INTERNAL REVENUE
BULLETIN

IRS

HIGHLIGHTS OF THIS ISSUE

Bulletin No. 2016–8
February 22, 2016

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

INCOME TAX

REG–100861–15, page 356.

These proposed regulations cross-reference final and temporary rules that improve the operation of an existing safe harbor rule that is used for determining whether partnership allocations of creditable foreign tax expenditures are deemed to be in accordance with the partners' interests in the partnership.

T.D. 9748, page 347.

These temporary and final regulations provide rules that improve the operation of an existing safe harbor rule that is used for determining whether partnership allocations of creditable foreign tax expenditures are deemed to be in accordance with the partners' interests in the partnership.

EMPLOYEE PLANS

Rev. Rul. 2016–05, page 344.

This revenue ruling provides tables of covered compensation under § 401(l)(5)(E) of the Internal Revenue Code and the Income Tax Regulations thereunder, effective January 1, 2016.

EXEMPT ORGANIZATIONS

Announcement 2016–05, page 356.

Serves notice to potential donors of a stipulated decision by the United States Tax Court in declaratory judgment proceedings under Section 7428.

Announcement 2016–07, page 356.

Serves notice to potential donors of a stipulated decision by the United States Tax Court in declaratory judgment proceedings under Section 7428.

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

Section 401.—Qualified Pension, Profit-Sharing, and Stock Bonus Plans

26 CFR 1.401(l)–1: Permitted disparity in employer-provided contributions or benefits

Rev. Rul. 2016–05

This revenue ruling provides tables of covered compensation under § 401(l)(5)(E) of the Internal Revenue Code and the Income Tax Regulations thereunder, for the 2016 plan year.

Section 401(l)(5)(E)(i) defines covered compensation with respect to an employee as the average of the contribution and benefit bases in effect under section 230 of the Social Security Act (the "Act") for each year in the 35-year period ending with the year in which the employee attains social security retirement age.

Section 401(l)(5)(E)(ii) states that the determination for any year preceding the year in which the employee attains social security retirement age shall be made by assuming that there is no increase in covered compensation after the determination year and before the employee attains social security retirement age.

Section 1.401(l)–1(c)(34) of the Income Tax Regulations defines the taxable wage base as the contribution and benefit base under section 230 of the Act.

Section 1.401(l)–1(c)(7)(i) defines covered compensation for an employee as the average (without indexing) of the taxable wage bases in effect for each calendar year during the 35-year period ending with the last day of the calendar year in which the employee attains (or will attain) social security retirement age. A 35-year period is used for all individuals regardless of the year of birth of the individual. In determining an employee's covered compensation for a plan year, the taxable wage base for all calendar years beginning after the first day of the plan year is assumed to be the same as the taxable wage base in effect as of the beginning of the plan year. An employee's covered compensation for a plan year beginning after the 35-year period applicable under § 1.401(l)–1(c)(7)(i) is the employee's covered compensation for a plan year during which the 35-year period ends. An employee's covered compensation for a plan year beginning before the 35-year period applicable under § 1.401(l)–1(c)(7)(i) is the taxable wage base in effect as of the beginning of the plan year.

Section 1.401(l)–1(c)(7)(ii) provides that, for purposes of determining the amount of an employee's covered compensation under § 1.401(l)–1(c)(7)(i), a plan may use tables provided by the Commissioner that are developed by rounding the actual amounts of covered compensation for different years of birth.

For purposes of determining covered compensation for the 2016 year, the taxable wage base is $118,500.

The following tables provide covered compensation for 2016.

ATTACHMENT I

2016 COVERED COMPENSATION TABLE

CALENDAR YEAR OF BIRTH	CALENDAR YEAR OF SOCIAL SECURITY RETIREMENT AGE	2016 COVERED COMPENSATION TABLE II
1907	1972	$ 4,488
1908	1973	4,704
1909	1974	5,004
1910	1975	5,316
1911	1976	5,664
1912	1977	6,060
1913	1978	6,480
1914	1979	7,044
1915	1980	7,692
1916	1981	8,460
1917	1982	9,300
1918	1983	10,236
1919	1984	11,232
1920	1985	12,276
1921	1986	13,368
1922	1987	14,520
1923	1988	15,708

ATTACHMENT I

2016 COVERED COMPENSATION TABLE

CALENDAR YEAR OF BIRTH	CALENDAR YEAR OF SOCIAL SECURITY RETIREMENT AGE	2016 COVERED COMPENSATION TABLE II
1924	1989	16,968
1925	1990	18,312
1926	1991	19,728
1927	1992	21,192
1928	1993	22,716
1929	1994	24,312
1930	1995	25,920
1931	1996	27,576
1932	1997	29,304
1933	1998	31,128
1934	1999	33,060
1935	2000	35,100
1936	2001	37,212
1937	2002	39,444
1938	2004	43,992
1939	2005	46,344
1940	2006	48,816
1941	2007	51,348
1942	2008	53,952
1943	2009	56,628
1944	2010	59,268
1945	2011	61,884
1946	2012	64,560
1947	2013	67,308
1948	2014	69,996
1949	2015	72,636
1950	2016	75,180
1951	2017	77,640
1952	2018	80,004
1953	2019	82,308
1954	2020	84,564
1955	2022	88,884
1956	2023	90,984
1957	2024	93,000
1958	2025	94,920
1959	2026	96,780
1960	2027	98,580
1961	2028	100,320
1962	2029	101,964
1963	2030	103,608
1964	2031	105,204
1965	2032	106,716

ATTACHMENT I

2016 COVERED COMPENSATION TABLE

CALENDAR YEAR OF BIRTH	CALENDAR YEAR OF SOCIAL SECURITY RETIREMENT AGE	2016 COVERED COMPENSATION TABLE II
1966	2033	108,144
1967	2034	109,464
1968	2035	110,664
1969	2036	111,756
1970	2037	112,716
1971	2038	113,616
1972	2039	114,492
1973	2040	115,308
1974	2041	116,004
1975	2042	116,604
1976	2043	117,072
1977	2044	117,408
1978	2045	117,744
1979	2046	118,080
1980	2047	118,320
1981	2048	118,452
1982 and Later	2049	118,500

ATTACHMENT II

2016 ROUNDED COVERED COMPENSATION TABLE

CALENDAR YEAR OF BIRTH	COVERED COMPENSATION ROUNDED
1937	$ 39,000
1938–1939	45,000
1940	48,000
1941	51,000
1942	54,000
1943	57,000
1944	60,000
1945	63,000
1946–1947	66,000
1948	69,000
1949	72,000
1950	75,000
1951	78,000
1952–1953	81,000
1954	84,000
1955–1956	90,000
1957	93,000
1958–1959	96,000
1960–1961	99,000

ATTACHMENT II

2016 ROUNDED COVERED COMPENSATION TABLE

CALENDAR YEAR OF BIRTH	COVERED COMPENSATION ROUNDED
1962	102,000
1963–1964	105,000
1965 –1967	108,000
1968–1969	111,000
1970–1973	114,000
1974–1978	117,000
1979 and Later	118,500

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 Michael Spaid at 206-946-3480 (not toll-free numbers).

Allocation of Creditable Foreign Taxes

T.D. 9748

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary regulations that provide guidance relating to the allocation by a partnership of creditable foreign tax expenditures. These temporary regulations are necessary to improve the operation of an existing safe harbor rule that is used for determining whether allocations of creditable foreign tax expenditures are deemed to be in accordance with the partners' interests in the partnership. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking (REG–100861–15) published in the Proposed Rules section in this issue of the **Bulletin.** These regulations affect partnerships that pay or accrue foreign income taxes, and their partners.

DATES: *Effective Date*: These regulations are effective on February 4, 2016.

Applicability Dates: For dates of applicability, see §§ 1.704–1T(b)(1)(ii)(*b*)(*1*) and (b)(1)(ii)(*b*)(*3*)(*B*).

FOR FURTHER INFORMATION CONTACT: Suzanne M. Walsh, (202) 317-4908 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Allocations of creditable foreign tax expenditures ("CFTEs") do not have substantial economic effect, and accordingly a CFTE must be allocated in accordance with the partners' interests in the partnership. *See* § 1.704–1(b)(4)(viii). Section 1.704–1(b)(4)(viii) provides a safe harbor under which CFTE allocations are deemed to be in accordance with the partners' interests in the partnership. In general, the purpose of the safe harbor is to match allocations of CFTEs with the income to which the CFTEs relate.

