INTERNAL REVENUE
BULLETIN

IRS

HIGHLIGHTS OF THIS ISSUE

Bulletin No. 2015–48
November 30, 2015

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. 2015–24, page 687.

Section 1274A—inflation adjusted numbers for 2016. This ruling provides the dollar amounts, increased by the 2016 inflation adjustments, for section 1274A of the Code. Revenue Ruling 2014–30 supplemented and superseded.

Notice 2015–78, page 690.

This notice provides guidance regarding qualified student loan bonds under section 144(b) of the Internal Revenue Code (Code) to clarify certain requirements for tax-exempt bond financing for loan programs of general application approved by a State under section 144(b)(1)(B) (State Supplemental Loan programs). (Except as otherwise expressly provided, section references in this notice are to the Code. This notice addresses: (1) eligibility of borrowers of loans through State Supplemental Loan programs; (2) the application of the requirement under section 144(b)(3) that the student have a nexus to the State (student nexus requirement) for loans made to refinance student loans (refinancing loans); (3) the loan size limitation for State Supplemental Loans; and (4) the types of student loans that may be refinanced with a State Supplemental Loan.

EMPLOYEE PLANS

Notice 2015–80, page 691.

This notice sets forth updates on the corporate bond monthly yield curve, the corresponding spot segment rates for November 2015 used under § 417(e)(3)(D), the 24-month average segment rates applicable for November 2015, and the 30-year Treasury rates. These rates reflect the application of § 430(h)(2)(C)(iv), which was added by the Moving Ahead for Progress in the 21st Century Act, Public Law 112–141 (MAP–21) and amended by section 2003 of the Highway and Transportation Funding Act of 2014 (HATFA).

T.D. 9743, page 679.

These final regulations permit a statutory hybrid plan with an interest crediting rate that is not permitted under the final hybrid plan regulations to be amended to comply with the requirement that the plan's interest crediting rate not exceed a market rate of return without violating the anti-cutback rules. These regulations also delay certain applicability dates under the final hybrid plan regulations.

EXEMPT ORGANIZATIONS

Announcement 2015–27, page 694.

Serves notice to potential donors of organizations that have recently filed a timely declaratory judgment suit under section 7428 of the Code, challenging revocation of its status as an eligible donee under section 170(c)(2).

Finding Lists begin on page ii.

The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the 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.

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 Other Related Items, 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 last 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 last Bulletin of each semiannual period.

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

26 CFR 1.411(a)(13)–1: Statutory Hybrid Plans; 1.411(b)(5)–1: Reduction in rate of benefit accrual under a defined benefit plan.

T.D. 9743

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Part 1

Transitional Amendments to Satisfy the Market Rate of Return Rules for Hybrid Retirement Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that provide guidance regarding certain amendments to applicable defined benefit plans. Applicable defined benefit plans are defined benefit plans that use a lump sum-based benefit formula, including cash balance plans and pension equity plans, as well as other plans that have formulas with an effect similar to a lump sum-based benefit formula. These final regulations relate to previously issued final regulations that specify permitted interest crediting rates for purposes of the requirement that an applicable defined benefit plan not provide for interest credits (or equivalent amounts) at an effective rate that is greater than a market rate of return. These final regulations permit a plan sponsor of an applicable defined benefit plan that does not comply with the market rate of return requirement to amend the plan in order to change to an interest crediting rate that is permitted under the previously issued final hybrid plan regulations without violating the anti-cutback rules of section 411(d)(6). These regulations affect sponsors, administrators, participants, and beneficiaries of these plans.

DATES: *Effective Date*: These regulations are effective on November 16, 2015.

Applicability Date: These regulations generally apply to plan amendments made on or after September 18, 2014 (or an earlier date as elected by the taxpayer). These regulations cease to apply for amendments made on or after the first day of the first plan year that begins on or after January 1, 2017 (or, for collectively bargained plans, on or after a later date specified in the regulations).

FOR FURTHER INFORMATION CONTACT: Neil S. Sandhu or Linda S. F. Marshall at (202) 317-6700 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under sections 411(a)(13) and 411(b)(5) of the Internal Revenue Code (Code).

Generally, a defined benefit pension plan must satisfy the minimum vesting standards of section 411(a) and the accrual requirements of section 411(b) in order to be qualified under section 401(a) of the Code. Sections 411(a)(13) and 411(b)(5), which modify the minimum vesting standards of section 411(a) and the accrual requirements of section 411(b), were added to the Code by section 701(b) of the Pension Protection Act of 2006, Public Law 109–280 (120 Stat. 780 (2006)) (PPA '06). Sections 411(a)(13) and 411(b)(5) and certain related effective date provisions were subsequently amended by the Worker, Retiree, and Employer Recovery Act of 2008, Public Law 110–458 (122 Stat. 5092 (2008)) (WRERA '08).

Under section 411(b)(5)(B)(i), a statutory hybrid plan is treated as failing to satisfy the requirements of section 411(b)(1)(H) (which provides that the rate of an employee's benefit accrual must not be reduced because of the attainment of any age) if the terms of the plan provide any interest credit (or an equivalent amount) for any plan year at a rate that is in excess of a market rate of return. Section 411(b)(5)(B)(i) is generally effective for plan years beginning after December 31, 2007.

Section 411(d)(6) provides generally that a plan does not satisfy section 411 if an amendment to the plan decreases a participant's accrued benefit. For this purpose, a plan amendment that has the effect of eliminating or reducing an early retirement benefit or a retirement-type subsidy or eliminating an optional form of benefit with respect to benefits attributable to service before the amendment is treated as reducing accrued benefits.

Sections 204(b)(5)(B)(i) and 204(g) of the Employee Retirement Income Security Act of 1974, Public Law 93–406 (88 Stat. 829 (1974)), as amended (ERISA), contain rules that are parallel to sections 411(b)(5)(B)(i) and 411(d)(6), respectively. Under section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713), the Secretary of the Treasury has interpretive jurisdiction over the subject matter addressed in these final regulations for purposes of ERISA, as well as the Code. Thus, these final regulations apply for purposes of sections 411(b)(5)(B)(i) and 411(d)(6) of the Code, as well as for purposes of sections 204(b)(5)(B)(i) and 204(g) of ERISA.

Section 1.411(d)–4, A–2(b)(1), of the Income Tax Regulations provides, in part, that the Commissioner may, consistent with the provisions of § 1.411(d)–4, provide for the elimination or reduction of section 411(d)(6) protected benefits that have already accrued to the extent that such elimination or reduction is necessary to permit compliance with other requirements of section 401(a). The Commissioner may exercise this authority only through the publication of revenue rulings, notices, and other documents of general applicability.

Section 1.411(d)–4, A–2(b)(2)(i), provides that a plan may be amended to eliminate or reduce a section 411(d)(6) protected benefit, within the meaning of § 1.411(d)–4, A–1, if the following three requirements are met: the amendment constitutes timely compliance with a change in law affecting plan qualification; there is an exercise of section 7805(b) relief by the Commissioner; and the elimination or reduction of the section 411(d)(6) protected benefit is made only to the extent necessary to enable the plan to continue to satisfy the requirements for qualified plans.

Final regulations (TD 9505) (2010 final hybrid plan regulations) were published by the Treasury Department and the IRS in the **Federal Register** on October 19, 2010 (75 FR 64123). Additional final regulations (TD 9693) (2014 final hybrid plan regulations) were published by the Treasury Department and the IRS in the **Federal Register** on September 19, 2014 (79 FR 56442) (collectively, the 2010 and 2014 final hybrid plan regulations are referred to herein as the final hybrid plan regulations). The final hybrid plan regulations provide, effective for plan years that begin on or after January 1, 2016, a list of interest crediting rates and combinations of rates that satisfy the requirement of section 411(b)(5)(B)(i) that a plan not provide an effective rate of return in excess of a market rate of return, while not permitting other rates. The provisions that provide for a list of rates are set forth at § 1.411(b)(5)–1(d)(1)(iii), (d)(1)(vi), and (d)(6)(i).

Interest crediting rates can be broadly characterized as either investment-based rates or rates that are not investment-based rates. An investment-based rate is a rate of return provided by actual investments, taking into account the return attributable to any change in the value of the underlying investments. A rate of return that is based on the rate of return for an index that measures the change in the value of investments can also be considered to be an investment-based rate. Rates that are not investment-based rates are either fixed rates of interest or bond-based rates (such as yields to maturity of bonds).

Section 1.411(b)(5)–1(d)(3) and (d)(4) sets forth permitted rates that are not investment-based rates, such as the third segment rate described in section 417(e)(3)(D) or 430(h)(2)(C)(iii), the yield on 30-year Treasury Constant Maturities, and a fixed 6 percent rate of interest. Section 1.411(b)(5)–1(d)(5) sets forth permitted investment-based rates, such as the rate of return on certain regulated investment companies (RICs), as defined in section 851, and the rate of return on plan assets. As provided in § 1.411(b)(5)–1(d)(6), certain annual (or more frequent) floors are permitted in combination with the bond-based rates and cumulative floors (in excess of the cumulative zero floor required under section 411(b)(5)(i)(II)) are permitted in combination with either the bond-based rates or the investment-based rates.

Section 1.411(b)(5)–1(e)(3) provides that the right to future interest credits determined in the manner specified under the plan and not conditioned on future service is a factor that is used to determine the participant's accrued benefit for purposes of section 411(d)(6). Accordingly, section 411(d)(6) protection applies not only to interest credits that have already been credited but also to future interest credits that are not conditioned on future service.

