INTERNAL REVENUE
BULLETIN

IRS

HIGHLIGHTS OF THIS ISSUE

Bulletin No. 2018–40
October 1, 2018

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

Employee Plans

Notice 2018–73, page 526.

This notice sets forth updates on the corporate bond monthly yield curve, the corresponding spot segment rates for August 2018 used under § 417(e)(3)(D), the 24-month average segment rates applicable for September 2018, and the 30-year Treasury rates, as reflected by the application of § 430(h)(2)(C)(iv).

Notice 2018–74, page 529.

Notice 2018–74 modifies the two safe harbor explanations in Notice 2014–74, 2014–50 I.R.B. 937, that may be used to satisfy the requirement under § 402(f) of the Internal Revenue Code that certain information be provided to recipients of eligible rollover distributions. The safe harbor explanations as modified by this notice take into consideration certain legislative changes and recent guidance, including changes related to qualified plan loan offsets (as defined in section 13613 of the Tax Cuts and Jobs Act of 2017, P.L. 115–97) and guidance issued on self-certification of eligibility for a waiver of the deadline for completing a rollover (described in Rev. Proc. 2016–47, 2016–37 I.R.B. 346), and include other clarifying changes.

Income Tax

REV. RUL. 2018–26, page 520.

Fringe benefits aircraft valuation formula. For purposes of section 1.61–21(g) of the Income Tax Regulations, relating to the rule for valuing non-commercial flights on employer-provided aircraft, the Standard Industry Fare Level (SIFL) cents-per-mile rates and terminal charge in effect for the second half of 2018 are set forth.

REV. PROC. 2018–48, page 521.

This revenue procedure provides guidance for real estate investment trusts (REITs) regarding the treatment of certain foreign income inclusions for purposes of the 95 percent gross income qualification test of section 856(c)(2) of the Internal Revenue Code.

Notice 2018–72, page 522.

This Notice announces that Treasury and the IRS intent to amend regulations under section 871(m) to delay the effective/applicability date of certain rules in those final regulations. This Notice also extends the phase-in period provided in Notice 2017–42, 2017–34 I.R.B. 212, and Notice 2018–5, 2018–6.

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 1.61–21: Taxation of fringe benefits.

Rev. Rul. 2018–26

For purposes of the taxation of fringe benefits under section 61 of the Internal Revenue Code, section 1.61–21(g) of the Income Tax Regulations provides a rule for valuing noncommercial flights on employer-provided aircraft. Section 1.61–21(g)(5) provides an aircraft valuation formula to determine the value of such flights. The value of a flight is determined under the base aircraft valuation formula (also known as the Standard Industry Fare Level formula or SIFL) by multiplying the SIFL cents-per-mile rates applicable for the period during which the flight was taken by the appropriate aircraft multiple provided in section 1.61–21(g)(7) and then adding the applicable terminal charge. The SIFL cents-per-mile rates in the formula and the terminal charge are calculated by the Department of Transportation and are reviewed semi-annually.

The following chart sets forth the terminal charge and SIFL mileage rates:

Period During Which the Flight Is Taken	*Terminal Charge*	*SIFL Mileage Rates*
7/1/18 - 12/31/18	$42.88	Up to 500 miles = $.2346 per mile
		501–1500 miles = $.1788 per mile
		Over 1500 miles = $.1719 per mile

DRAFTING INFORMATION

The principal author of this revenue ruling is Kathleen Edmondson of the Office of Associate Chief Counsel (Tax Exempt/Government Entities). For further information regarding this revenue ruling, contact Ms. Edmondson at (202) 317-6798 (not a toll-free number).

Part III. Administrative, Procedural, and Miscellaneous

26 CFR § 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.
(Also: Part 1, §§ 856, 951, 951A, 986, 1291, 1293, 1296)

Rev. Proc. 2018–48

SECTION 1. PURPOSE

This revenue procedure provides guidance regarding how certain items of income are treated for purposes of determining whether a real estate investment trust (REIT) satisfies the gross income test in § 856(c)(2) of the Internal Revenue Code (Code). The types of income addressed are—

- Amounts required to be included in gross income under §§ 951(a)(1) (except by reason of § 965), 951A(a), 1291(a), 1293(a)(1), and 1296(a); and
- Amounts required to be taken into account under § 986(c) as foreign currency gain with respect to distributions of previously taxed earnings and profits.

SECTION 2. BACKGROUND

.01 To qualify as a REIT, a domestic corporation must, among other things, annually satisfy the gross income requirements of § 856(c)(2) and (c)(3). Under § 856(c)(2), at least 95 percent of the corporation's gross income must be derived from certain enumerated sources, including dividends, interest, rents from real property, and gain from the sale or other disposition of stock, securities, and real property. Under § 856(c)(3), at least 75 percent of the corporation's gross income must be derived from a similar but narrower set of enumerated sources, generally focused on income from real estate assets.