In order to apply the safe harbor, a partnership must (1) determine the partnership's "CFTE categories," (2) determine the partnership's net income in each CFTE category, and (3) allocate the partnership's CFTEs to each category. Section 1.704–1(b)(4)(viii)(*c*)(*2*) requires a partnership to assign its income to activities and provides for the grouping of a partnership's activities into one or more CFTE categories based generally on whether net income from the activities is allocated to partners in the same sharing ratios. Section 1.704–1(b)(4)(viii)(*c*)(*3*) provides rules for determining the partnership's net income (for U.S. federal income tax purposes) in a CFTE category, including rules for allocating and apportioning expenses, losses, and other deductions to gross income. Section 1.704–1(b)(4)(viii)(*d*) assigns CFTEs to the CFTE category that includes the related income under the principles of § 1.904–6, with certain modifications. In order to satisfy the safe harbor, partnership allocations of CFTEs in a CFTE category must be in proportion to the allocations of the partnership's net income in the CFTE category.

I. *Effect of Section 743(b) Adjustments*

Section 1.704–1(b)(4)(viii)(*c*)(*3*)(*i*) of the current final regulations provides that a partnership determines its net income in a CFTE category by taking into account all partnership items attributable to the relevant activity or group of activities, including items of gross income, gain, loss, deduction, and expense, and items allocated pursuant to section 704(c). The current final regulations do not state whether an adjustment under section 743(b) is taken into account in computing the partnership's net income in a CFTE category.

In the case of a transfer of a partnership interest that results in an adjustment under section 743(b) (because the partnership has a section 754 election in effect, or because

there is a substantial built-in loss (as defined in section 743(d)) in the partnership), the partnership must adjust the basis of partnership property with respect to the transferee partner only (a section 743(b) adjustment). No adjustment is made to the common basis of partnership property, and the section 743(b) adjustment has no effect on the partnership's computation of any item under section 703. § 1.743–1(j)(1).

The Treasury Department and the IRS believe that a transferee partner's section 743(b) adjustment with respect to its interest in a partnership should not be taken into account in computing such partnership's net income in a CFTE category because the basis adjustment is unique to the transferee partner and because the basis adjustment ordinarily would not be taken into account by a foreign jurisdiction in computing its foreign taxable base. As such, taking a transferee partner's section 743(b) adjustment into account for purposes of computing the partnership's net income in a CFTE category could change the partners' relative shares of net income in a CFTE category and their allocable shares of CFTEs under the safe harbor solely as a result of the transfer of the partnership interest and not as a result of a change to the allocation of any partnership items under the partnership agreement. Accordingly, § 1.704–1T(b)(4)(viii)(*c*)(*3*)(*i*) of these temporary regulations provides that, for purposes of computing a partnership's net income in a CFTE category, the partnership determines its items without regard to any section 743(b) adjustments that its partners may have to the basis of property of the partnership.

A partnership that is a transferee partner may have a section 743(b) adjustment in its capacity as a direct or indirect partner in a lower-tier partnership. Under § 1.704–1T(b)(4)(viii)(*c*)(*3*)(*i*), such section 743(b) adjustment of the partnership *is* taken into account in determining the partnership's net income in a CFTE category. Nevertheless, in the case of a section 743(b) adjustment of a partnership that is a transferee partner, it may be appropriate to alter the way in which the section 743(b) adjustment is taken into account in determining the partnership's net income in a CFTE category when the section 743(b) adjustment gives rise to basis differences subject to section 901(m). The Treasury Department and the IRS intend to address section 901(m) in a separate guidance project.

No inference is intended from § 1.704–1T(b)(4)(viii)(*c*)(*3*)(*i*) as to how a section 743(b) adjustment is taken into account for other federal income tax purposes. The Treasury Department and the IRS request comments regarding whether final regulations should provide further guidance on how to compute a partnership's net income in a CFTE category, including how other types of items or adjustments to distributive shares that are specific to a partner should be taken into account in computing a partnership's net income in a CFTE category (for example, where property is contributed with a built-in loss and the built-in loss is taken into account only in determining the amount of items allocated to the contributing partner under section 704(c)(1)(C)). The Treasury Department and the IRS also request comments on whether, and the extent to which, the application of the safe harbor should differ with respect to CFTEs that are determined by taking into account partner-specific adjustments that are similar to those that apply for U.S. tax purposes in computing the foreign taxable base of a partnership.

II. *Special Rules for Deductible Allocations and Nondeductible Guaranteed Payments*

For purposes of the safe harbor, § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) provides, among other rules, a special rule that reduces the partnership's net income in a CFTE category to the extent foreign law allows a deduction for an allocation (or payment of an allocated amount) to a partner, for example, because foreign law characterizes a preferential allocation of gross income as deductible interest expense. The basis for this rule is that a CFTE category should not include income of the partnership that has not been included in a foreign taxable base due to the fact that an allocation (or payment of an allocated amount) to a partner of that income results in a foreign law deduction. Because the income out of which the allocation is made was not included in the taxable base of the foreign jurisdiction that allowed the deduction, no CFTEs are imposed on that income; therefore, the allocation of that income should not be taken into account in testing whether allocations of CFTEs of that jurisdiction match related income allocations for purposes of the safe harbor.

Deductible guaranteed payments under section 707(c) reduce the partnership's net income in a CFTE category. Therefore, in the case of a guaranteed payment that results in a deduction under both U.S. and foreign law, no special rule reducing the partnership's net income in a CFTE category is necessary. However, to the extent that foreign law does *not* allow a deduction for a guaranteed payment that is deductible under U.S. law, § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) provides another special rule that requires an upward adjustment to the partnership's net income in a CFTE category (this rule, together with the special rule described in the preceding paragraph, are referred to in this preamble as the "special rules"). Adding the amount of a guaranteed payment that is not deductible under foreign law to the partnership's net income in a CFTE category results in CFTEs attributable to tax imposed on the income out of which the guaranteed payment is made following the payment for purposes of the safe harbor. An additional rule in § 1.704–1(b)(4)(viii)(*c*)(*4*) treats the guaranteed payment as a distributive share of the partnership's net income in a CFTE category to the extent of the upward adjustment. Together, these rules for guaranteed payments provide a more appropriate matching under the safe harbor of CFTEs and the income to which they relate.

However, the current final regulations do not expressly address situations in which an allocation or distribution of an allocated amount or guaranteed payment gives rise to a deduction for purposes of one foreign tax, but is made out of income subject to another tax imposed by the same or a different foreign jurisdiction. For example, a partnership may make a preferential allocation of gross income that is deductible in the foreign jurisdiction in which the partnership is a resident (foreign jurisdiction X) but that is made out of income earned by a disregarded entity or branch owned by the partnership that is subject to net basis tax in the jurisdiction in which the disregarded entity or branch is located (foreign jurisdiction Y). In this case, the Treasury Department and the IRS are aware that some taxpayers have

suggested that § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) may be interpreted to provide that the income related to the preferential allocation should not be included in a CFTE category because it is not included in the foreign jurisdiction X base, even though there are foreign jurisdiction Y CFTEs that clearly relate to the income out of which the preferential allocation is made. This interpretation is inconsistent with the purpose of the special rules to apply the safe harbor in a manner that matches income with the related CFTEs.

The special rules were not intended to permit taxpayers to adjust or fail to adjust income in a CFTE category in a manner that distorts a partner's share of the income to which the CFTEs assigned to that category relate. Therefore, these temporary regulations revise the special rules to address situations in which allocations (or distributions of allocated amounts) and guaranteed payments that give rise to foreign law deductions are made out of income with related CFTEs. Specifically, § 1.704–1T(b)(4)(viii)(*c*)(*4*)(*ii*) provides that a partnership's net income in a CFTE category from which a guaranteed payment that is not deductible in a foreign jurisdiction is made shall be increased by the amount of the guaranteed payment that is deductible for U.S. federal income tax purposes, and such amount shall be treated as an allocation to the recipient of the guaranteed payment for purposes of determining the partners' shares of income in the CFTE category, but only for purposes of testing allocations of CFTEs attributable to a foreign tax that *does not* allow a deduction for the guaranteed payment. However, for purposes of testing allocations of CFTEs attributable to a foreign tax that *does* allow a deduction for the guaranteed payment, a partnership's net income in a CFTE category is increased only to the extent that the amount of the guaranteed payment that is deductible for U.S. federal income tax purposes exceeds the amount allowed as a deduction for purposes of that foreign tax, and such excess is treated as an allocation to the recipient of the guaranteed payment for purposes of determining the partners' shares of income in the CFTE category.

Similarly, § 1.704–1T(b)(4)(viii)(*c*)(*4*)(*iii*) provides that, to the extent that a foreign tax allows a deduction from its taxable base for an allocation (or distribution of an allocated amount) to a partner, then solely for purposes of testing allocations of CFTEs attributable to that foreign tax, the partnership's net income in the CFTE category from which the allocation is made is reduced by the amount of the foreign law deduction, and that amount is not treated as an allocation for purposes of determining the partners' shares of income in the CFTE category. For purposes of testing allocations of CFTEs attributable to a foreign tax that does *not* allow a deduction for an allocation (or distribution of an allocated amount) to a partner, the partnership's net income in a CFTE category is *not* reduced.