Proposed hybrid plan transition regulations (REG–111839–13) (2014 proposed regulations) were published by the Treasury Department and the IRS in the **Federal Register** on September 19, 2014 (79 FR 56305). The 2014 proposed regulations would permit an amendment to change the interest crediting rate under a hybrid plan from a rate not on the list to a rate on the list of interest crediting rates and combinations of rates that satisfy the requirement of section 411(b)(5)(B)(i) for plan years that begin on or after January 1, 2016.

Written comments in response to the 2014 proposed regulations were received, and a public hearing was held on January 9, 2015. After consideration of the comments received, the provisions in the 2014 proposed regulations are adopted by this Treasury decision, subject to a number of changes that are summarized in this preamble.

Explanation of Provisions

A number of commenters requested that the regulations provide for sufficient time for plan sponsors to implement amendments pursuant to these regulations to change a plan's interest crediting rate to a permissible rate. In addition, these commenters pointed out that these amendments are often interrelated with amendments required to comply with the 2014 final hybrid plan regulations, and that plan sponsors often consider and implement all of the required amendments at the same time. In response to these comments, these final regulations delay the applicability date of certain provisions under sections 411(a)(13) and 411(b)(5) in the final hybrid plan regulations, including those provisions that provide a list of interest crediting rates and combinations of rates that satisfy the requirement of section 411(b)(5)(B)(i) that the plan not provide an effective rate of return in excess of a market rate of return. Under these regulations, these provisions are generally effective for plan years that begin on or after January 1, 2017.

Prior to the first day of the first plan year that begins on or after January 1, 2017, a plan that uses an interest crediting rate that is not permitted under the final hybrid plan regulations must be amended to change to an interest crediting rate that is permitted under those regulations. Although a plan is permitted to be amended to change the interest crediting rate with respect to benefits that have not yet accrued, an amendment that reduces the interest crediting rate with respect to benefits that have already accrued would ordinarily be impermissible under section 411(d)(6).

In order to resolve the conflict between the market rate of return rules of section 411(b)(5)(B)(i) and the anti-cutback rules of section 411(d)(6), these regulations permit a plan with a noncompliant interest crediting rate to be amended with respect to benefits that have already accrued so that its interest crediting rate complies with the market rate of return rules. If the applicable requirements of these regulations are satisfied, such an amendment is permitted with respect to benefits that have already accrued, but only with respect to interest credits that are credited for interest crediting periods that begin on or after the later of the effective date of the amendment or the date the amendment is adopted (the applicable amendment date within the meaning of § 1.411(d)–3(g)(4)).[1] To qualify for this treatment, the amendment must be adopted prior to and effective no later than the applicability date of the regulatory market rate of return rules (generally, the first day of the first plan year that begins on or after January 1, 2017, with a delayed applicability date for collectively bargained plans).

Like the 2014 proposed regulations, these regulations permit amendments that

[1]Thus, these regulations do not permit a reduction in the hypothetical account balance as of the applicable amendment date.

bring the plan into compliance by changing the specific feature that causes the plan's interest crediting rate to be noncompliant, while not changing other features of the existing rate. If the noncompliant interest crediting rate has more than one noncompliant feature, then each noncompliant feature must be addressed separately in the prescribed manner. Examples are included to illustrate the application of these rules.

The standard in these final regulations for resolving this conflict between section 411(d)(6) and section 411(b)(5)(B)(i) is generally comparable to the standard under the rules of § 1.411(d)–4, A–2(b)(1) and (b)(2)(i) with respect to the Commissioner's exercise of authority to resolve a conflict between section 411(d)(6) and another qualification requirement under section 401(a). The Treasury Department and the IRS believe this approach is the most appropriate manner to resolve the conflict between the market rate of return rules of section 411(b)(5)(B)(i) and the anti-cutback rules of section 411(d)(6).[2]

If a noncompliant rate involves one or more variable rates or a variable rate together with a fixed rate, it is not always readily apparent which specific feature or component rate causes the rate to be noncompliant. In addition, if either the existing rate or any of the potential corrections involves variable components, it is impossible to determine with certainty at the time of amendment the single amendment that in all cases that will result in the least reduction to the participant's accrued benefit as of the participant's annuity starting date. Thus, in response to a number of comments on the 2014 proposed regulations that more flexibility to amend noncompliant features be provided, the final regulations in many cases permit a plan sponsor to choose one of two or more alternative amendments in order to bring a plan into compliance.

A number of commenters specifically requested that the rules in the transition regulations permit any noncompliant bond-based rate to be capped at the third segment rate. The Treasury Department and the IRS agree that this is an appropriate approach. Accordingly, an additional option has been added in each case involving bond-based rates so that any noncompliant variable rate that is not an investment-based rate (including the greater of two or more non-investment based variable rates) may be capped at the third segment rate. If this approach is used, the third segment rate cap would have to satisfy the rules that apply to the use of the third segment rate as an interest crediting rate. Thus, the cap could be any of the third segment rates that may be used as an interest crediting rate and the cap would have to use a permissible lookback month and stability period. Note, however, that if any noncompliant composite rate is limited so that it does not exceed a third segment rate cap, that limit would also apply with respect to any annual fixed minimum rate that is part of the noncompliant composite rate. Therefore, the annual interest crediting rate (taking into account the cap) could be lower than the otherwise applicable fixed minimum rate.[3]

A special rule has been added to the regulations to clarify that an amendment to correct a noncompliant feature that provides for a greater interest crediting rate than the specific amendment set forth in the regulations also does not violate section 411(d)(6). Thus, for example, in any case in which it is permissible to address a noncompliant rate by capping the rate at the third segment rate, it would also be permissible to address the noncompliant rate simply by switching to the third segment rate. Similarly, an amendment to switch to the third segment rate together with a permitted fixed minimum rate would be permissible.

These final regulations also provide flexibility with respect to noncompliant investment-based rates. In particular, if a plan credits interest using a noncompliant investment-based rate and there is no permitted investment-based rate with similar risk and return characteristics as the plan's impermissible rate, then, as an alternative to the specified corrective amendment that was in the proposed regulations, an amendment to switch to the third segment rate with a 4 percent fixed minimum rate is permitted. The regulations also clarify the specified corrective amendment that was in the proposed regulations by providing that it is permissible in such a case to switch to a permitted investment-based rate that is otherwise similar to the plan's impermissible investment-based rate but without the risk and return characteristics of the impermissible rate that caused it to be impermissible (generally requiring the use of a rate that is less volatile than the plan's impermissible investment-based rate but is otherwise similar to that rate).

The preamble to the 2014 final hybrid plan regulations contained a discussion of statutory hybrid plans that permit participants to choose from among a menu of hypothetical investment options. Because of the significant concerns relating to the use of these plan designs, the Treasury Department and the IRS continue to study the issues raised in the preamble to the 2014 final hybrid plan regulations related to these plans, and it is possible that the Treasury Department and the IRS will conclude that such plan designs are not permitted. Nevertheless, the Treasury Department and the IRS understand that some of these plans contain one or more hypothetical investment options that provide for a rate of return that is not permitted under the final hybrid plan regulations. A special rule is included in these regulations in order to address the noncompliance that results from the availability of at least one hypothetical investment option that provides for an impermissible rate of return. This special rule provides that the rules of these final regulations may be applied separately to correct each impermissible hypothetical investment option. Alternatively, with respect to such a plan that permitted a participant to choose an interest crediting rate from among a menu of hypothetical investment options on September 18, 2014, pursuant to plan provisions that were adopted on or before September 18, 2014, this special rule provides that the

[2]A plan may have been amended to change its interest crediting rate under the rules of section 1107 of PPA '06. Section 1107 of PPA '06 provided relief from the requirements of section 411(d)(6) for amendments made pursuant to a change in law under PPA '06 if the amendment was adopted by the last day of the first plan year that began on or after January 1, 2009 (or 2011, in the case of a governmental plan as defined in section 414(d)). If an interest crediting rate adopted under the rules of section 1107 of PPA '06 is not permitted under the final hybrid plan regulations, then these final regulations permit a subsequent amendment to change the rate to a rate permitted under the final hybrid plan regulations.

[3]This limitation on an otherwise applicable minimum rate may have implications for plans that require an annual minimum rate in order to satisfy the anti-backloading rules of section 411(b)(1).

entire menu of investment options may be treated as an impermissible investment-based rate for which there is no permitted investment-based rate with similar risk and return characteristics (so that the rule of § 1.411(b)(5)–1(e)(3)(vi)(C)(*7*) does not apply). As a result, plans described in the preceding sentence may be amended to eliminate a participant's ability to choose an interest crediting rate from among a menu of hypothetical investment options in accordance with § 1.411(b)(5)–1(e)(3)(vi)(C)(*9*). The inclusion of this special rule with respect to plan designs that permit participant direction of interest crediting rates is merely intended to address the noncompliance that results from the availability of a hypothetical investment option that provides for an impermissible rate of return, and should not be construed to create any inference as to the permissibility of these plan designs in general.

The preamble to the 2014 proposed regulations specifically requested comments as to an amendment to bring a plan into compliance if the plan credits interest using a composite rate that is an investment-based rate of return with an impermissible annual (or more frequent) fixed or variable rate. Many commenters requested flexibility to choose among options in such a case because there is no single correction that is the best correction for all cases. The Treasury Department and the IRS agree that, for this type of interest crediting rate, no single correction method is the most appropriate method for all cases. Therefore, the final regulations provide that it is permissible either to eliminate the fixed minimum rate (or any variable non-investment based rate) and eliminate any reduction to the investment-based rate, or to switch to the third segment rate (preserving any fixed minimum rate to the maximum extent permitted).

