treated as a research and experimentation expenditure under § 174.

SECTION 5. COSTS OF DEVELOPING COMPUTER SOFTWARE

.01 The costs of developing computer software (whether or not the particular software is patented or copyrighted) in many respects so closely resemble the kind of research and experimental expenditures that fall within the purview of § 174 as to warrant similar accounting treatment. Accordingly, the Service will not disturb a taxpayer's treatment of costs paid or incurred in developing software for any particular project, either for the taxpayer's own use or to be held by the taxpayer for sale or lease to others, where:

(1) All of the costs properly attributable to the development of software by the taxpayer are consistently treated as current expenses and deducted in full in accordance with rules similar to those applicable under § 174(a); or

(2) All of the costs properly attributable to the development of software by the taxpayer are consistently treated as capital expenditures that are recoverable through deductions for ratable amortization, in accordance with rules similar to those provided by § 174(b) and the regulations thereunder, over a period of 60 months from the date of completion of the development or, in accordance with rules provided in § 167(f)(1) and the regulations thereunder, over 36 months from the date the software is placed in service.

SECTION 6. COSTS OF ACQUIRED COMPUTER SOFTWARE

.01 With respect to costs of acquired computer software, the Service will not disturb the taxpayer's treatment of:

(1) Costs that are included, without being separately stated, in the cost of the hardware (computer) if the costs are consistently treated as a part of the cost of the hardware that is capitalized and depreciated; or

(2) Costs that are separately stated if the costs are consistently treated as capital expenditures for an intangible asset the cost of which is to be recovered by amortization deductions ratably over a period of 36 months beginning with the month the software is placed in service, in accordance with the rules under § 167(f)(1). *See* § 1.167(a)–14(b)(1).

SECTION 7. LEASED OR LICENSED COMPUTER SOFTWARE

Where a taxpayer leases or licenses computer software for use in the taxpayer's trade or business, the Service will not disturb a deduction properly allowable under the provisions of § 1.162–11 as rental. However, an amount described in § 1.162–11 is not currently deductible if, without regard to § 1.162–11, the amount is properly chargeable to capital account. *See* § 1.197–2(a)(3).

SECTION 8. APPLICATION

.01 A change in a taxpayer's treatment of costs paid or incurred to develop, purchase, lease, or license computer software to a method described in section 5, 6, or 7 of this revenue procedure is a change in method of accounting to which §§ 446 and 481 apply. However, a change in useful life under the method described in section 5.01(2) or 6.01(2) of this revenue procedure is not a change in method of accounting. Section 1.446–1(e)(2)(ii)(*b*).

.02 A taxpayer that wants to change the taxpayer's method of accounting under this revenue procedure must follow the automatic change in method of accounting provisions in Rev. Proc. 99–49, 1999–2 C.B. 725 (or its successor), with the following modifications:

(1) In order to assist the Service in processing changes in method of accounting under this section and to ensure proper handling, section 6.02(3)(a) of Rev. Proc. 99–49 is modified to require that a Form 3115, Application for Change in Accounting Method, filed under this section include the statement: "Automatic Change Filed Under Section 8.01 of Rev. Proc. 2000–50." This statement must be legibly printed or typed at the top of any Form 3115 filed under this revenue procedure.

(2) If a taxpayer is changing to the method described in section 5.01(2) of this revenue procedure, the taxpayer must attach a statement to the Form 3115 stating whether the taxpayer is choosing the 60-month period from the date of completion of the development of the software, or the 36-month period from the placed-in-service date of the software.

.03 For taxable years ending on or after December 1, 2000, the Service will not disturb the taxpayer's treatment of costs of computer software that are handled in accordance with the practices described in this revenue procedure.

.04 For taxable years ending prior to December 1, 2000, the Service will not disturb the taxpayer's treatment of costs of computer software except to the extent that the taxpayer's treatment is markedly inconsistent with the practices described in this revenue procedure. For the purpose of applying the preceding sentence to costs described in section 5 of this revenue procedure, the absence of any formal election similar to that required by § 174 or the amortization of capitalized software costs over a period shorter than the 5-year period specified in § 174(b) (but not less than 36 months for costs paid or incurred after August 10, 1993, or, if a valid retroactive election has been made under § 1.197–1T, July 25, 1991) will not characterize the taxpayer's treatment of the costs as markedly inconsistent with the principles of this revenue procedure. In addition, the amortization of acquired software described in section 6 of this revenue procedure treated as an intangible asset over a period of 60 months or less, but in no case less than 36 months for costs paid or incurred after August 10, 1993 (or after July 25, 1991, if a valid retroactive election has been made under § 1.197–1T) will not characterize the taxpayer's treatment of these costs as markedly inconsistent with the principles of this revenue procedure.

SECTION 9. EFFECT ON OTHER DOCUMENTS

.01 Rev. Proc. 69–21, 1969–1 C.B. 303, is superseded.