Finally, the current final regulations provide that the adjustment to income attributable to an activity for a preferential allocation depends on whether the allocation of the item of income (or payment thereof) "results" in a deduction under foreign law. This rule was intended to apply even if the foreign law deduction occurred in a different taxable year (for example, because the foreign jurisdiction allowed a deduction only upon a subsequent payment of accrued interest). These temporary regulations at § 1.704–1T(b)(4)(viii)(*c*)(*4*)(*ii*) and (*iii*) clarify that a guaranteed payment or preferential allocation is considered deductible under foreign law for purposes of the special rules if the foreign jurisdiction allows a deduction from its taxable base either in the current year or in a different taxable year.

III. *Inter-branch Payments*

For taxable years beginning before January 1, 2012, the special rules under § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) included a cross-reference confirming that certain inter-branch payments that were described in § 1.704–1(b)(4)(viii)(*d*)(*3*) (the "inter-branch payment rule") were not subject to the special rules. On February 14, 2012, temporary regulations (TD 9577) were published in the **Federal Register** (77 FR 8127) addressing situations in which foreign income taxes have been separated from the related income. As part of those regulations, the inter-branch payment rule was removed because it allowed taxpayers to separate foreign income taxes and related income. In conjunction with the removal of the inter-branch payment rule, the cross-reference to the eliminated rule was removed from § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*).

The Treasury Department and the IRS have become aware that some taxpayers claim that the inclusion and subsequent removal of the cross-reference created uncertainty regarding the application of the special rules under § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) to disregarded payments among branches of a partnership. As explained above, the purpose of the special rules is to match preferential allocations and guaranteed payments to partners with CFTEs that relate to the income out of which the allocation or guaranteed payment is made, and also to ensure proper testing of CFTE allocations when no CFTEs relate to such income. The special rules accomplish this matching by treating preferential allocations and guaranteed payments as distributive shares of income, but only for purposes of allocating CFTEs attributable to taxes imposed by a foreign jurisdiction that does not allow deductions for such allocations and payments. Because an inter-branch payment is not made to a partner, it can never be treated as a distributive share, and is outside the scope of the special rules. By its terms, current § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) applies only to partnership allocations that are deductible under foreign law, guaranteed payments that are not deductible under foreign law, and (not discussed herein) income that is excluded from a foreign tax base as a result of the status of a partner. The inclusion and subsequent removal of the cross-reference did not change the purpose of current § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) or expand its scope to provide for reductions in income in a CFTE category if a partnership makes a disregarded payment that is deductible under foreign law. These regulations under § 1.704–1T(b)(4)(viii)(*c*)(*4*)(*iii*) clarify that the special rule for preferential allocations applies only to allocations (or distributions of allocated amounts) to a partner that are deductible under foreign law, and not to other items that give rise to deductions under foreign law. For example, the special rule does not apply to reduce income in a CFTE category by reason of a disregarded inter-branch payment, even if the income out of which the inter-branch payment is made is not subject to tax in any foreign jurisdiction.

In addition, the Treasury Department and the IRS are aware of transactions involving serial disregarded payments in which taxpayers take the position that withholding taxes assessed on the first payment in a series of back-to-back disregarded payments do not need to be apportioned among the CFTE categories that include the income out of which the payment is made. These regulations include new examples clarifying that under § 1.704–1(b)(4)(viii)(*d*)(*1*) withholding taxes must be apportioned among the CFTE categories that include the related income. *See* § 1.704–1T(b)(5) *Example 36* and *Example 37*.

IV. *Other Non-Substantive Clarifications*

These regulations make certain organizational and other non-substantive changes that clarify how items of income under U.S. federal income tax law are assigned to an activity and how a partnership's net income in a CFTE category is determined.

For the avoidance of doubt, § 1.704–1(b)(4)(viii)(*c*)(*2*)(*iii*) is revised to more clearly describe when income from a divisible part of a single activity must be treated as income from a separate activity. Section 1.704–1(b)(4)(viii)(*c*)(*2*)(*iii*) provides that whether a partnership has one or more activities, and the scope of each activity, is determined in a reasonable manner taking into account all the facts and circumstances, with the principal consideration being whether the proposed determination has the effect of separating CFTEs from the related foreign income. The rule also provides that income from a divisible part of a single activity is treated as income from a separate activity if necessary to prevent separating CFTEs from the related foreign income. *Example 24(iii)* of § 1.704–1(b)(5) illustrates that if a partnership agreement makes a special allocation of income earned by a disregarded entity (DE1) in order to reflect a disregarded inter-branch payment paid by DE1 to a second disregarded entity, then the payment is treated as a divisible part of an activity and treated as a separate activity. These regulations confirm this result by adding language in § 1.704–1T(b)(4)(viii)(*c*)(*2*)(*iii*) clarifying that income from a divisible part of a single activity is treated as income from a separate activity whenever the income is subject to different allocations.

These regulations also confirm in § 1.704–1T(b)(4)(viii)(*c*)(*2*)(*iii*) that a guaranteed payment or preferential allocation of income that is determined by reference to all the income from a single activity generally will *not* result in dividing a single activity into separate activities. This clarification is consistent with the rule in § 1.704–1(b)(4)(viii)(*c*)(*2*)(*ii*), which generally provides that a guaranteed payment, gross income allocation, or other preferential allocation that is determined by reference to income from all of the partnership's activities does not result in different allocations of income from separate activities. For an illustration of the application of § 1.704–1(b)(4)(viii)(*c*)(*2*)(*iii*) prior to this clarification, see § 1.704–1(b)(5) *Example 22* and *Example 25*, the latter of which has also been updated as part of these temporary regulations.

In order to more clearly explain how the rules for determining a partnership's net income in a CFTE category operate and to assist taxpayers in applying these rules, these temporary regulations reorganize § 1.704–1(b)(4)(viii)(*c*)(*3*) and provide an introductory paragraph at § 1.704–1T(b)(4)(viii)(*c*)(*3*)(*i*) that describes the steps for computing a partnership's net income in a CFTE category.

The current final regulations provide that only items of gross income recognized by a branch for U.S. income tax purposes are taken into account to determine net income attributable to any activity of a branch. *Example 24* in § 1.704–1(b)(5) further illustrates that a disregarded inter-branch payment does not move income from one activity to another. These temporary regulations confirm at § 1.704–1T(b)(4)(viii)(*c*)(*3*)(*iv*) that disregarded payments are never taken into account in determining the amount of net income attributable to an activity (although, as noted above, a special allocation of income used to make a disregarded payment may result in that income being treated as a divisible part of the activity giving rise to the income), and that therefore an item of gross income is assigned to the activity that generates the item of income that is recognized for U.S. federal income tax purposes.

In addition, the current final regulations use the term "distributive share of income," which has a general meaning under subchapter K but is used for a different purpose under § 1.704–1(b)(4)(viii)(*c*)(*4*). To avoid confusion, these temporary regulations at § 1.704–1T(b)(4)(viii)(*c*)(*4*)(*i*) revise the term "distributive share of income" to "CFTE category share of income." No difference in meaning or purpose is intended by the change in terminology. The Treasury Department and the IRS will update *Examples 20*, *21*, *22*, *23*, *24*, *26*, and *27* in § 1.704–1(b)(5) (which are not revised under these temporary regulations) to reflect the new terminology when these temporary regulations are finalized. In the interim, any reference to "distributive share of income" under the current final regulations should be treated as a reference to a "CFTE category share of income" as defined in § 1.704–1T(b)(4)(viii)(*c*)(*4*)(*i*).

V. *Effective Date*

These temporary regulations apply for partnership taxable years that both begin on or after January 1, 2016, and end after February 4, 2016. The temporary regulations also modify an existing transition rule with respect to certain inter-branch payments for partnerships whose agreements were entered into prior to February 14, 2012. The current transition rule provides that if there has been no material modification to their partnership agreements on or after February 14, 2012, then, for tax years beginning on or after January 1, 2012, these partnerships may apply the provisions of §§ 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) and 1.704–1(b)(4)(viii)(*d*)(*3*) (revised as of April 1, 2011). That transition rule is modified to provide that for tax years that both begin on or after January 1, 2016, and end after February 4, 2016, these partnerships may continue to apply the provisions of § 1.704–1(b)(4)(viii)(*d*)(*3*) (revised as of April 1, 2011) but must apply the provisions of § 1.704–1T(b)(4)(viii)(*c*)(*3*)(*ii*). *See* § 1.704–1T(b)(1)(ii)(*b*)(*3*)(*B*). For purposes of this transition rule, any change in ownership constitutes a material modification to the partnership agreement. This transition rule does not apply to any taxable year (and all subsequent taxable years) in which persons bearing a relationship to each other that

is specified in section 267(b) or section 707(b) collectively have the power to amend the partnership agreement without the consent of any unrelated party.