In response to comments inquiring about the treatment of plans that provide for a cumulative floor (such as, for example, in order to comply with section 411(d)(6) in connection with a prior amendment to change the plan's interest crediting rate on accrued pay credits), the regulations provide for a special rule that applies with respect to a participant under a plan that takes into account a minimum rate of return that applies less frequently than annually or that determines the participant's benefit as of the annuity starting date as the benefit provided by the greatest of two or more account balances and that minimum rate or benefit based on two or more account balances does not satisfy the market rate of return rules. If this rule applies, the plan must be amended to provide that the benefit for a participant is based solely on the benefit (and the associated interest crediting rate with respect to that benefit) that is greatest for that participant as of the applicable amendment date for the amendment adopted pursuant to these regulations. In addition, the plan must be further amended pursuant to the other rules in these regulations if the remaining interest crediting rate does not satisfy the market rate of return rules.

In response to comments as to the permissibility of rounding interest crediting rates and the need for the regulations to provide section 411(d)(6) relief for plans that use an impermissible rounding rule, the regulations provide for a rounding rule and also provide for section 411(d)(6) relief for transitional amendments to comply with this rounding rule. Under the rounding rule, a plan is not treated as failing to meet the requirement that a plan not credit interest at a rate that exceeds a market rate of return merely because the plan determines interest credits for an interest crediting period by rounding the calculated interest rate or rate of return. Under this rule, an annual rate may be rounded to the nearest multiple of 25 basis points (or a smaller rounding interval). If a plan provides for the crediting of interest more frequently than annually, then the rounding interval must not exceed a prorata portion of 25 basis points. Notwithstanding the preceding sentence, a plan is permitted to round to the nearest basis point regardless of the length of the interest crediting period.

Several commenters identified the need for section 411(d)(6) relief for plans that provide for rules that apply upon plan termination that do not comply with the plan termination rules in the final hybrid plan regulations. In response to these comments, the regulations provide for section 411(d)(6) relief for transitional amendments made to enable a plan to comply with the plan termination rules in the final hybrid plan regulations.

In response to the comment request included in the 2014 proposed regulations with respect to all aspects of those proposed rules, the Department of Treasury and the IRS received a number of comments with respect to provisions of the 2014 final hybrid plan regulations instead of the 2014 proposed regulations. These final regulations delay the applicability date of certain provisions in the 2014 final hybrid plan regulations (and provide for a special delayed applicability date for collectively bargained plans), but do not otherwise address comments on provisions of the 2014 final hybrid plan regulations.[4]

Effective/Applicability Dates

These regulations generally apply to plan amendments made on or after September 18, 2014 (or an earlier date as elected by the taxpayer), and they do not apply for amendments made on or after the first day of the first plan year that begins on or after January 1, 2017. However, for collectively bargained plans, these regulations continue to apply for amendments made before the first day of the first plan year that begins on or after January 1, 2019, unless the last collective bargaining agreement ratified on or before November 13, 2015 expires before January 1, 2019, in which case these regulations cease to apply to amendments made on or after the first day of the first plan year that begins on or after the later of the date on which the last applicable collective bargaining agreement expires or January 1, 2017.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented

[4]Proposed regulations (REG–132554–08) under sections 411(a)(13), 411(b)(1), and 411(b)(5) (2010 proposed hybrid plan regulations) were published by the Treasury Department and the IRS in the Federal Register on October 19, 2010 (75 FR 64197). The Treasury Department and the IRS received written comments on the 2010 proposed hybrid plan regulations, and a public hearing was held on January 26, 2011. The 2014 final hybrid plan regulations, which finalized the 2010 proposed hybrid plan regulations, took into account the comments received prior to publication of the 2014 final hybrid plan regulations.

and reaffirmed by Executive Order 13563. Therefore, a regulatory impact 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 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 authors of these regulations are Neil S. Sandhu and Linda S. F. Marshall, Office of Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in the development of these regulations.

* * * * *

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 * * *

§ 1.411(a)(13)–1 [Amended]

Par. 2. For each entry listed in the "Location" column, remove the language in the "Remove" column and add the language in the "Add" column in its place.

Location	Remove	Add
§ 1.411(a)(13)–1(d)(3)(i), third sentence	for plan years that begin on or after January 1, 2016	for plan years described in paragraph (e)(2)(ii)(A) or (e)(2)(ii)(B) of this section, as applicable
§ 1.411(a)(13)–1(d)(3)(i), fifth and sixth sentences	for plan years that begin on or after January 1, 2016	for plan years described in paragraph (e)(2)(ii)(A) or (e)(2)(ii)(B) of this section (as applicable)
§ 1.411(a)(13)–1(d)(4)(ii)(A), second sentence	for plan years that begin on or after January 1, 2016	for plan years described in paragraph (e)(2)(ii)(A) or (e)(2)(ii)(B) of this section (as applicable)
§ 1.411(a)(13)–1(d)(4)(ii)(C), second sentence	For plan years that begin on or after January 1, 2016	For plan years described in paragraph (e)(2)(ii)(A) or (e)(2)(ii)(B) of this section (as applicable)

Par. 3. Section 1.411(a)(13)–1 is amended by revising paragraph (e)(2)(ii) to read as follows:

§ 1.411(a)(13)–1 Statutory hybrid plans.

* * * * *

(e) * * *

(2) * * *

(ii) *Special effective date*—(A) *In general*. Except as otherwise provided in this paragraph (e)(2)(ii), paragraphs (b)(2), (3), and (4) of this section apply to plan years that begin on or after January 1, 2017.

(B) *Collectively bargained plans*. In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified on or before November 13, 2015**,** that constitutes a collectively bargained plan under the rules of § 1.436–1(a)(5)(ii)(B), paragraphs (b)(2), (3), and (4) of this section apply to plan years that begin on or after the later of—

(*1*) January 1, 2017; and

(*2*) The earlier of—

(*i*) January 1, 2019; and

(*ii*) The date on which the last of those collective bargaining agreements terminates (determined without regard to any extension thereof on or after November 13, 2015).

* * * * *

§ 1.411(b)(5)–1 [Amended]

Par. 4. For each entry listed in the "Location" column, remove the language in the "Remove" column and add the language in the "Add" column in its place.

Location	Remove	Add
§ 1.411(b)(5)–1(b)(1)(ii)(F)	For plan years that begin on or after January 1, 2016	For plan years described in paragraph (f)(2)(i)(B)(*1*) or (f)(2)(i)(B)(*3*) of this section (as applicable)
§ 1.411(b)(5)–1(b)(1)(iii), third sentence	for plan years that begin on or after January 1, 2016	for plan years described in paragraph (f)(2)(i)(B)(*1*) or (f)(2)(i)(B)(*3*) of this section (as applicable)

Location	Remove	Add
§ 1.411(b)(5)–1(b)(2)(i), third sentence	for plan years that begin on or after January 1, 2016	for plan years described in paragraph (f)(2)(i)(B)(*1*) or (f)(2)(i)(B)(*3*) of this section, as applicable
§ 1.411(b)(5)–1(e)(2)(ii)(B)(*1*), second sentence	the first plan year that begins on or after January 1, 2016	the first plan year described in paragraph (f)(2)(i)(B)(*1*) or (f)(2)(i)(B)(*3*) of this section (as applicable)
§ 1.411(b)(5)–1(e)(3)(ii)(D)	For plan years that begin on or after January 1, 2016	For plan years described in paragraph (f)(2)(i)(B)(*1*) or (f)(2)(i)(B)(*3*) of this section (as applicable)

Par. 5. Section 1.411(b)(5)–1 is amended by:

1. Adding a new sentence between the second and third sentences of paragraph (d)(1)(iv)(A);
2. Adding paragraph (d)(1)(iv)(E);
3. Adding paragraphs (e)(3)(vi) and (vii); and
4. Revising paragraph (f)(2)(i)(B).

The additions and revisions read as follows:

§ 1.411(b)(5)–1 Reduction in rate of benefit accrual under a defined benefit plan.

* * * * *

(d) * * *

(1) * * *

(iv) * * *

(A) * * * In addition, a plan is permitted to round the calculated interest rate or rate of return in accordance with paragraph (d)(1)(iv)(E) of this section.* * *

* * * * *

(E) *Rounding of interest crediting rate*. A plan is not treated as failing to meet the requirements of this paragraph (d) merely because the plan determines interest credits for an interest crediting period by rounding the calculated interest rate or rate of return in accordance with this paragraph (d)(1)(iv)(E). An annual rate may be rounded to the nearest multiple of 25 basis points (or a smaller rounding interval). If a plan provides for the crediting of interest more frequently than annually, then the rounding interval must not exceed a pro-rata portion of 25 basis points. Notwithstanding the preceding sentence, a plan is permitted to round to the nearest basis point regardless of the length of the interest crediting period.

* * * * *

(e) * * *

(3) * * *

(vi) *Transitional amendments needed to satisfy the market rate of return rules*—(A) *In general*. Notwithstanding the requirements of section 411(d)(6), if the requirements set forth in this paragraph (e)(3)(vi) are satisfied, a plan may be amended to change its interest crediting rate with respect to benefits that have already accrued in order to comply with the requirements of section 411(b)(5)(B)(i) and paragraph (d) of this section. A plan amendment is eligible for the treatment provided under this paragraph (e)(3)(vi)(A) to the extent that the amendment modifies an interest crediting rate that does not satisfy the requirements of section 411(b)(5)(B)(i) and paragraph (d) of this section in the manner specified in paragraph (e)(3)(vi)(C) of this section.

(B) *Rules of application*—(*1*) *Multiple noncompliant features*. If a plan's interest crediting rate has more than one noncompliant feature as described in paragraph (e)(3)(vi)(C) of this section, then each noncompliant feature must be addressed separately in the manner specified in paragraph (e)(3)(vi)(C) of this section.