.02 Rev. Proc. 97–50, 1997–2 C.B. 525, is modified by deleting all references to Rev. Proc. 69–21 and replacing them with references to this revenue procedure. Section 3 of Rev. Proc. 97–50 is modified by deleting references to section 3, section 4, and section 5 of Rev. Proc. 69–21, and replacing them with references to section 5, section 6, and section 7 of this revenue procedure.

.03 Rev. Proc. 99–49 is modified and amplified to include this accounting method change in the APPENDIX.

.04 Section 1.02 of the APPENDIX of Rev. Proc. 99–49 is modified by deleting all references to Rev. Proc. 69–21 and replacing them with references to this revenue procedure.

SECTION 10. EFFECTIVE DATE

This revenue procedure is effective for a Form 3115 filed on or after December 1, 2000, for taxable years ending on or after December 1, 2000. The Service will return any Form 3115 that is filed on or after December 1, 2000, for taxable years ending on or after December 1, 2000, if the Form 3115 is filed with the national office pursuant to the Code, regulations, or administrative guidance other than this revenue procedure and the change in method of accounting is within the scope of this revenue procedure.

DRAFTING INFORMATION

The principal author of this revenue procedure is John Huffman of the Office of the Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this revenue procedure, contact Mr. Huffman at (202) 622-3110 (not a toll-free call).

Social Security Contribution and Benefit Base for 2001

Under authority contained in the Social Security Act ("the Act"), the Commissioner, Social Security Administration, has determined and announced (65 F.R. 63663, dated October 24, 2000) that the contribution and benefit base for remuneration paid in 2001, and self-employment income earned in taxable years beginning in 2001 is $80,400.

"Old-Law" Contribution and Benefit Base

General

The "old-law" contribution and benefit base for 2001 is $59,700. This is the base that would have been effective under the Act without the enactment of the 1977 amendments. We compute the base under section 230(b) of the Act as it read prior to the 1977 amendments.

The "old-law" contribution and benefit base is used by:

(a) The Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments which correspond to basic Social Security benefits,

(b) The Pension Benefit Guaranty Corporation to determine the maximum amount of pension guaranteed under the Employee Retirement Income Security Act (as stated in section 230(d) of the Social Security Act),

(c) Social Security to determine a year of coverage in computing the special minimum benefit, as described earlier, and

(d) Social Security to determine a year of coverage (acquired whenever earnings equal or exceed 25 percent of the "old-law'' base for this purpose only) in computing benefits for persons who are also eligible to receive pensions based on employment not covered under section 210 of the Act.

Domestic Employee Coverage Threshold

General

Section 2 of the "Social Security Domestic Employment Reform Act of 1994'' (Pub. L. 103–387) increased the threshold for coverage of a domestic employee's

wages paid per employer from $50 per calendar quarter to $1,000 per annum in calendar year 1994. The statute held the coverage threshold at the $1,000 level for 1995 and then increased the threshold in $100 increments for years after 1995. Section 3121(x) of the Internal Revenue Code provides the formula for increasing the threshold.

Computation

Under the formula, the domestic employee coverage threshold amount for 2001 shall be equal to the 1995 amount of $1,000 multiplied by the ratio of the national average wage index for 1999 to that for 1993. If the resulting amount is not a multiple of $100, it shall be rounded to the next lower multiple of $100.

Domestic Employee Coverage Threshold Amount

The ratio of the national average wage index for 1999, $30,469.84, compared to that for 1993, $23,132.67, is 1.3171778. Multiplying the 1995 domestic employee coverage threshold amount of $1,000 by the ratio of 1.3171778 produces the amount of $1,317.18, which must then be rounded to $1,300. Accordingly, the domestic employee coverage threshold amount is $1,300 for 2001.

(Filed by the Office of the Federal Register on October 23, 2000, 8:45 a.m., and published in the issue of the Federal Register for October 24, 2000, 65 F.R. 63663)

Part IV. Items of General Interest

Notice of Proposed Rulemaking by Cross-Reference to Temporary Regulations

Federal Employment Tax Deposits—*De Minimis* Rule

REG–114423–00

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: These proposed regulations affect taxpayers required to make deposits of Federal employment taxes. This document contains proposed regulations which change the *de minimis* deposit rule for quarterly and annual return periods.

In T.D. 8909 on page 596, the IRS is issuing temporary regulations relating to the deposit of Federal employment taxes. The text of those regulations also serves as the text of these proposed regulations.

DATES: Written or electronically generated comments and requests for a public hearing must be received by Tuesday, March 6, 2001.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG–114423–00), 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:M&SP:RU (REG–114423–00), 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 proposed regulations, Brinton T. Warren, (202) 622-4940; concerning submissions of comments and requests for a public hearing, Treena Garrett of the Regulations Unit at (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in T.D. 8909 amend the Employment Tax and Collection of Income Tax at Source Regulations (26 CFR part 31) relating to section 6302. The temporary regulations change the *de minimis* rule for the deposit of Federal employment taxes. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

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 also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact.