No inference is intended as to the application of the provisions amended by these temporary regulations under current law. The IRS may, where appropriate, challenge transactions, including those described in these temporary regulations and this preamble, under currently applicable Code or regulatory provisions or judicial doctrines.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Suzanne M. Walsh of the Office of Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

* * * * *

Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2 Section 1.704–1 is amended as follows:

1. In Paragraph (b)(0):

i. Add an entry for § 1.704–1(b)(1)(ii)(*b*)(*1*).

ii. Revise the entries for § 1.704–1(b)(4)(viii)(*c*)(*1*) through (*4*) and (b)(4)(viii)(*d*)(*1*).

2. Revise paragraphs (b)(1)(ii)(*b*)(*1*), (b)(1)(ii)(*b*)(*3*)(*B*), (b)(4)(viii)(*a*)(*1*), (b)(4)(viii)(*c*)(*1*), (b)(4)(viii)(*c*)(*2*)(*ii*) and (*iii*), (b)(4)(viii)(*c*)(*3*) and (*4*), (b)(4)(viii)(*d*)(*1*), and *Example 25* of paragraph (b)(5).

3. Add *Examples 36* and *37* to paragraph (b)(5).

The revisions and additions read as follows:

§ 1.704–1 Partner's distributive share.

* * * * *

(b) *Determination of partner's distributive share*–(0) *Cross-references.*

Heading	Section
* * * * * * *	
[Reserved].	1.704–1(b)(1)(ii)(*b*)(*1*)
* * * * * * *	
[Reserved].	1.704–1(b)(4)(viii)(*c*)(*1*)
[Reserved].	1.704–1(b)(4)(viii)(*c*)(*2*)
[Reserved].	1.704–1(b)(4)(viii)(*c*)(*3*)
[Reserved].	1.704–1(b)(4)(viii)(*c*)(*4*)
* * * * * * *	
[Reserved].	1.704–1(b)(4)(viii)(*d*)(*1*)
* * * * * * *	

(1) * * *

(ii) * * *

(*b*) *Rules relating to foreign tax expenditures*. (*1*) [Reserved]. For further guidance, see § 1.704–1T(b)(1)(ii)(*b*)(*1*).

* * * * *

(*3*) * * *

(*B*) [Reserved]. For further guidance, see § 1.704–1T(b)(1)(ii)(*b*)(*3*)(*B*).

* * * * *

(4) * * *

(viii) * * *

(*a*) * * *

(*1*) [Reserved]. For further guidance, see § 1.704–1T(b)(4)(viii)(*a*)(*1*).

* * * * *

(*c*) *Income to which CFTEs relate*. (*1*) [Reserved]. For further guidance, see § 1.704–1T(b)(4)(viii)(*c*)(*1*).

(*2*) * * *

(*ii*) and (*iii*) [Reserved]. For further guidance, see § 1.704–1T(b)(4)(viii)(*c*)(*2*)(*ii*) and (*iii*).

(*3*) [Reserved]. For further guidance, see § 1.704–1T(b)(4)(viii)(*c*)(*3*).

(*4*) [Reserved]. For further guidance, see § 1.704–1T(b)(4)(viii)(*c*)(*4*).

* * * * *

(*d*) *Allocation and apportionment of CFTEs to CFTE categories*. (*1*) [Reserved]. For further guidance, see § 1.704–1T(b)(4)(viii)(*d*)(*1*).

* * * * *

(5) * * *

Example 25. [Reserved]. For further guidance, see § 1.704–1T(b)(5) *Example 25*.

* * * * *

Example 36. [Reserved]. For further guidance, see § 1.704–1T(b)(5) *Example 36*.

Example 37. [Reserved]. For further guidance, see § 1.704–1T(b)(5) *Example 37*.

* * * * *

Par. 3. Section 1.704–1T is added to read as follows:

§ 1.704–1T Partner's distributive share (temporary).

(a) through (b)(1)(ii)(*a*) [Reserved]. For further guidance, see § 1.704–1(a) through (b)(1)(ii)(*a*).

(*b*) *Rules relating to foreign tax expenditures*—(*1*) *In general*. Except as otherwise provided in this paragraph (b)(1)(ii)(*b*)(*1*), the provisions of paragraphs (b)(3)(iv) and (b)(4)(viii) of this section (regarding the allocation of creditable foreign taxes) apply for partnership taxable years beginning on or after October 19, 2006. The rules that apply to allocations of creditable foreign taxes made in partnership taxable years beginning before October 19, 2006 are contained in § 1.704–1T(b)(1)(ii)(*b*)(*1*) and (b)(4)(xi) as in effect prior to October 19, 2006 (see 26 CFR part 1 revised as of April 1, 2005). However, taxpayers may rely on the provisions of paragraphs (b)(3)(iv) and (b)(4)(viii) of this section for partnership taxable years beginning on or after April 21, 2004. The provisions of paragraphs (b)(4)(viii)(*a*)(*1*), (b)(4)(viii)(*c*)(*1*), (b)(4)(viii)(*c*)(*2*)(*ii*) and (*iii*), (b)(4)(viii)(*c*)(*3*) and (*4*), (b)(4)(viii)(*d*)(*1*), and *Examples 25*, *36*, and *37* of paragraph (b)(5) of this section apply for partnership taxable years that both begin on or after January 1, 2016, and end after February 4, 2016. For the rules that apply to partnership taxable years beginning on or after October 19, 2006, and before January 1, 2016, and to taxable years that both begin on or after January 1, 2016, and end on or before February 4, 2016, see § 1.704–1(b)(1)(ii)(*b*), (b)(4)(viii)(*a*)(*1*), (b)(4)(viii)(*c*)(*1*), (b)(4)(viii)(*c*)(*2*)(*ii*) and (*iii*), (b)(4)(viii)(*c*)(*3*) and (*4*), (b)(4)(viii)(*d*)(*1*), and (b)(5), *Example 25* (as contained in 26 CFR part 1 revised as of April 1, 2015).

(b)(1)(ii)(*b*)(*2*) through (b)(1)(ii)(*b*)(*3*)(*A*) [Reserved]. For further guidance, see § 1.704–1(b)(1)(ii)(*b*)(*2*) through (b)(1)(ii)(*b*)(*3*)(*A*).

(*B*) *Transition rule*. Transition relief is provided herein to partnerships whose agreements were entered into prior to February 14, 2012. In such cases, if there has been no material modification to the partnership agreement on or after February 14, 2012, then, for taxable years beginning on or after January 1, 2012, and before January 1, 2016, and for taxable years that both begin on or after January 1, 2012, and end on or before February 4, 2016, these partnerships may apply the provisions of § 1.704–1(b)(4)(viii)(*c*)(*3*)(*ii*) (see 26 CFR part 1 revised as of April 1, 2011) and § 1.704–1(b)(4)(viii)(*d*)(*3*) (see 26 CFR part 1 revised as of April 1, 2011). For taxable years that both begin on or after January 1, 2016, and end after February 4, 2016, these partnerships may apply the provisions of § 1.704–1(b)(4)(viii)(*d*)(*3*) (see 26 CFR part 1 revised as of April 1, 2011). For purposes of this paragraph (b)(1)(ii)(*b*)(*3*), any change in ownership constitutes a material modification to the partnership agreement. This transition rule does not apply to any taxable year in which persons bearing a relationship to each other that is specified in section 267(b) or section 707(b) collectively have the power to amend the partnership agreement without the consent of any unrelated party (and all subsequent taxable years).

(b)(1)(iii) through (b)(4)(viii)(*a*) [Reserved]. For further guidance, see § 1.704–1(b)(1)(iii) through (b)(4)(viii)(*a*).

(*1*) The CFTE is allocated (whether or not pursuant to an express provision in the partnership agreement) to each partner and reported on the partnership return in proportion to the partners' CFTE category shares of income to which the CFTE relates; and

(b)(4)(viii)(*a*)(*2*) through (b)(4)(viii)(*b*) [Reserved]. For further guidance, see § 1.704–1(b)(4)(viii)(*a*)(*2*) through (b)(4)(viii)(*b*).

(*c*) *Income to which CFTEs relate*—(*1*) *In general*. For purposes of paragraph (b)(4)(viii)(*a*) of this section, CFTEs are related to net income in the partnership's CFTE category or categories to which the CFTE is allocated and apportioned in accordance with the rules of paragraph (b)(4)(viii)(*d*) of this section. Paragraph (b)(4)(viii)(*c*)(*2*) of this section provides rules for determining a partnership's CFTE categories. Paragraph (b)(4)(viii)(*c*)(*3*) of this section provides rules for determining the net income in each CFTE category. Paragraph (b)(4)(viii)(*c*)(*4*) of this section provides rules for determining a partner's CFTE category share of income, including rules that require adjustments to net income in a CFTE category for purposes of determining the partners' CFTE category share of income with respect to certain CFTEs. Paragraph (b)(4)(viii)(*c*)(*5*) of this section provides a special rule for allocating CFTEs when a partnership has no net income in a CFTE category.