(*2*) *Definition of investment-based rate*. The application of the rules of paragraph (e)(3)(vi)(C) of this section to an interest crediting rate depends on whether the interest crediting rate is an investment-based rate. For purposes of this paragraph (e)(3)(vi), an investment-based rate is a rate based on either a rate of return provided by actual investments (taking into account the return attributable to any change in the value of the underlying investments) or a rate of return for an index that measures the change in the value of investments. A rate is an investment-based rate even if it is based only in part on a rate described in the preceding sentence.

(*3*) *Timing rules for permitted amendments*. The rules under this paragraph (e)(3)(vi) apply only to a plan amendment that is adopted prior to and effective no later than the first day of the first plan year described in paragraph (f)(2)(i)(B)(*1*) or (f)(2)(i)(B)(*3*) of this section, as applicable. In addition, the rules under this paragraph (e)(3)(vi) apply to a plan amendment only with respect to interest credits that are credited for interest crediting periods that begin on or after the applicable amendment date (within the meaning of § 1.411(d)–3(g)(4)).

(*4*) *Amendments that provide for greater interest crediting rates*. If a plan is amended in accordance with paragraphs (e)(3)(vi)(C)(*1*) through (*10*) of this section to switch from a noncompliant rate to a compliant rate and is subsequently amended to switch to a second compliant rate that can never be less than the first compliant rate, then the second amendment does not violate section 411(d)(6). If, instead, the plan is amended to switch from the noncompliant rate to the second compliant rate in a single amendment, that amendment also does not violate section 411(d)(6). For example, if it is permitted under paragraph (e)(3)(vi)(C) of this section to first amend the plan to credit interest using the lesser of the current rate and a rate described in paragraph (d)(3) of this section, it is then permissible to amend the plan to credit interest using that rate described in paragraph (d)(3) of this section. In such a case, it is also permissible to amend the plan to switch from the current rate to a rate described in paragraph (d)(3) of this section in a single amendment.

(*5*) *Cumulative floors, including floors resulting from a prior change in rates with section 411(d)(6) protection*. This paragraph (e)(3)(vi)(B)(*5*) applies to a plan that takes into account a minimum rate of return that applies less frequently than annually. This paragraph (e)(3)(vi)(B)(*5*) also applies to a plan that determines the participant's benefit as of the annuity starting date as the benefit provided by the greatest of two or more account balances (for example, in order to comply with section 411(d)(6) in connection with a prior amendment to change the plan's interest crediting rate). In either case, this paragraph (e)(3)(vi)(B)(*5*) applies with respect to a participant only if the requirements of paragraph (d)(6) of this section are not satisfied with respect to that participant. If this paragraph (e)(3)(vi)(B)(*5*) applies with respect to a participant, the plan must be amended to provide that the benefit for the participant is based solely on the benefit (and the associated interest crediting rate with respect to that benefit) that is greatest for that participant as of the applicable amendment date for the amendment made pursuant to this paragraph (e)(3)(vi). In addition, the plan must be further amended pursuant to the other rules in this paragraph (e)(3)(vi) if the remaining interest crediting rate does not satisfy the requirements of paragraph (d) of this section.

(*6*) *Plans that permit participant direction of interest crediting rates*. This paragraph (e)(3)(vi)(B)(*6*) applies in the case in which a plan permits a participant to choose an interest crediting rate from among a menu of hypothetical investment options and at least one of those hypothetical investment options provides for an interest crediting rate that is not permitted under paragraph (d) of this section (so that the plan fails to satisfy the requirements of paragraph (d) of this section). In such a case, the rules of this paragraph (e)(3)(vi) may be applied separately to correct each impermissible investment option. Alternatively, with respect to such a plan that permitted a participant to choose an interest crediting rate from among a menu of hypothetical investment options on September 18, 2014, pursuant to plan provisions that were adopted on or before September 18, 2014, the entire menu of investment options may be treated as an impermissible investment-based rate for which there is no permitted investment-based rate with similar risk and return characteristics (so that the rule of paragraph (e)(3)(vi)(C)(*7*) of this section does not apply). As a result, plans described in the preceding sentence may be amended to eliminate a participant's ability to choose an interest crediting rate from among a menu of hypothetical investment options in accordance with paragraph (e)(3)(vi)(C)(*9*) of this section.

(C) *Noncompliant feature and amendment to bring plan into compliance*—(*1*) *Timing or other rules related to determining interest credits not satisfied*. If a plan has an underlying interest rate that generally satisfies the rules of paragraph (d) of this section but that does not satisfy the rules relating to how interest credits are determined and credited as set forth in paragraph (d)(1)(iv) of this section, then the plan must be amended either—

(*i*) To correct the aspect of the plan's interest crediting rate that fails to comply with the rules of paragraph (d)(1)(iv) of this section with respect to its underlying interest crediting rate; or

(*ii*) If the plan's interest crediting rate is a variable rate that is not an investment-based rate of return, to provide that the plan's interest crediting rate is the lesser of that variable rate and a rate described in paragraph (d)(3) of this section that satisfies the rules of paragraph (d)(1)(iv) of this section.

(*2*) *Fixed rate in excess of 6 percent*. If a plan's interest crediting rate is a fixed rate in excess of the rate described in paragraph (d)(4)(v) of this section, then the plan must be amended to reduce the interest crediting rate to an annual interest crediting rate of 6 percent.

(*3*) *Bond-based rate with margin exceeding maximum permitted margin*. If a plan's interest crediting rate is a noncompliant rate that consists of an underlying rate described in paragraph (d)(3) or (d)(4) of this section except that the plan applies a margin that exceeds the maximum permitted margin under paragraph (d)(3) or (d)(4) of this section to the underlying rate, then the plan must be amended either—

(*i*) To reduce the margin to the maximum permitted margin for the underlying rate used by the plan; or

(*ii*) To provide that the plan's interest crediting rate is the lesser of the plan's noncompliant rate and a rate described in paragraph (d)(3) of this section (together with any fixed minimum rate that was part of the noncompliant rate, reduced to the extent necessary to comply with paragraph (d)(6)(ii) of this section).

(*4*) *Bond-based rate with fixed minimum rate applied on an annual or more frequent basis in excess of the highest permitted fixed minimum rate*. If a plan's interest crediting rate is a composite rate that consists of a variable rate described in paragraph (d)(3) or (d)(4) of this section in combination with a fixed minimum rate in excess of the highest permitted fixed minimum rate under paragraph (d)(6)(ii)(A)(*2*) or (B)(*2*) of this section (as applicable), then the plan must be amended in one of the following manners:

(*i*) To reduce the fixed minimum rate to the highest permitted fixed minimum rate that may be used in combination with the plan's variable rate;

(*ii*) To credit interest using an annual interest crediting rate of 6 percent; or

(*iii*) To provide that the plan's interest crediting rate is the lesser of the plan's noncompliant composite rate and a rate described in paragraph (d)(3) of this section (together with a fixed minimum rate of 4 percent).

(*5*) *Greatest of two or more variable bond-based rates*. If a plan's interest crediting rate is a composite rate that is the greatest of two or more variable rates described in paragraph (d)(3) or (d)(4) of this section, then the plan must be amended to provide for an interest crediting rate that is the lesser of the composite rate and a rate described in paragraph (d)(3) of this section.

(*6*) *Other impermissible bond-based rates*. If, after application of the rules of paragraphs (e)(3)(vi)(C)(*1*) through (*5*) of this section, a plan's interest crediting rate is a variable rate that is not an investment-based rate of return and is not described in paragraph (d)(3) or (d)(4) of this section, then the plan must be amended either—

(*i*) To provide for an interest crediting rate based on a variable rate described in paragraph (d)(3) or (d)(4) of this section that has similar duration and quality characteristics as the plan's variable rate, if such a rate can be selected; or (*ii*) To provide for an interest crediting rate that is the lesser of the plan's variable rate and a rate described in paragraph (d)(3) of this section.

(*7*) *Impermissible investment-based rate that can be replaced with a permissible rate that has similar risk and return characteristics*. If a plan's interest crediting rate is an investment-based rate of return that is not described in paragraph (d)(5) of this section and a permitted investment-based rate described in paragraph (d)(5)(ii)(A), (d)(5)(ii)(B), or (d)(5)(iv) of this section that has similar risk and return characteristics as the plan's impermissible investment-based rate can be selected, then the plan must be amended to provide for an interest crediting rate based on such a permitted investment-based rate.

(*8*) *Investment-based rate with an annual or more frequent minimum rate that is either a fixed rate or a non-investment based variable rate*. If a plan's interest crediting rate is an investment-based rate of return that would be described in paragraph (d)(5) of this section except that the plan uses an annual or more frequent minimum rate that is either a fixed rate or a non-investment based variable rate in conjunction with the investment-based rate, then the plan must be amended either—

(*i*) To credit interest using that investment-based rate of return described in paragraph (d)(5) of this section without the minimum rate and eliminating any reduction (or other adjustment) to the investment-based rate; or

(*ii*) To provide that the plan's interest crediting rate is a rate described in paragraph (d)(3) of this section (together with any fixed minimum rate, reduced to the extent necessary to comply with paragraph (d)(6)(ii) of this section).

(*9*) *Other impermissible investment-based rates*. If, after application of the rules of paragraphs (e)(3)(vi)(C)(*1*), (*7*), and (*8*) of this section, a plan's interest crediting rate is an investment-based rate that is not described in paragraph (d)(5) of this section, then the plan must be amended either—

(*i*) To provide for an interest crediting rate that is an investment-based rate that is described in paragraph (d)(5) of this section and that is otherwise similar to the plan's impermissible investment-based rate but without the risk and return characteristics of the impermissible investment-based rate that caused it to be impermissible (generally requiring the use of a rate that is less volatile than the plan's impermissible investment-based rate but is otherwise similar to that rate); or

(*ii*) To provide that the plan's interest crediting rate is a rate described in paragraph (d)(3) of this section with a fixed minimum rate of 4 percent.