Comments and Requests for a Public Hearing

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

Drafting Information

The principal author of the regulations is Brinton T. Warren of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 31 is proposed to be amended as follows:

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

Paragraph 1. The authority citation for part 31 continues to read in part as follows:

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

Par. 2. In §31.6302–1, paragraph (f)(4) is revised to read as follows:

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

* * * * *

(f) * * *

(4) [The text of proposed §31.6302–1(f)(4) is the same as the text of §31.6302–1T(f)(4)].

* * * * *

Charles O. Rossotti,
Commissioner of Internal Revenue.

(Filed by the Office of the Federal Register on December 5, 2000, 8:45 a.m., and published in the issue of the Federal Register for December 6, 2000, 65 F.R. 76194)

Form 1065 Electronic Filing Waiver Request Procedures

Announcement 2000–101

Section 6011(e) of the Internal Revenue Code and section 301.6011–3(a) of the Regulations on Procedure and Administration require partnerships with more than 100 partners to file their partnership returns (Form 1065 series) on magnetic media. The regulations define "magnetic

media" to include electronic filing, if electronic filing is required by the Internal Revenue Service (Service).

Beginning with taxable years ending on or after December 31, 2000, the Service will require partnerships with more than 100 partners to file their partnership returns electronically. IRS Publication 1524 contains instructions for filing partnership returns electronically, and excludes certain partnerships from the electronic filing requirement. For Tax Year 2000, the IRS has excluded Partnerships with the following type of returns from the electronic filing requirement:

1) fiscal year filers
2) final year tax returns
3) short year returns
4) foreign address partnerships
5) delinquent and amended returns

For a detailed list of the exclusions, refer to Publication 1524.

Section 301.6011–3(b) of the regulations permits the Commissioner of Internal Revenue to waive the electronic filing requirement if the partnership demonstrates that a hardship would result if it were required to file its return electronically. The regulations require partnerships seeking a waiver to request one in the manner prescribed by the Service.

To request a waiver for the taxable year ending December 31, 2000, partnerships must file a written request containing the following information:

(1) A notation at the top of the request stating, in large letters, ***"Waiver Request: IRC Section 6011(e)(2)";***

(2) The name, federal tax identification number, and mailing address of the partnership;

(3) The taxable year for which the waiver is requested;

(4) A detailed statement which lists:

a) what steps the partnership has taken in an attempt to meet its requirement to file its return electronically,
b) why the steps were unsuccessful,
c) the hardship that would result, including any incremental cost to the partnership of complying with the electronic filing requirements. Incremental costs are those costs that are above and beyond the costs to file on paper.

(5) A statement as to what steps the partnership will take to assure its ability to electronically file its partnership return for the next tax year.

(6) A statement (signed by the Tax Matters Partner, as defined in section 6231(a)(7) of the Code) indicating:

"Under penalties of perjury, I declare that the information contained in this waiver request is true, correct and complete to the best of my knowledge and belief."

All requests for waiver must be filed with the Memphis Submission Processing Center during one of the following periods:

1) For returns due April 16, 2001 (Form 8736 not filed); January 2, 2001 to February 2, 2001,
2) For returns due July 16, 2001 (Form 8736 filed); February 3, 2001 to May 1, 2001,
3) For returns due October 15, 2001 (Form 8800 filed and approved); May 2, 2001 to August 1, 2001.

Requests from the partnership's tax advisor/preparer must be accompanied by a valid power of attorney. The address for the Memphis Submission Processing Center is:

Internal Revenue Service
P.O. Box 420
Memphis, TN 38101-0420

(Note: Do not attach the waiver request to the partnership's paper tax return. Also, do not file extension requests with the waiver.)

The Service will approve or deny waiver requests based on the facts and circumstances of each request. In determining whether to approve or deny a waiver request, the Service will consider the ability of the partnership to file its return electronically without incurring an undue economic hardship.

Within 30 days after receipt of the waiver request, the Service will send a letter to the partnership either approving or denying the request for waiver. Partnerships may not appeal a denial of a waiver request. However, partnerships may request a waiver of any penalty imposed by the Service for failing to file their partnership returns electronically. For further information regarding penalty waivers, see IRS Notice 746.

For questions concerning a request for waiver, contact the Memphis Submission Processing Center at 901-546-2690 (not a toll free call).

1999 AOD Footnotes; Correction Announcement 2000–102

This document contains corrections to the footnotes for the Actions on Court Decisions published in Internal Revenue Bulletin 1999–40 on the page following the Introduction and in 1999–2 C.B. xvi. The correct text for these footnotes is as follows:

James J. and Sandra A. Gales v. Commissioner,[1] T.C. Memo. 1999–27

Dubin v. Commissioner,[2] 99 T.C. 325 (1992)

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[1]This AOD reflects the Service's acquiescence as to whether advance commissions received on insurance written by taxpayer husband were income at the time paid or were loans such that income was reportable only as the commissions were subsequently earned.

[2]This AOD reflects the Service's acquiescence as to whether partnership items reported on a joint return convert to nonpartnership items with respect to both spouses when a TEFRA conversion event, pursuant to I.R.C. § 6231, occurs as to only one spouse.

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 Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign Corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—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.

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[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.

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[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.

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