(*2*)(*i*) [Reserved]. For further guidance, see § 1.704–1(b)(4)(viii)(*c*)(*2*)(*i*).

(*ii*) *Different allocations*. Different allocations of net income (or loss) generally will result from provisions of the partnership agreement providing for different sharing ratios for net income (or loss) from separate activities. Different allocations of net income (or loss) from separate activities generally will also result if any partnership item is shared in a different ratio than any other partnership item. A guaranteed payment described in paragraph (b)(4)(viii)(*c*)(*4*)(*ii*) of this section, gross income allocation, or other preferential allocation will result in different allocations of net income (or loss) from separate activities only if the amount of the payment or the allocation is determined by reference to income from less than all of the partnership's activities.

(*iii*) *Activity*. Whether a partnership has one or more activities, and the scope of each activity, is determined in a reasonable manner taking into account all the facts and circumstances. In evaluating whether aggregating or disaggregating income from particular business or investment operations constitutes a reasonable method of determining the scope of an activity, the principal consideration is whether the proposed determination has the effect of separating CFTEs from the related foreign income. Relevant considerations include whether the partnership conducts business in more than one geographic location or through more than one entity or branch, and whether certain types of income are exempt from foreign tax or subject to preferential foreign tax treatment. In addition, income from a divisible part of a single activity is treated as income from a separate activity if necessary to prevent separating CFTEs from the related foreign income, such as when income from

divisible parts of a single activity is subject to different allocations. A guaranteed payment, gross income allocation, or other preferential allocation of income that is determined by reference to all the income from a single activity generally will not result in the division of an activity into divisible parts. See *Examples 22* and *25* of paragraph (b)(5) of this section. The partnership's activities must be determined consistently from year to year absent a material change in facts and circumstances.

(*3*) *Net income in a CFTE category*—(*i*) *In general*. A partnership computes net income in a CFTE category as follows: First, the partnership determines for U.S. federal income tax purposes all of its partnership items, including items of gross income, gain, loss, deduction, and expense, and items allocated pursuant to section 704(c). For this purpose, the items of the partnership are determined without regard to any adjustments under section 743(b) that its partners may have to the basis of property of the partnership. However, if the partnership is a transferee partner that has a basis adjustment under section 743(b) in its capacity as a direct or indirect partner in a lower-tier partnership, the partnership does take such basis adjustment into account. Second, the partnership must assign those partnership items to its activities pursuant to paragraph (b)(4)(viii)(*c*)(*3*)(*ii*) of this section. Third, partnership items attributable to each activity are aggregated within the relevant CFTE category as determined under paragraph (b)(4)(viii)(*c*)(*2*) of this section in order to compute the net income in a CFTE category.

(*ii*) *Assignment of partnership items to activities*. The items of gross income attributable to an activity must be determined in a consistent manner under any reasonable method taking into account all the facts and circumstances. Except as otherwise provided in paragraph (b)(4)(viii)(*c*)(*3*)(*iii*) of this section, expenses, losses, or other deductions must be allocated and apportioned to gross income attributable to an activity in accordance with the rules of §§ 1.861–8 and 1.861–8T. Under these rules, if an expense, loss, or other deduction is allocated to gross income from more than one activity, such expense, loss, or deduction must be apportioned among each such activity using a reasonable method that reflects to a reasonably close extent the factual relationship between the deduction and the gross income from such activities. See § 1.861–8T(c). For the effect of disregarded payments in determining the amount of net income attributable to an activity, see paragraph (b)(4)(viii)(*c*)(*3*)(*iv*) of this section.

(*iii*) *Interest expense and research and experimental expenditures*. The partnership's interest expense and research and experimental expenditures described in section 174 may be allocated and apportioned under any reasonable method, including but not limited to the methods prescribed in §§ 1.861–9 through 1.861–13T (interest expense) and § 1.861–17 (research and experimental expenditures).

(*iv*) *Disregarded payments*. An item of gross income is assigned to the activity that generates the item of income that is recognized for U.S. federal income tax purposes. Consequently, disregarded payments are not taken into account in determining the amount of net income attributable to an activity, although a special allocation of income used to make a disregarded payment may result in the subdivision of an activity into divisible parts. See paragraph (b)(4)(viii)(*c*)(*2*)(*iii*) of this section and *Examples 24*, *36*, and *37* of paragraph (b)(5) of this section (relating to inter-branch payments).

(*4*) *CFTE category share of income*—(*i*) *In general*. CFTE category share of income means the portion of the net income in a CFTE category, determined in accordance with paragraph (b)(4)(viii)(*c*)(*3*) of this section as modified by paragraphs (b)(4)(viii)(c)(*4*)(*ii*) through (*iv*) of this section, that is allocated to a partner. To the extent provided in paragraph (b)(4)(viii)(*c*)(*4*)(*ii*) of this section, a guaranteed payment is treated as an allocation to the recipient of the guaranteed payment for this purpose. If more than one partner receives positive income allocations (income in excess of expenses) from a CFTE category, which in the aggregate exceed the total net income in the CFTE category, then such partner's CFTE category share of income equals the partner's positive income allocation from the CFTE category, divided by the aggregate positive income allocations from the CFTE category, multiplied by the net income in the CFTE category. Paragraphs (b)(4)(viii)(*c*)(*4*)(*ii*) through (*iv*) of this section require adjustments to the net income in a CFTE category for purposes of determining the partners' CFTE category share of income if one or more foreign jurisdictions impose a tax that provides for certain exclusions or deductions from the foreign taxable base. Such adjustments apply only with respect to CFTEs attributable to the taxes that allow such exclusions or deductions. Thus, net income in a CFTE category may vary for purposes of applying paragraph (b)(4)(viii)(*a*)(*1*) of this section to different CFTEs within that CFTE category.

(*ii*) *Guaranteed payments*. Except as otherwise provided in this paragraph (b)(4)(viii)(*c*)(*4*)(*ii*), solely for purposes of applying the safe harbor provisions of paragraph (b)(4)(viii)(*a*)(*1*) of this section, net income in the CFTE category from which a guaranteed payment (within the meaning of section 707(c)) is made is increased by the amount of the guaranteed payment that is deductible for U.S. federal income tax purposes, and such amount is treated as an allocation to the recipient of such guaranteed payment for purposes of determining the partners' CFTE category shares of income. If a foreign tax allows (whether in the current or in a different taxable year) a deduction from its taxable base for a guaranteed payment, then solely for purposes of applying the safe harbor provisions of paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of CFTEs that are attributable to that foreign tax, net income in the CFTE category is increased only to the extent that the amount of the guaranteed payment that is deductible for U.S. federal income tax purposes exceeds the amount allowed as a deduction for purposes of the foreign tax, and such excess is treated as an allocation to the recipient of the guaranteed payment for purposes of determining the partners' CFTE category shares of income. See *Example 25* of paragraph (b)(5) of this section.

(*iii*) *Preferential allocations*. To the extent that a foreign tax allows (whether in the current or in a different taxable year) a deduction from its taxable base for an allocation (or distribution of an allocated amount) to a partner, then solely for purposes of applying the safe harbor provisions of paragraph (b)(4)(viii)(*a*)(*1*) of

this section to allocations of CFTEs that are attributable to that foreign tax, the net income in the CFTE category from which the allocation is made is reduced by the amount of the allocation, and that amount is not treated as an allocation for purposes of determining the partners' CFTE category shares of income. See *Example 25* of paragraph (b)(5) of this section.

(*iv*) *Foreign law exclusions due to status of partner*. If a foreign tax excludes an amount from its taxable base as a result of the status of a partner, then solely for purposes of applying the safe harbor provisions of paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of CFTEs that are attributable to that foreign tax, the net income in the relevant CFTE category is reduced by the excluded amounts that are allocable to such partners. See *Example 27* of paragraph (b)(5) of this section.

(b)(4)(viii)(*c*)(*5*) [Reserved]. For further guidance, see § 1.704–1(b)(4)(viii)(*c*)(*5*).

(*d*) *Allocation and apportionment of CFTEs to CFTE categories*—(*1*) *In general*. CFTEs are allocated and apportioned to CFTE categories in accordance with the principles of § 1.904–6. Under these principles, a CFTE is related to income in a CFTE category if the income is included in the base upon which the foreign tax is imposed. See *Examples 36* and *37 of* paragraph (b)(5) of this section, which illustrate the application of this paragraph in the case of serial disregarded payments subject to withholding tax. In accordance with § 1.904–6(a)(1)(ii) as modified by this paragraph (b)(4)(viii)(*d*), if the foreign tax base includes income in more than one CFTE category, the CFTEs are apportioned among the CFTE categories based on the relative amounts of taxable income computed under foreign law in each CFTE category. For purposes of this paragraph (b)(4)(viii)(*d*), references in § 1.904–6 to a separate category or separate categories mean "CFTE category" or "CFTE categories" and the rules in § 1.904–6(a)(1)(ii) are modified as follows:

(b)(4)(viii)(*d*)(*1*)(*i*) through (b)(5) *Example 24* [Reserved]. For further guidance, see § 1.704–1(b)(4)(viii)(*d*)(*1*)(*i*) through (b)(5) *Example 24*.