(D) *Examples*. The following examples illustrate the application of the rules of this paragraph (e)(3)(vi). Each plan has a plan year that is the calendar year, and all amendments are adopted on October 1, 2016, and become effective for interest crediting periods beginning on or after January 1, 2017. Except as otherwise provided, the interest crediting rate under the plan satisfies the timing and other rules related to crediting interest under paragraph (d)(1)(iv) of this section.

Example 1. (i) *Facts*. A plan determines interest credits for a plan year using the average yield on 30-year Treasury Constant Maturities for the last week of the preceding plan year (which is an impermissible lookback period for this purpose pursuant to paragraph (d)(1)(iv)(B) of this section because it is not a month).

(ii) *Conclusion*. Pursuant to paragraph (e)(3)(vi)(C)(*1*) of this section, the plan must be amended in one of two manners. It may be amended to determine interest credits for a plan year using the average yield on 30-year Treasury Constant Maturities for a lookback month that complies with the requirements of paragraph (d)(1)(iv)(B) of this section. Alternatively, the plan may be amended to cap the existing rate so that it cannot exceed a third segment rate described in paragraph (d)(3) of this section for a period that complies with the requirements of paragraph (d)(1)(iv)(B) of this section.

Example 2. (i) *Facts*. A plan determines interest credits for a plan year using the average yield on 30-year Treasury Constant Maturities for the last week of the preceding plan year, plus 50 basis points.

(ii) *Conclusion*. Pursuant to paragraph (e)(3)(vi)(B)(*1*) of this section, the plan must be amended to correct both the impermissible lookback period and the excess margin. Accordingly, pursuant to paragraph (e)(3)(vi)(C)(*1*) and (*3*) of this section, the plan may be amended to determine interest credits for a plan year using the average yield on 30-year Treasury Constant Maturities (with no margin) for a period that complies with the requirements of paragraph (d)(1)(iv)(B) of this section. Alternatively, the plan may be amended to cap the existing rate so that it cannot exceed a third segment rate described in paragraph (d)(3) of this section for a period that complies with the requirements of paragraph (d)(1)(iv)(B) of this section.

Example 3. (i) *Facts*. A plan credits interest for a plan year using the rate of return on plan assets for the preceding plan year.

(ii) *Conclusion*. Pursuant to paragraph (e)(3)(vi)(C)(*1*) of this section, the plan must be amended to determine interest credits for each plan year using the rate of return on plan assets for that plan year.

Example 4. (i) *Facts*. A plan credits interest using the average yield on 30-year Treasury Constant Maturities for December of the preceding plan year with a minimum rate of 5.5 percent per year.

(ii) *Conclusion*. Pursuant to paragraph (e)(3)(vi)(C)(*4*) of this section, the plan must be amended to change the plan's interest crediting rate. The new interest crediting rate under the plan may be the average yield on 30-year Treasury Constant Maturities for December of the preceding plan year with a minimum rate of 5 percent per year. Alternatively, the new interest crediting rate under the plan may be an annual interest crediting rate of 6 percent. As another alternative, the existing noncompliant composite rate may be capped so that it cannot exceed a third segment rate described in paragraph (d)(3) of this section, with a minimum rate of 4 percent as a floor on the entire resulting rate.

Example 5. (i) *Facts*. A plan credits interest using the greater of the unadjusted yield on 30-year Treasury Constant Maturities and the yield on 1-year Treasury Constant Maturities plus 100 basis points.

(ii) *Conclusion*. Pursuant to paragraph (e)(3)(vi)(C)(*5*) of this section, the plan must be amended to cap the existing composite "greater-of" rate so that the composite rate cannot exceed a third segment rate described in paragraph (d)(3) of this section.

Example 6. (i) *Facts*. A plan credits interest using a broad-based index that measures the yield to maturity on a group of intermediate-term investment grade corporate bonds.

(ii) *Conclusion*. Pursuant to paragraph (e)(3)(vi)(C)(*6*) of this section, the plan must be amended in one of two manners. The plan may be amended to credit interest using a second segment rate described in paragraph (d)(4)(iv) of this section. Alternatively, the plan may be amended to cap the existing rate so that it cannot exceed a third segment rate described in paragraph (d)(3) of this section.

Example 7. (i) *Facts*. A plan credits interest using the rate of return for a broad-based index that measures the yield to maturity on a group of short-term non-investment grade corporate bonds.

(ii) *Conclusion*. Pursuant to paragraph (e)(3)(vi)(C)(*6*)(*ii*) of this section, the plan must be amended to cap the existing rate so that it cannot exceed a third segment rate described in paragraph (d)(3) of this section.

Example 8. (i) *Facts*. A plan credits interest using the rate of return for the S&P 500 index. To bring the plan into compliance with the market rate of return rules, the plan sponsor amends the plan to credit interest based on the rate of return on a RIC that is designed to track the rate of return on the S&P 500 index.

(ii) *Conclusion*. The amendment satisfies the rule of paragraph (e)(3)(vi)(C)(*7*) of this section.

Example 9. (i) *Facts*. A plan credits interest based on the rate of return on a collective trust that holds a portfolio of equity investments, which provides a rate of return that is reasonably expected to be not significantly more volatile than the broad U.S. equities market or a similarly broad international equities market. To bring the plan into compliance with the market rate of return rules, the plan sponsor amends the plan to credit interest based on the actual rate of return on the assets within a specified subset of the plan's assets that is invested in the collective trust and that satisfies the requirements of paragraph (d)(5)(ii)(B) of this section.

(ii) *Conclusion*. The amendment satisfies the rule of paragraph (e)(3)(vi)(C)(*7*) of this section.

Example 10. (i) *Facts*. A plan credits interest for a plan year using the rate of return on a RIC that has most of its investments concentrated in the semiconductor industry.

(ii) *Conclusion*. Pursuant to paragraph (e)(3)(vi)(C)(*9*) of this section, the plan must be amended in one of two manners. The plan may be amended to provide for an interest crediting rate that is an investment-based rate that is described in paragraph (d)(5) of this section and that is similar to the plan's impermissible investment-based rate except to the extent that the risk and return characteristics of the impermissible investment-based rate caused it to be impermissible. Thus, the plan may be amended to provide for an interest crediting rate based on the rate of return on a RIC that is invested in a broader sector of the market than the semiconductor industry (such as the overall technology sector of the market), provided that the sector in which the RIC is invested is broad enough that the volatility requirements of paragraph (d)(5)(iv) of this section are satisfied. Alternatively, the plan may be amended to provide that the plan's interest crediting rate is a third segment rate described in paragraph (d)(3) of this section with a fixed minimum rate of 4 percent.

Example 11. (i) *Facts*. A plan was amended in 2014 to change its interest crediting rate for all interest crediting periods after the applicable amendment date of the amendment. The amendment changed the rate from the yield on 30-year Treasury Constant Maturities to the rate of return on aggregate plan assets under paragraph (d)(5)(ii)(A) of this section. The amendment also provided for section 411(d)(6) protection with respect to the account balance as of the applicable amendment date (by providing that the account balance after the applicable amendment date will never be smaller than the account balance as of the applicable amendment date credited with interest using the yield on 30-year Treasury Constant Maturities).

(ii) *Conclusions.* (A) *Participants benefiting under the plan*. With respect to those participants who were benefiting under the plan as of the applicable amendment date of the amendment described in paragraph (i) of this *Example 11*, the requirements of paragraph (e)(3)(iii) of this section (which provides a special market rate of return rule to permit certain changes in rates for participants benefiting under the plan) are satisfied. Accordingly, no amendment is required under this paragraph (e)(3)(vi) with respect to those participants.

(B) *Participants not benefiting under the plan*. With respect to those participants who were not benefiting under the plan as of the applicable amendment date of the amendment described in paragraph (i) of this *Example 11*, the requirements of paragraph (e)(3)(iii) of this section are not satisfied and, accordingly, the "greater-of" rate resulting from the section 411(d)(6) protection does not satisfy the requirements of paragraph (d)(6) of this section. As a result, pursuant to paragraph (e)(3)(vi)(B)(*5*) of this section, it must be determined on a participant-by-participant basis which account balance provides the benefit that is greater as of the applicable amendment date for the amendment made pursuant to this paragraph (e)(3)(iv) (the transitional amendment). If, as of the applicable amendment date for the transitional amendment, the account balance credited with interest after the change in rates using the yield on 30-year Treasury Constant Maturities is greater, then the plan must be amended to provide that the participant's benefit is based solely on that account balance credited with interest using the yield on 30-year Treasury Constant Maturities. On the other hand, if, as of the applicable amendment date for the transitional amendment, the account balance using the rate of return on aggregate plan assets is greater, then the plan must be amended to provide that the participant's benefit is based solely on that account balance credited with interest at the rate of return on aggregate plan assets.

(vii) *Plan termination amendments*. A plan amendment with an applicable amendment date on or before the first day of the first plan year described in paragraph (f)(2)(i)(B)(*1*) or (*3*) of this section (as applicable) is not treated as reducing accrued benefits in violation of section 411(d)(6) merely because the amendment changes the rules that apply upon plan termination in order to satisfy the requirements of paragraph (e)(2) of this section.

* * * * *

(f) * * *

(2) * * *

(i) * * *

(B) *Special effective date*—(*1*) *In general*. Except as otherwise provided in this paragraph (f)(2)(i)(B), paragraphs (d)(1)(iii), (d)(1)(iv)(D) and (E), (d)(1)(vi), (d)(2)(ii), (d)(4)(v), (d)(5)(ii)(B), (d)(5)(iv), (d)(6), (e)(2), (e)(3)(iii), (iv) and (v), and (e)(4) of this section apply to plan years that begin on or after January 1, 2017 (or an earlier date as elected by the taxpayer).

(*2*) *Transitional amendments*. Paragraphs (e)(3)(vi) and (vii) of this section apply to plan amendments made on or after September 18, 2014 (or an earlier date as elected by the taxpayer).

(*3*) *Collectively bargained plans*. In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified on or before November 13, 2015, that constitutes a collectively bargained plan under the rules of § 1.436–1(a)(5)(ii)(B), the paragraphs referenced in paragraph (f)(2)(i)(B)(*1*) of this section apply to plan years that begin on or after the later of—

(*i*) January 1, 2017; and

(*ii*) The earlier of January 1, 2019; and the date on which the last of those collective bargaining agreements terminates (determined without regard to any extension thereof on or after November 13, 2015).

* * * * *

John Dalrymple
Deputy Commissioner for Services and Enforcement.

Approved: November 3, 2015.

Mark J. Mazur
Assistant Secretary of the Treasury (Tax Policy).

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

26 CFR 1.1274A–1: Special rules for certain transactions where stated principal amount does not exceed $2,800,000.
(Also §§ 483, 1274.)

Rev. Rul. 2015–24

This revenue ruling provides the dollar amounts, increased by the 2016 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 nine 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 accounted for by both the borrower and the lender under the cash receipts and disbursements method of accounting. A cash method debt instrument is a qualified debt instrument that meets the following additional requirements: (A) in the case of a debt instrument arising out of a sale or exchange 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 the 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 UNDER § 1274A

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. 2015–24 TABLE 1
Inflation-Adjusted Amounts Under Section 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
2002	$4,217,500	$3,012,500
2003	$4,280,800	$3,057,700
2004	$4,381,300	$3,129,500
2005	$4,483,000	$3,202,100
2006	$4,630,300	$3,307,400
2007	$4,800,800	$3,429,100
2008	$4,913,400	$3,509,600
2009	$5,131,700	$3,665,500
2010	$5,115,100	$3,653,600

Rev. Rul. 2015–24 TABLE 1
Inflation-Adjusted Amounts Under Section 1274A

Calendar Year of Sale or Exchange	1274A(b) Amount (qualified debt instrument)	1274A(c)(2)(A) Amount (cash method debt instrument)
2011	$5,201,300	$3,715,200
2012	$5,339,300	$3,813,800
2013	$5,468,200	$3,905,900
2014	$5,557,200	$3,969,500
2015	$5,647,300	$4,033,800
2016	$5,664,800	$4,046,300

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. 2014–30, 2014–49 I.R.B. 910, is supplemented and superseded.

DRAFTING INFORMATION

The author of this revenue ruling is Kate Sleeth of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue ruling, contact Kate Sleeth at (202) 317-7053 (not a toll-free number).

Section 483.—Interest on Certain Deferred Payments.

This ruling provides the dollar amounts, increased by the 2016 inflation adjustment, for section 1274A of the Code. Rev. Rul. 2014–30 supplemented and superseded. See Rev. Rul. 2015–24, page 687.

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

This ruling provides the dollar amounts, increased by the 2016 inflation adjustment, for section 1274A of the Code. Rev. Rul. 2014–30 supplemented and superseded. See Rev. Rul. 2015–24, page 687.

Part III. Administrative, Procedural, and Miscellaneous

Qualified Student Loan Bonds

Notice 2015–78

SECTION 1. PURPOSE

This notice provides guidance regarding qualified student loan bonds under § 144(b) of the Internal Revenue Code (Code) to clarify certain requirements for tax-exempt bond financing for loan programs of general application approved by a State under § 144(b)(1)(B) (State Supplemental Loan programs). (Except as otherwise expressly provided, section references in this notice are to the Code.) This notice addresses: (1) eligibility of borrowers of loans through State Supplemental Loan programs; (2) the application of the requirement under § 144(b)(3) that the student have a nexus to the State (student nexus requirement) for loans made to refinance student loans (refinancing loans); (3) the loan size limitation for State Supplemental Loans; and (4) the types of student loans that may be refinanced with a State Supplemental Loan.

SECTION 2. BACKGROUND

Section 144(b)(1) defines a "qualified student loan bond" for which tax-exempt private activity bonds may be issued to mean any bond issued as part of an issue the applicable percentage of the proceeds of which are to be used directly or indirectly to make or finance student loans (that is, loans to pay the costs of postsecondary education) under two types of loan programs.

The first type of loan program, described in § 144(b)(1)(A), is the Federal Family Education Loan Program under the Higher Education Act of 1965, Pub. L. No. 89–329, 79 Stat 1219 (Higher Education Act), under which education loans are indirectly Federally guaranteed (FFELP loans). The FFELP loans that are eligible for tax-exempt bond financing under § 144(b)(1)(A) include, among other types of loans, loans made to parents of undergraduate students under the program known as the "PLUS" loan program. H.R. Conf. Rep. No. 99–841, at II–712 (1986); Sen. Rep. No. 99–313, at 842 (1986). The FFELP guarantee authority extends only to loans originated before July 1, 2010, and was discontinued for loans originated on or after that date. Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111–152, § 2201, 124 Stat 1029, 1074 (2010).

The second type of loan program, described in § 144(b)(1)(B), is for State Supplemental Loans. Section 144(b)(1)(B) describes a State Supplemental Loan program as a program of general application approved by the State if no loan under such program exceeds the difference between (1) the total cost of attendance and (2) subject to certain stated exceptions, the other forms of student assistance for which the student borrower may be eligible. A program shall not be treated as described in § 144(b)(1)(B) if such program is described in § 144(b)(1)(A).

The student nexus requirement applies to both FFELP loans and State Supplemental Loans financed with proceeds of qualified student loan bonds. Section 144(b)(3) provides that a student loan shall be treated as being made or financed under a program described in § 144(b)(1) with respect to an issue only if the student is (1) a resident of the State from which the volume cap under § 146 for such loan was derived, or (2) enrolled at an educational institution located in such State.

Several questions have arisen concerning loans made by State Supplemental Loan programs that are eligible to be financed with the proceeds of qualified student loan bonds. Specifically, questions have arisen regarding (1) the eligibility of parents to borrow for their child's education; (2) how the student nexus requirement applies in the context of refinancing loans; (3) the loan size limitation; and (4) the types of student loans that may be refinanced with a State Supplemental Loan.

SECTION 3. SCOPE AND APPLICATION

Section 3.1. *Eligible Borrowers*. For purposes of § 144(b)(1)(B), an eligible borrower of an original loan under a State Supplemental Loan program is a student (with or without a co-obligor or guarantor) or a parent (with or without a co-obligor or guarantor) borrowing for the benefit of a child who is a student. An eligible borrower of a refinancing loan under § 144(b)(1)(B) is the student or parent borrower of the original loan.

Section 3.2. *The Student Nexus Requirement*. The student nexus requirement applies to the student beneficiary of the loan, even if the borrower is the parent of the student beneficiary. An original loan meets the student nexus requirement if, at the time the original loan is originated, the student beneficiary is a resident of the State from which the volume cap for the qualified student loan bonds that finance the original loan is derived or is enrolled at an educational institution located in that State. A refinancing loan meets the student nexus requirement if: (1) at the time the original loan was originated, the student beneficiary was a resident of the State from which the volume cap for the qualified student loan bonds that finance the refinancing loan is derived or was enrolled at an educational institution located in that State; or (2) at the time the refinancing loan is originated, the student beneficiary of the original loan resides in the State from which the volume cap for the qualified student loan bonds that finance the refinancing loan is derived or is a student enrolled in an educational institution located in that State. In the case of refunding bonds for which no volume cap is required under § 146, the student nexus requirement is applied with respect to the State from which the volume cap on the refunded bonds (or in a series of refundings, the original bonds) was derived.

Section 3.3. *The Loan Size Limitation*. Under § 144(b)(1)(B), the amount of a State Supplemental Loan may not exceed the difference between the total cost of attendance and other forms of student assistance for which the student may be eligible. For this purpose, for an original loan, an issuer may rely on a certification of the student's total cost of attendance and other student assistance by the institution of higher education at which the student is enrolled. Further, for this purpose, certifying institutions may use the definition of "total cost of attendance" under § 472 of the Higher Education Act, 20 U.S.C. § 1087ll, and the definition of "estimated financial assistance" under § 428(a)(2)(C)(ii) of the Higher Education Act, 20 U.S.C. § 1078(a)(2)(C)(ii), respectively. For a refinancing loan, (1) the original loan must have met the loan size limitation under § 144(b)(1)(B) and (2) the stated principal amount of the refinancing loan may not exceed the sum of the refinanced loan's outstanding stated principal amount and any accrued but unpaid stated interest as of the date of the refinancing.

Section 3.4. *Types of Loans Eligible for Refinancing*. Under § 144(b)(1)(B), a State Supplemental Loan may refinance an original loan that was a State Supplemental Loan or another type of original loan, for example, a FFELP loan or a student loan made by a private lender, provided that the refinancing loan meets all of the requirements for a State Supplemental Loan.

SECTION 4. APPLICABILITY DATE

This notice applies to loans originated on or after February 11, 2016. Issuers may apply this notice to loans originated before February 11, 2016.

SECTION 5. DRAFTING INFORMATION

The principal author of this notice is Johanna Som de Cerff of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this notice, contact Johanna Som de Cerff or David White at (202) 317-6980 (not a toll-free number).