Example 25. (i) A contributes $750,000 and B contributes $250,000 to form AB, a country X eligible entity (as defined in § 301.7701–3(a) of this chapter) treated as a partnership for U.S. federal income tax purposes. AB operates business M in country X. Country X imposes a 20 percent tax on the net income from business M, which tax is a CFTE. In 2016, AB earns $300,000 of gross income, has deductible expenses of $100,000, and pays or accrues $40,000 of country X tax. Pursuant to the partnership agreement, the first $100,000 of gross income each year is specially allocated to A as a preferred return on excess capital contributed by A. All remaining partnership items, including CFTEs, are split evenly between A and B (50 percent each). The gross income allocation is not deductible in determining AB's taxable income under country X law. Assume that allocations of all items other than CFTEs are valid.

(ii) AB has a single CFTE category because all of AB's net income is allocated in the same ratio. See paragraph (b)(4)(viii)(*c*)(*2*) of this section. Under paragraph (b)(4)(viii)(*c*)(*3*) of this section, the net income in the single CFTE category is $200,000. The $40,000 of taxes is allocated to the single CFTE category and, thus, is related to the $200,000 of net income in the single CFTE category. In 2016, AB's partnership agreement results in an allocation of $150,000 or 75 percent of the net income to A ($100,000 attributable to the gross income allocation plus $50,000 of the remaining $100,000 of net income) and $50,000 or 25 percent of the net income to B. AB's partnership agreement allocates the country X taxes in accordance with the partners' shares of partnership items remaining after the $100,000 gross income allocation. Therefore, AB allocates the country X taxes 50 percent to A ($20,000) and 50 percent to B ($20,000). AB's allocations of country X taxes are not deemed to be in accordance with the partners' interests in the partnership under paragraph (b)(4)(viii) of this section because they are not in proportion to the allocations of the CFTE category shares of income to which the country X taxes relate. Accordingly, the country X taxes will be reallocated according to the partners' interests in the partnership. Assuming that the partners do not reasonably expect to claim a deduction for the CFTEs in determining their U.S. federal income tax liabilities, a reallocation of the CFTEs under paragraph (b)(3) of this section would be 75 percent to A ($30,000) and 25 percent to B ($10,000). If the reallocation of the CFTEs causes the partners' capital accounts not to reflect their contemplated economic arrangement, the partners may need to reallocate other partnership items to ensure that the tax consequences of the partnership's allocations are consistent with their contemplated economic arrangement over the term of the partnership.

(iii) The facts are the same as in paragraph (i) of this *Example 25*, except that country X allows a deduction for the $100,000 allocation of gross income and, as a result, AB pays or accrues only $20,000 of foreign tax. Under paragraph (b)(4)(viii)(*c*)(*4*)(*ii*i) of this section, the net income in the single CFTE category is $100,000, determined by reducing the net income in the CFTE category by the $100,000 of gross income that is allocated to A and for which country X allows a deduction in determining AB's taxable income. Pursuant to the partnership agreement, AB allocates the country X tax 50 percent to A ($10,000) and 50 percent to B ($10,000). This allocation is in proportion to the partners' CFTE category shares of the $100,000 net income. Accordingly, AB's allocations of country X taxes are deemed to be in accordance with the partners' interests in the partnership under paragraph (b)(4)(viii)(*a*) of this section.

(iv) The facts are the same as in paragraph (iii) of this *Example 25*, except that, in addition to $20,000 of country X tax, AB is subject to $30,000 of country Y withholding tax with respect to the $300,000 of gross income that it earns in 2016. Country Y does not allow any deductions for purposes of determining the withholding tax. As described in paragraph (ii) of this *Example 25*, there is a single CFTE category with respect to AB's net income. Both the $20,000 of country X tax and the $30,000 of country Y withholding tax relate to that income and are therefore allocated to the single CFTE category. Under paragraph (b)(4)(viii)(c)(*4*)(*iii*) of this section, however, net income in a CFTE category is reduced by the amount of an allocation for which a deduction is allowed in determining a foreign taxable base, but only for purposes of applying paragraph (b)(4)(viii)(*a*) of this section to allocations of CFTEs that are attributable to that foreign tax. Accordingly, because the $100,000 allocation of gross income is deductible for country X tax purposes but not for country Y tax purposes, the allocations of the CFTEs attributable to country X tax and country Y tax are analyzed separately. For purposes of applying paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of the CFTEs attributable to the $20,000 tax imposed by country X, the analysis described in paragraph (iii) of this *Example 25* applies. For purposes of applying paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of the CFTEs attributable to the $30,000 tax imposed by country Y, which did not allow a deduction for the $100,000 gross income allocation, the net income in the single CFTE category is $200,000. Pursuant to the partnership agreement, AB allocates the country Y tax 50 percent to A ($15,000) and 50 percent to B ($15,000). These allocations are not deemed to be in accordance with the partners' interests in the partnership under paragraph (b)(4)(viii) of this section because they are not in proportion to the partners' CFTE category shares of the $200,000 of net income in the category, which is allocated 75 percent to A and 25 percent to B under the partnership agreement. Accordingly, the country Y taxes will be reallocated according to the partners' interests in the partnership as described in paragraph (ii) of this *Example 25*.

(v) The amount of net income in the single CFTE category of AB for purposes of applying paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of CFTEs would be the same as in the fact patterns described in paragraphs (ii), (iii) and (iv) if, rather than being a preferential gross income allocation, the $100,000 was a guaranteed payment to A within the meaning of section 707(c). See paragraph (b)(4)(viii)(*c*)(*4*)(*ii*) of this section.

(b)(5) *Examples 26* through *35* [Reserved]. For further guidance, see § 1.704–1(b)(5) *Examples 26* through *35*.

Example 36. (i) A, B, and C form ABC, an eligible entity (as defined in § 301.7701–3(a) of this chapter) treated as a partnership for U.S. federal income tax purposes. ABC owns three entities, DEX, DEY, and DEZ, which are organized in, and treated as corporations under the laws of, countries X, Y, and Z, respectively, and as disregarded entities for U.S. federal income tax purposes. DEX operates

business X in country X, DEY operates business Y in country Y, and DEZ operates business Z in country Z. Businesses X, Y, and Z relate to the licensing and sublicensing of intellectual property owned by DEZ. During 2016, DEX earns $100,000 of royalty income from unrelated payors on which it pays no withholding taxes. Country X imposes a 30 percent tax on DEX's net income. DEX makes royalty payments of $90,000 during 2016 to DEY that are deductible by DEX for country X purposes and subject to a 10 percent withholding tax imposed by country X. DEY earns no other income in 2016. Country Y does not impose income or withholding taxes. DEY makes royalty payments of $80,000 during 2016 to DEZ. DEZ earns no other income in 2016. Country Z does not impose income or withholding taxes. The royalty payments from DEX to DEY and from DEY to DEZ are disregarded for U.S. federal income tax purposes.

As a result of these payments, DEX has taxable income of $10,000 for country X purposes on which $3,000 of taxes are imposed, and DEY has $90,000 of income for country X withholding tax purposes on which $9,000 of withholding taxes are imposed. Pursuant to the partnership agreement, all partnership items from business X, excluding CFTEs paid or accrued by business X, are allocated 80 percent to A and 10 percent each to B and C. All partnership items from business Y, excluding CFTEs paid or accrued by business Y, are allocated 80 percent to B and 10 percent each to A and C. All partnership items from business Z, excluding CFTEs paid or accrued by business Z, are allocated 80 percent to C and 10 percent each to A and B. Because only business X has items that are regarded for U.S. federal income tax purposes (the $100,000 of royalty income), only business X has partnership items. Accordingly A is allocated 80 percent of the income from business X ($80,000) and B and C are each allocated 10 percent of the income from business X ($10,000 each). There are no partnership items of income from business Y or Z to allocate.

(ii) Because the partnership agreement provides for different allocations of partnership net income attributable to businesses X, Y, and Z, the net income attributable to each of businesses X, Y, and Z is income in separate CFTE categories. See paragraph (b)(4)(viii)(*c*)(*2*) of this section. Under paragraph (b)(4)(viii)(*c*)(*3*)(*iv*) of this section, an item of gross income that is recognized for U.S. federal income tax purposes is assigned to the activity that generated the item, and disregarded inter-branch payments are not taken into account in determining net income attributable to an activity. Consequently, all $100,000 of ABC's income is attributable to the business X activity for U.S. federal income tax purposes, and no net income is in the business Y or Z CFTE category. Under paragraph (b)(4)(viii)(*d*)(*1*) of this section, the $3,000 of country X taxes imposed on DEX is allocated to the business X CFTE category. The additional $9,000 of country X withholding tax imposed with respect to the inter-branch payment to DEY is also allocated to the business X CFTE category because for U.S. federal income tax purposes the related $90,000 of income on which the country X withholding tax is imposed is in the business X CFTE category. Therefore, $12,000 of taxes ($3,000 of country X income taxes and $9,000 of the country X withholding taxes) is related to the $100,000 of net income in the business X CFTE. See paragraph (b)(4)(viii)(*c*)(*1*) of this section. The allocations of country X taxes will be in proportion to the CFTE category shares of income to which they relate and will be deemed to be in accordance with the partners' interests in the partnership if such taxes are allocated 80 percent to A and 10 percent each to B and C.

Example 37. (i) Assume that the facts are the same as in paragraph (i) of *Example 36* of this section, except that in order to reflect the $90,000 payment from DEX to DEY and the $80,000 payment from DEY to DEZ, the partnership agreement treats only $10,000 of the gross income as attributable to the business X activity, which the partnership agreement allocates 80 percent to A and 10 percent each to B and C. Of the remaining $90,000 of gross income, the partnership agreement treats $10,000 of the gross income as attributable to the business Y activity, which the partnership agreement allocates 80 percent to B and 10 percent each to A and C; and the partnership agreement treats $80,000 of the gross income as attributable to the business Z activity, which the partnership agreement allocates 80 percent to C and 10 percent each to A and B. In addition, the partnership agreement allocates the country X taxes among A, B, and C in accordance with which disregarded entity is considered to have paid the taxes for country X purposes. The partnership agreement allocates the $3,000 of country X income taxes 80 percent to A and 10 percent to each of B and C, and allocates the $9,000 of country X withholding taxes 80 percent to B and 10 percent to each of A and C. Thus, ABC allocates the country X taxes $3,300 to A (80 percent of $3,000 plus 10 percent of $9,000), $7,500 to B (10 percent of $3,000 plus 80 percent of $9,000), and $1,200 to C (10 percent of $3,000 plus 10 percent of $9,000).

(ii) In order to prevent separating the CFTEs from the related foreign income, the special allocations of the $10,000 and $80,000 treated under the partnership agreement as attributable to the business Y and the business Z activities, respectively, which do not follow the allocation ratios that otherwise apply under the partnership agreement to items of income in the business X activity, are treated as divisible parts of the business X activity and, therefore, as separate activities. See paragraph (b)(4)(viii)(*c*)(*2*)(*iii*) of this section. Because the divisible part of the business X activity attributable to the portion of the disregarded payment received by DEY and not paid on to DEZ ($10,000) and the net income from the business Y activity ($0) are both shared 80 percent to B and 10 percent each to A and C, that divisible part of the business X activity and the business Y activity are treated as a single CFTE category. Because the divisible part of the business X activity attributable to the disregarded payment paid to DEZ ($80,000) and the net income from the business Z activity ($0) are both shared 80 percent to C and 10 percent each to A and B, that divisible part of the business X activity and the business Z activity are also treated as a single CFTE category. See paragraph (b)(4)(viii)(*c*)(*2*)(*i*) of this section. Accordingly, $10,000 of net income attributable to business X is in the business X CFTE category, $10,000 of net income of business X attributable to the net disregarded payments of DEY is in the business Y CFTE category, and $80,000 of net income of business X attributable to the disregarded payment to DEZ is in the business Z CFTE category. Under paragraph (b)(4)(viii)(*d*)(*1*) of this section, the $3,000 of country X tax imposed on DEX's income is allocated to the business X CFTE category. Because the $90,000 on which the country X withholding tax is imposed is split between the business Y CFTE category and the business Z CFTE category, those withholding taxes are allocated on a pro rata basis, $1,000 [$9,000 x ($10,000 / $90,000)] to the business Y CFTE category and $8,000 [$9,000 x ($80,000 / $90,000)] to the business Z CFTE category. See paragraph (b)(4)(viii)(*d*)(*1*) of this section. To satisfy the safe harbor of paragraph (b)(4)(viii) of this section, the $3,000 of country X taxes allocated to the business X CFTE category must be allocated in proportion to the CFTE category shares of income to which they relate, and therefore would be deemed to be in accordance with the partners' interests in the partnership if such taxes were allocated 80 percent to A and 10 percent each to B and C. The allocation of the $1,000 of country X withholding taxes allocated to the business Y CFTE category would be in proportion to the CFTE category shares of income to which they relate, and therefore would be deemed to be in accordance with the partners' interests in the partnership if such taxes were allocated 80 percent to B and 10 percent each to A and C. The allocation of the $8,000 of country X withholding taxes allocated to the business Z CFTE category would be in proportion to the CFTE category shares of income to which they relate, and therefore would be deemed to be in accordance with the partners' interests in the partnership if such taxes were allocated 80 percent to C and 10 percent each to A and B. Thus, to satisfy the safe harbor, ABC must allocate the country X taxes $3,300 to A (80 percent of $3,000 plus 10 percent of $1,000 plus 10 percent of $8,000), $1,900 to B (10 percent of $3,000 plus 80 percent of $1,000 plus 10 percent of $8,000), and $6,800 to C (10 percent of $3,000 plus 10 percent of $1,000 plus 80 percent of $8,000). ABC's allocations of country X taxes are not deemed to be in accordance with the partners' interests in the partnership under paragraph (b)(4)(viii) of this section because they are not in proportion to the partners' CFTE category shares of income to which the country X taxes relate. Accordingly, the country X taxes will be reallocated according to the partners' interests in the partnership.

(c) through (e) [Reserved]. For further guidance, see § 1.704–1(c) through (e).

(f) *Expiration date*. The applicability of this section expires on February 1, 2019.

John Dalrymple,
Deputy Commissioner for Services and Enforcement.
Approved: January 14, 2016.

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

(Filed by the Office of the Federal Register on February 3, 2016, 8:45 a.m., and published in the issue of the Federal Register for February 4, 2016, 81 F.R. 01949)

Part IV. Items of General Interest

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

Announcement 2016–05

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
Estes Family Educational and Charitable Foundation	12/22/2015	1/1/2010	Lufkin, TX
American Friends of Yeshiva Shaare Chaim Inc.	9/2/2015	5/1/2008	Edison, NJ
Arseny and Olga Kovshar Private Charitable Memorial Foundation	11/25/2015	4/30/2004	San Francisco, CA

Notice of Disposition of Declaratory Judgment Proceedings under Section 7428

Announcement 2016–07

This announcement serves notice to donors that on October 13, 2015, the United States Tax Court entered a stipulated decision that effective January 1, 2000, the organization listed below is not qualified as an organization described in I.R.C. § 501(c)(3), is not exempt from taxation under section 501(a), and is not an organization described in section 170(c)(2).

The United Fund for The Education of Russian Immigrant Children in Israel, Inc. Brooklyn, NY

Allocation of Creditable Foreign Taxes

REG–100861–15

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: In the Rules and Regulations section in this issue of the **Bulletin**, the IRS is issuing temporary regulations that provide guidance relating to the allocation by a partnership of foreign income taxes. Those temporary regulations are necessary to improve the operation of an existing safe harbor rule that is used for determining whether allocations of creditable foreign tax expenditures are deemed to be in accordance with the partners' interests in the partnership. The text of those temporary regulations published in this issue of the **Bulletin** also serves as the text of these proposed regulations.

DATES: Comments and requests for a public hearing must be received by May 4, 2016.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–100861–15), room 5205, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–100861–15), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, or sent electronically, via the Federal eRulemaking Portal at www.regulations.gov (IRS REG–100861–15).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Suzanne M. Walsh, (202) 317-4908; concerning submissions of comments, Oluwafunmilayo Taylor, (202) 317-5179 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Bulletin** contain amendments to the Income Tax Regulations (26 CFR part 1) which provide guidance relating to the allocation by a partnership of foreign income taxes. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regula-

tions. The regulations affect partnerships and their partners.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f), these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under "ADDRESSES." The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at www.regulations.gov or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Suzanne M. Walsh of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

* * * * *

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.704–1 is amended as follows:

1. In paragraph (b)(0):

i. Add an entry for § 1.704–1 (b)(1)(ii)(*b*)(*1*).

ii. Revise the entries for (b)(4)(viii)(*c*)(*1*) through (*4*) and (b)(4)(viii)(*d*)(*1*).