Update for Weighted Average Interest Rates, Yield Curves, and Segment Rates

Notice 2015–80

This notice provides guidance on the corporate bond monthly yield curve, the corresponding spot segment rates used under § 417(e)(3), and the 24-month average segment rates under § 430(h)(2) of the Internal Revenue Code. In addition, this notice provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II) as in effect for plan years beginning before 2008 and the 30-year Treasury weighted average rate under § 431(c)(6)(E)(ii)(I).

YIELD CURVE AND SEGMENT RATES

Generally, except for certain plans under sections 104 and 105 of the Pension Protection Act of 2006 and CSEC plans under § 414(y), § 430 of the Code specifies the minimum funding requirements that apply to single-employer plans pursuant to § 412. Section 430(h)(2) specifies the interest rates that must be used to determine a plan's target normal cost and funding target. Under this provision, present value is generally determined using three 24-month average interest rates ("segment rates"), each of which applies to cash flows during specified periods. To the extent provided under § 430(h)(2)(C)(iv), these segment rates are adjusted by the applicable percentage of the 25-year average segment rates for the period ending September 30 of the year preceding the calendar year in which the plan year begins.[1] However, an election may be made under § 430(h)(2)(D)(ii) to use the monthly yield curve in place of the segment rates.

Notice 2007–81, 2007–44 I.R.B. 899, provides guidelines for determining the monthly corporate bond yield curve, and the 24-month average corporate bond segment rates used to compute the target normal cost and the funding target. Consistent with the methodology specified in Notice 2007–81, the monthly corporate bond yield curve derived from October 2015 data is in Table I at the end of this notice. The spot first, second, and third segment rates for the month of October 2015 are, respectively, 1.61, 4.02, and 5.03.

The 24-month average segment rates determined under § 430(h)(2)(C)(i) through (iii) must be adjusted pursuant to § 430(h)(2)(C)(iv) to be within the applicable minimum and maximum percentages of the corresponding 25-year average segment rates. For plan years beginning before 2018, the applicable minimum percentage is 90% and the applicable maximum percentage is 110%. The 25-year average segment rates for plan years beginning in 2014, 2015, and 2016 were published in Notice 2013–58, 2013–40 I.R.B. 294, Notice 2014–50, 2014–40 I.R.B. 590, and Notice 2015–61, 2015–39 I.R.B. 408, respectively.

24-MONTH AVERAGE CORPORATE BOND SEGMENT RATES

The three 24-month average corporate bond segment rates applicable for November 2015 without adjustment for the 25-year average segment rate limits are as follows:

Applicable Month	First Segment	Second Segment	Third Segment
November 2015	1.36	3.99	5.02

Based on § 430(h)(2)(C)(iv), the 24-month averages applicable for October 2015 adjusted to be within the applicable minimum and maximum percentages of the corresponding 25-year average segment rates, are as follows:

[1]Pursuant to § 433(h)(3)(A), the 3rd segment rate determined under § 430(h)(2)(C) is used to determine the current liability of a CSEC plan (which is used to calculate the minimum amount of the full funding limitation under § 433(c)(7)(C)).

For Plan Years Beginning In			Adjusted 24-Month Average Segment Rates		
	Applicable Month		First Segment	Second Segment	Third Segment
2014	November	2015	4.99	6.32	6.99
2015	November	2015	4.72	6.11	6.81
2016	November	2015	4.43	5.91	6.65

30-YEAR TREASURY SECURITIES INTEREST RATES

Generally for plan years beginning after 2007, § 431 specifies the minimum funding requirements that apply to multiemployer plans pursuant to § 412. Section 431(c)(6)(B) specifies a minimum amount for the full-funding limitation described in § 431(c)(6)(A), based on the plan's current liability. Section 431(c)(6)(E)(ii)(I) provides that the interest rate used to calculate current liability for this purpose must be no more than 5 percent above and no more than 10 percent below the weighted average of the rates of interest on 30-year Treasury securities during the four-year period ending on the last day before the beginning of the plan year. Notice 88–73, 1988–2 C.B. 383, provides guidelines for determining the weighted average interest rate. The rate of interest on 30-year Treasury securities for October 2015 is 2.89 percent. The Service determined this rate as the average of the daily determinations of yield on the 30-year Treasury bond maturing in August 2045. For plan years beginning in the month shown below, the weighted average of the rates of interest on 30-year Treasury securities and the permissible range of rate used to calculate current liability are as follows:

For Plan Years Beginning in		30-Year Treasury Weighted	Permissible Range		
Month	*Year*	Average	90%	to	105%
November	2015	3.13	2.82		3.29

MINIMUM PRESENT VALUE SEGMENT RATES

In general, the applicable interest rates under § 417(e)(3)(D) are segment rates computed without regard to a 24-month average. Notice 2007–81 provides guidelines for determining the minimum present value segment rates. Pursuant to that notice, the minimum present value segment rates determined for October 2015 are as follows:

First Segment	Second Segment	Third Segment
1.61	4.02	5.03

DRAFTING INFORMATION

The principal author of this notice is Tom Morgan of the Office of the Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS participated in the development of this guidance. For further information regarding this notice, contact Mr. Morgan at 202-317-6700 or Tony Montanaro at 202-317-8698 (not toll-free numbers).

Table I

Monthly Yield Curve for October 2015

Derived from October 2015 Data

Maturity	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*
0.5	0.50	20.5	4.75	40.5	5.07	60.5	5.18	80.5	5.24
1.0	0.85	21.0	4.77	41.0	5.07	61.0	5.18	81.0	5.24
1.5	1.16	21.5	4.78	41.5	5.08	61.5	5.19	81.5	5.24
2.0	1.43	22.0	4.79	42.0	5.08	62.0	5.19	82.0	5.24
2.5	1.64	22.5	4.81	42.5	5.08	62.5	5.19	82.5	5.24
3.0	1.81	23.0	4.82	43.0	5.09	63.0	5.19	83.0	5.24
3.5	1.96	23.5	4.83	43.5	5.09	63.5	5.19	83.5	5.24
4.0	2.11	24.0	4.84	44.0	5.10	64.0	5.19	84.0	5.25
4.5	2.25	24.5	4.85	44.5	5.10	64.5	5.20	84.5	5.25
5.0	2.40	25.0	4.86	45.0	5.10	65.0	5.20	85.0	5.25
5.5	2.55	25.5	4.87	45.5	5.11	65.5	5.20	85.5	5.25
6.0	2.70	26.0	4.88	46.0	5.11	66.0	5.20	86.0	5.25
6.5	2.85	26.5	4.89	46.5	5.11	66.5	5.20	86.5	5.25
7.0	3.00	27.0	4.90	47.0	5.12	67.0	5.20	87.0	5.25
7.5	3.15	27.5	4.91	47.5	5.12	67.5	5.21	87.5	5.25
8.0	3.29	28.0	4.92	48.0	5.12	68.0	5.21	88.0	5.25
8.5	3.43	28.5	4.92	48.5	5.13	68.5	5.21	88.5	5.25
9.0	3.55	29.0	4.93	49.0	5.13	69.0	5.21	89.0	5.26
9.5	3.67	29.5	4.94	49.5	5.13	69.5	5.21	89.5	5.26
10.0	3.79	30.0	4.95	50.0	5.13	70.0	5.21	90.0	5.26
10.5	3.89	30.5	4.96	50.5	5.14	70.5	5.21	90.5	5.26
11.0	3.99	31.0	4.96	51.0	5.14	71.0	5.22	91.0	5.26
11.5	4.07	31.5	4.97	51.5	5.14	71.5	5.22	91.5	5.26
12.0	4.15	32.0	4.98	52.0	5.14	72.0	5.22	92.0	5.26
12.5	4.22	32.5	4.98	52.5	5.15	72.5	5.22	92.5	5.26
13.0	4.29	33.0	4.99	53.0	5.15	73.0	5.22	93.0	5.26
13.5	4.35	33.5	5.00	53.5	5.15	73.5	5.22	93.5	5.26
14.0	4.40	34.0	5.00	54.0	5.15	74.0	5.22	94.0	5.26
14.5	4.45	34.5	5.01	54.5	5.16	74.5	5.22	94.5	5.26
15.0	4.49	35.0	5.01	55.0	5.16	75.0	5.23	95.0	5.27
15.5	4.53	35.5	5.02	55.5	5.16	75.5	5.23	95.5	5.27
16.0	4.56	36.0	5.03	56.0	5.16	76.0	5.23	96.0	5.27
16.5	4.59	36.5	5.03	56.5	5.17	76.5	5.23	96.5	5.27
17.0	4.62	37.0	5.04	57.0	5.17	77.0	5.23	97.0	5.27
17.5	4.64	37.5	5.04	57.5	5.17	77.5	5.23	97.5	5.27
18.0	4.66	38.0	5.05	58.0	5.17	78.0	5.23	98.0	5.27
18.5	4.68	38.5	5.05	58.5	5.17	78.5	5.23	98.5	5.27
19.0	4.70	39.0	5.06	59.0	5.18	79.0	5.24	99.0	5.27
19.5	4.72	39.5	5.06	59.5	5.18	79.5	5.24	99.5	5.27
20.0	4.74	40.0	5.06	60.0	5.18	80.0	5.24	100.0	5.27

Part IV. Items of General Interest

Section 7428(c) Validation of Certain Contributions Made During Pendency of Declaratory Judgment Proceedings

Announcement 2015–27

This announcement serves notice to potential donors that the organization listed below has recently filed a timely declaratory judgment suit under section 7428 of the Code, challenging revocation of its status as an eligible donee under section 170(c)(2).

Protection under section 7428(c) of the Code begins on the date that the notice of revocation is published in the Internal Revenue Bulletin and ends on the date on which a court first determines that an organization is not described in section 170(c)(2), as more particularly set forth in section 7428(c)(1).