2. Revise paragraphs (b)(1)(ii)(*b*)(*1*), (b)(1)(ii)(*b*)(*3*)(*B*), (b)(4)(viii)(*a*)(*1*), (b)(4)(viii)(*c*)(*1*), (b)(4)(viii)(c)(*2*)(*ii*) and (*iii*), (b)(4)(viii)(*c*)(*3*) and (*4*), (b)(4)(viii)(*d*)(*1*), and *Example 25* of paragraph (b)(5).

3. Add *Examples 36* and *37* to paragraph (b)(5).

The revisions read as follows:

§ 1.704–1. Partner's distributive share.

* * * * *

(b) * * *

(0) [The text of the proposed amendments to § 1.704–1(b)(0) is the same as the text of § 1.704–1T(b)(0) published elsewhere in this issue of the **Bulletin**.]

(1) * * *

(ii) * * *

(*b*) *Rules relating to foreign tax expenditures*. (*1*) [The text of the proposed amendments to § 1.704–1(b)(1)(ii)(*b*)(*1*) is the same as the text of § 1.704–1T(b)(1)(ii)(*b*)(*1*) published elsewhere in this issue of the **Bulletin**.]

* * * * *

(*3*) * * *

(*B*) [The text of the proposed amendments to § 1.704–1(b)(1)(ii)(*b*)(*3*)(*B*) is the same as the text of § 1.704–1T(b)(1)(ii)(*b*)(*3*)(*B*) published elsewhere in this issue of the **Bulletin**.]

* * * * *

(4) * * *

(viii) * * *

(*a*) * * *

(*1*) [The text of the proposed amendments to § 1.704–1(b)(4)(viii)(*a*)(*1*) is the same as the text of § 1.704–1T(b)(4)(viii)(*a*)(*1*) published elsewhere in this issue of the **Bulletin**.]

* * * * *

(*c*) *Income to which CFTEs relate*. (*1*) [The text of the proposed amendments to § 1.704–1(b)(4)(viii)(*c*)(*1*) is the same as the text of § 1.704–1T(b)(4)(viii)(*c*)(*1*) published elsewhere in this issue of the **Bulletin**.]

(*2*) * * *

(*ii*) [The text of the proposed amendments to § 1.704–1(b)(4)(viii)(*c*)(*2*)(*ii*) is the same as the text of § 1.704–1T(b)(4)(viii)(*c*)(*2*)(*ii*) published elsewhere in this issue of the **Bulletin**.]

(*iii*) [The text of the proposed amendments to § 1.704–1(b)(4)(viii)(*c*)(*2*)(*iii*) is the same as the text of § 1.704–1T(b)(4)(viii)(*c*)(*2*)(*iii*) published elsewhere in this issue of the **Bulletin**.]

(*3*) [The text of the proposed amendments to § 1.704–1(b)(4)(viii)(*c*)(*3*) is the same as the text of § 1.704–1T(b)(4)(viii)(*c*)(*3*) published elsewhere in this issue of the **Bulletin**.]

(*4*) [The text of the proposed amendments to § 1.704–1(b)(4)(viii)(*c*)(*4*) is the same as the text of § 1.704–1T(b)(4)(viii)(*c*)(*4*) published elsewhere in this issue of the **Bulletin**.]

* * * * *

(*d*) *Allocation and apportionment of CFTEs to CFTE categories.* (*1*) [The text of the proposed amendments to § 1.704–1(b)(4)(viii)(*d*)(*1*) is the same as the text of § 1.704–1T(b)(4)(viii)(*d*)(*1*) published elsewhere in this issue of the **Bulletin**.]

* * * * *

(5) * * *

Example 25. [The text of the proposed amendments to § 1.704–1(b)(5) *Example 25* is the same as the text of § 1.704–1T(b)(5) *Example 25* published elsewhere in this issue of the **Bulletin**.]

* * * * *

Example 36. [The text of the proposed amendments to § 1.704–1(b)(5) *Example 36* is the same as the text of § 1.704–1T(b)(5) *Example 36* published elsewhere in this issue of the **Bulletin**.]

Example 37. [The text of the proposed amendments to § 1.704–1(b)(5) *Example 37* is the same as the text of § 1.704–1T(b)(5) *Example 37* published elsewhere in this issue of the **Bulletin**.]

* * * * *

John Dalrymple,
Deputy Commissioner for Services and Enforcement.

(Filed by the Office of the Federal Register on February 3, 2016, 8:45 a.m., and published in the issue of the Federal Register for February 4, 2016, 81 F.R. 01948)

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 2016–1 through 2016–8

Announcements:

2016-1, 2016-3 I.R.B. *283*
2016-2, 2016-3 I.R.B. *283*
2016-3, 2016-4 I.R.B. *294*
2016-4, 2016-6 I.R.B. *313*
2016-5, 2016-8 I.R.B. *356*
2016-7, 2016-8 I.R.B. *356*

Notices:

2016-1, 2016-2 I.R.B. *265*
2016-2, 2016-2 I.R.B. *265*
2016-3, 2016-3 I.R.B. *278*
2016-4, 2016-3 I.R.B. *279*
2016-5, 2016-6 I.R.B. *302*
2016-6, 2016-4 I.R.B. *287*
2016-7, 2016-5 I.R.B. *296*
2016-8, 2016-6 I.R.B. *304*
2016-9, 2016-6 I.R.B. *306*
2016-10, 2016-6 I.R.B. *307*
2016-11, 2016-6 I.R.B. *312*
2016-12, 2016-6 I.R.B. *312*
2016-13, 2016-7 I.R.B. *314*
2016-14, 2016-7 I.R.B. *315*
2016-16, 2016-7 I.R.B. *318*

Proposed Regulations:

REG-147310-12, 2016-7 I.R.B. *336*
REG-138344-13, 2016-4 I.R.B. *294*
REG-125761-14, 2016-7 I.R.B. *322*
REG-100861-15, 2016-8 I.R.B. *356*
REG-134122-15, 2016-7 I.R.B. *334*

Revenue Procedures:

2016-1, 2016-1 I.R.B. *1*
2016-2, 2016-1 I.R.B. *102*
2016-3, 2016-1 I.R.B. *126*
2016-4, 2016-1 I.R.B. *142*
2016-5, 2016-1 I.R.B. *188*
2016-6, 2016-1 I.R.B. *200*
2016-7, 2016-1 I.R.B. *239*
2016-8, 2016-1 I.R.B. *243*
2016-10, 2016-2 I.R.B. *270*
2016-11, 2016-2 I.R.B. *274*
2016-13, 2016-4 I.R.B. *290*

Revenue Rulings:

2016-1, 2016-2 I.R.B. *262*
2016-2, 2016-4 I.R.B. *284*
2016-3, 2016-3 I.R.B. *282*
2016-4, 2016-6 I.R.B. *299*
2016-5, 2016-8 I.R.B. *344*

Treasury Decisions:

9745, 2016-2 I.R.B. *256*
9748, 2016-8 I.R.B. *347*

[1]A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2015–27 through 2015–52 is in Internal Revenue Bulletin 2015–52, dated December 28, 2015.

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

Bulletins 2016–1 through 2016–8

Announcements:

2007-21
Modified by
Ann. 2016-1, 2016-3 I.R.B. *283*

Notices:

2005-50
Modified by
Notice 2016-2, 2016-2 I.R.B. *265*

2007-59
Revoked by
Notice 2016-16, 2016-7 I.R.B. *318*

2014-79
Superseded by
Notice 2016-1, 2016-2 I.R.B. *265*

Revenue Procedures:

2015-1
Superseded by
Rev. Proc. 2016-2, 2016-1 I.R.B. *1*

2015-2
Superseded by
Rev. Proc. 2016-2, 2016-1 I.R.B. *102*

2015-3
Superseded by
Rev. Proc. 2016-3, 2016-1 I.R.B. *126*

2015-5
Superseded by
Rev. Proc. 2016-5, 2016-1 I.R.B. *142*

2015-7
Superseded by
Rev. Proc. 2016-7, 2016-1 I.R.B. *188*

2015-8
Superseded by
Rev. Proc. 2016-8, 2016-1 I.R.B. *200*

2015-9
Superseded by
Rev. Proc. 2016-5, 2016-1 I.R.B. *239*

2015-10
Superseded by
Rev. Proc. 2016-10, 2016-2 I.R.B. *270*

2015-22
Superseded by
Rev. Proc. 2016-8, 2016-01 I.R.B. *243*

Revenue Procedures:—Continued

2015-53
Modified by
Rev. Proc. 2016-11, 2016-2 I.R.B. *274*

Revenue Rulings:

2008-15
Revoked by
Rev. Rul. 2016-3, 2016-3 I.R.B. *282*

[1]A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2015–27 through 2015–52 is in Internal Revenue Bulletin 2015–52, dated December 28, 2015.

Internal Revenue Service
Washington, DC 20224

INTERNAL REVENUE BULLETIN

The Introduction at the beginning of this issue describes the purpose and content of this publication. The weekly Internal Revenue Bulletins are available at *www.irs.gov/irb/*.

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