In the case of individual contributors, the maximum amount of contributions protected during this period is limited to $1,000.00, with a husband and wife being treated as one contributor. This protection is not extended to any individual who was responsible, in whole or in part, for the acts or omissions of the organization that were the basis for the revocation. This protection also applies (but without limitation as to amount) to organizations described in section 170(c)(2) which are exempt from tax under section 501(a). If the organization ultimately prevails in its declaratory judgment suit, deductibility of contributions would be subject to the normal limitations set forth under section 170.

Name of Organization	Date Suit Filed	Effective Date of Revocation	Location
Summit Foundation	10/23/2015	9/14/2009	Grand Rapids, MI

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 laws 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 a 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.—Statement 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 2015–27 through 2015–48

Announcements:

2015-17, 2015-28 I.R.B. *67*
2015-18, 2015-33 I.R.B. *198*
2015-19, 2015-32 I.R.B. *157*
2015-20, 2015-38 I.R.B. *355*
2015-21, 2015-34 I.R.B. *220*
2015-22, 2015-35 I.R.B. *288*
2015-23, 2015-36 I.R.B. *311*
2015-24, 2015-36 I.R.B. *313*
2015-25, 2015-39 I.R.B. *422*
2015-26, 2015-47 I.R.B. *677*
2015-27, 2015-48 I.R.B. *694*
2015-28, 2015-46 I.R.B. *673*
2015-29, 2015-46 I.R.B. *673*
2015-30, 2015-46 I.R.B. *673*

Notices:

2015-43, 2015-29 I.R.B. *73*
2015-46, 2015-28 I.R.B. *64*
2015-47, 2015-30 I.R.B. *76*
2015-48, 2015-30 I.R.B. *77*
2015-49, 2015-30 I.R.B. *79*
2015-50, 2015-30 I.R.B. *81*
2015-51, 2015-31 I.R.B. *133*
2015-52, 2015-35 I.R.B. *227*
2015-53, 2015-33 I.R.B. *190*
2015-54, 2015-34 I.R.B. *210*
2015-55, 2015-34 I.R.B. *217*
2015-56, 2015-35 I.R.B. *235*
2015-57, 2015-36 I.R.B. *294*
2015-58, 2015-37 I.R.B. *322*
2015-59, 2015-40 I.R.B. *459*
2015-60, 2015-43 I.R.B. *604*
2015-61, 2015-39 I.R.B. *408*
2015-62, 2015-39 I.R.B. *411*
2015-63, 2015-40 I.R.B. *461*
2015-64, 2015-40 I.R.B. *464*
2015-65, 2015-40 I.R.B. *466*
2015-66, 2015-41 I.R.B. *541*
2015-67, 2015-41 I.R.B. *546*
2015-68, 2015-41 I.R.B. *547*
2015-69, 2015-41 I.R.B. *550*
2015-70, 2015-43 I.R.B. *604*
2015-71, 2015-43 I.R.B. *606*
2015-72, 2015-44 I.R.B. *613*
2015-73, 2015-46 I.R.B. *660*
2015-74, 2015-46 I.R.B. *663*
2015-75, 2015-46 I.R.B. *668*
2015-76, 2015-46 I.R.B. *669*
2015-77, 2015-47 I.R.B. *676*
2015-78, 2015-48 I.R.B. *690*
2015-80, 2015-48 I.R.B. *691*

Proposed Regulations:

REG-140379-02, 2015-45 I.R.B. *653*
REG-136459-09, 2015-37 I.R.B. *332*
REG-155164-09, 2015-41 I.R.B. *560*
REG-109370-10, 2015-33 I.R.B. *198*
REG-112997-10, 2015-39 I.R.B. *422*
REG-103033-11, 2015-37 I.R.B. *325*
REG-109813-11, 2015-37 I.R.B. *330*
REG-138344-13, 2015-41 I.R.B. *557*
REG-139483-13, 2015-40 I.R.B. *475*
REG-148998-13, 2015-45 I.R.B. *653*
REG-115452-14, 2015-32 I.R.B. *158*
REG-127895-14, 2015-41 I.R.B. *556*
REG-132075-14, 2015-35 I.R.B. *288*
REG-138526-14, 2015-28 I.R.B. *67*
REG-143800-14, 2015-37 I.R.B. *347*
REG-102648-15, 2015-31 I.R.B. *134*
REG-102837-15, 2015-27 I.R.B. *43*
REG-121496-15, 2015-46 I.R.B. *674*
REG-123640-15, 2015-37 I.R.B. *350*

Revenue Procedures:

2015-34, 2015-27 I.R.B. *4*
2015-36, 2015-27 I.R.B. *20*
2015-38, 2015-36 I.R.B. *295*
2015-39, 2015-33 I.R.B. *195*
2015-40, 2015-35 I.R.B. *236*
2015-41, 2015-35 I.R.B. *263*
2015-42, 2015-36 I.R.B. *310*
2015-43, 2015-40 I.R.B. *467*
2015-44, 2015-38 I.R.B. *354*
2015-45, 2015-39 I.R.B. *412*
2015-46, 2015-39 I.R.B. *414*
2015-47, 2015-39 I.R.B. *419*
2015-48, 2015-40 I.R.B. *469*
2015-49, 2015-41 I.R.B. *555*
2015-50, 2015-42 I.R.B. *583*
2015-51, 2015-42 I.R.B. *583*
2015-52, 2015-45 I.R.B. *638*
2015-53, 2015-44 I.R.B. *615*
2015-54, 2015-45 I.R.B. *648*

Revenue Rulings:

2015-15, 2015-27 I.R.B. *1*
2015-16, 2015-31 I.R.B. *130*
2015-17, 2015-39 I.R.B. *358*
2015-18, 2015-34 I.R.B. *209*
2015-19, 2015-36 I.R.B. *291*
2015-20, 2015-38 I.R.B. *353*
2015-21, 2015-40 I.R.B. *447*
2015-22, 2015-44 I.R.B. *610*
2015-24, 2015-48 I.R.B. *687*

Treasury Decisions:

9723, 2015-31 I.R.B. *84*
9726, 2015-31 I.R.B. *98*
9727, 2015-32 I.R.B. *154*

Treasury Decisions:—Continued

9728, 2015-33 I.R.B. *169*
9729, 2015-35 I.R.B. *221*
9730, 2015-35 I.R.B. *223*
9731, 2015-37 I.R.B. *314*
9732, 2015-39 I.R.B. *371*
9733, 2015-41 I.R.B. *494*
9734, 2015-41 I.R.B. *500*
9735, 2015-37 I.R.B. *316*
9736, 2015-39 I.R.B. *402*
9737, 2015-40 I.R.B. *449*
9738, 2015-40 I.R.B. *453*
9739, 2015-41 I.R.B. *528*
9740, 2015-42 I.R.B. *573*
9741, 2015-45 I.R.B. *628*
9742, 2015-46 I.R.B. *657*
9743, 2015-48 I.R.B. *679*

[1]A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2015–01 through 2015–26 is in Internal Revenue Bulletin 2015–26, dated June 29, 2015.

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

Bulletins 2015–27 through 2015–48

Notices:

2011-55
Amplified by
Notice 2015-77, 2015-47 I.R.B. *676*

2013-7
Amplified by
Notice 2015-77, 2015-47 I.R.B. *676*

2014-4
Modified by
Notice 2015-51, 2015-31 I.R.B. *133*

2014-17
Superseded by
Notice 2015-67, 2015-41 I.R.B. *546*

Proposed Regulations:

2009-57
Obsoleted by
REG-112997-10 2015-39 I.R.B. *422*

2013-17
Obsoleted by
REG-148998-13 2015-45 I.R.B. *653*

Revenue Procedures:

1992-75
Clarified by
Rev. Proc. 2015-40, 2015-35 I.R.B. *236*

2003-40
Modified by
Rev. Proc. 2015-40, 2015-35 I.R.B. *236*

2003-78
Modified by
Rev. Proc. 2015-46, 2015-39 I.R.B. *414*

2006-9
Modified by
Rev. Proc. 2015-41, 2015-35 I.R.B. *263*

2006-9
Superseded by
Rev. Proc. 2015-41, 2015-35 I.R.B. *263*

2006-54
Modified by
Rev. Proc. 2015-40, 2015-35 I.R.B. *236*

2006-54
Superseded by
Rev. Proc. 2015-40, 2015-35 I.R.B. *236*

Revenue Procedures:—Continued

2008-31
Modified by
Rev. Proc. 2015-41, 2015-35 I.R.B. *263*

2008-31
Superseded by
Rev. Proc. 2015-41, 2015-35 I.R.B. *263*

2011-49
Modified by
Rev. Proc. 2015-36, 2015-27 I.R.B. *20*

2011-49
Superseded by
Rev. Proc. 2015-36, 2015-27 I.R.B. *20*

2015-14
Modified by
Rev. Proc. 2015-39, 2015-33 I.R.B. *195*

2015-40
Amplified by
Rev. Proc. 2015-41, 2015-35 I.R.B. *263*

2015-41
Amplified by
Rev. Proc. 2015-40, 2015-35 I.R.B. *236*

Revenue Rulings:

2014-30
Supplemented by
Rev. Rul. 2015-24, 2015-48 I.R.B. *687*

2014-30
Superseded by
Rev. Rul. 2015-24, 2015-48 I.R.B. *687*

Treasury Decisions:

58-422
Obsoleted by
T.D. 9739 2015-41 I.R.B. *528*

66-284
Obsoleted by
T.D. 9739 2015-41 I.R.B. *528*

79-250
Obsoleted by
T.D. 9739 2015-41 I.R.B. *528*

79-289
Obsoleted by
T.D. 9739 2015-41 I.R.B. *528*

96-29
Obsoleted by
T.D. 9739 2015-41 I.R.B. *528*

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