.02 The legislative history underlying the tax treatment of REITs indicates that a central concern behind the gross income restrictions is that a REIT's gross income should largely be composed of passive income. For example, H.R. Rep. No. 86–2020, at 6 (1960), 1960–2 C.B. 819, at 822–23 states, "One of the principal purposes of your committee in imposing restrictions on types of income of a qualifying real estate investment trust is to be sure the bulk of its income is from passive income sources and not from the active conduct of a trade or business."

.03 Section 856(c)(5)(J) provides that to the extent necessary to carry out the purposes of part II of subchapter M (§§ 856 through 859 of the Code), the Secretary is authorized to determine, solely for purposes of such part, (i) whether any item of income or gain that does not otherwise qualify under § 856(c)(2) or (c)(3) may be considered as not constituting gross income for purposes of § 856(c)(2) or (c)(3), and (ii) whether any item of income or gain that otherwise constitutes gross income not qualifying under § 856(c)(2) or (c)(3) may be considered as gross income that qualifies under § 856(c)(2) or (c)(3).

.04 Some REITs are United States shareholders, as defined in § 951(b), in one or more controlled foreign corporations (CFCs), as defined in § 957. REITs may also own stock in domestic partnerships or trusts that are United States shareholders of CFCs. Additionally, some REITs own (or are treated under § 1298 as owning) stock in one or more foreign corporations that are passive foreign investment companies (PFICs), as defined in § 1297. A United States person owning stock (or treated as owning stock) in a foreign corporation may be required under subpart F of part III of subchapter N (§§ 951 to 965 of the Code) or under part VI of subchapter P (§§ 1291 to 1298 of the Code) to include in gross income certain types of income or earnings of the foreign corporation. This inclusion may be required without regard to whether the foreign corporation makes a corresponding distribution of cash or property to the United States person.

.05 Section 986(c)(1) provides that foreign currency gain or loss with respect to distributions of previously taxed earnings and profits (as described in § 959 or § 1293(c)) attributable to movements in exchange rates between the times of the deemed and actual distribution shall be recognized and treated as ordinary income or loss from the same source as the associated income inclusion.

.06 Section 856(n)(1)(A) provides that passive foreign exchange gain (as defined in § 856(n)(3)) for any taxable year shall not constitute gross income for purposes of § 856(c)(2). In addition to the items specifically listed in § 856(n)(3)(A) and (B), under § 856(n)(3)(C), passive foreign exchange gain includes any other foreign currency gain as determined by the Secretary.

.07 The amounts that a REIT may be required to include in gross income under §§ 951(a)(1), 951A(a), 986(c), 1291(a), 1293(a)(1), or 1296(a) are not listed among the qualifying sources enumerated in § 856(c)(2) or (c)(3). However, § 965(m)(1)(A) provides that amounts required to be included in gross income under § 951(a) by reason of § 965(a) are not taken into account as gross income of a REIT for purposes of applying § 856(c)(2) and (3). Additionally, amounts included in gross income under § 986(c) are not listed in § 856(n)(3)(A) or (B).

.08 Previously, the Internal Revenue Service (IRS) received requests to exercise the authority under § 856(c)(5)(J) and (n)(3)(C) to treat certain amounts determined under §§ 951(a)(1), 986(c), 1291(a), and 1293(a)(1) either as not constituting gross income or as qualifying gross income, for purposes of § 856(c)(2).

.09 Since § 951A was added to the Code by "An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018," P.L. 115–97, 131 Stat. 2054 (2017), the IRS has received similar requests to exercise the authority under § 856(c)(5)(J) and (n)(3)(C) regarding REIT income inclusions and foreign currency gain with respect to global intangible low-taxed income (GILTI) under § 951A(a).

SECTION 3. SCOPE

This revenue procedure applies to any REIT that is required to include in gross income amounts under §§ 951(a)(1) (except by reason of § 965), 951A(a), 986(c), 1291(a), 1293(a)(1), or 1296(a).

SECTION 4. APPLICATION

.01 Pursuant to § 856(c)(5)(J)(ii), any amounts required to be included in gross income by a REIT under §§ 951(a)(1) (except by reason of § 965), 951A(a), 1291(a), 1293(a)(1), or 1296(a) are treated as qualifying income for purposes of § 856(c)(2).

.02 Pursuant to § 856(n)(3)(C), any amounts required to be taken into account by a REIT under § 986(c) as foreign currency gain with respect to distributions of previously taxed earnings and profits (as described in § 959 or § 1293(c)) are considered passive foreign exchange gain (as defined in § 856(n)(3)) and, therefore, pursuant to § 856(n)(1)(A), do not constitute gross income for purposes of § 856(c)(2).

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective for taxable years beginning after September 13, 2018. However, a REIT described in section 3 of this revenue procedure may choose to apply the rules set forth in section 4 of this revenue procedure with respect to any prior taxable year(s).

SECTION 6. DRAFTING INFORMATION

The principal authors of this revenue procedure are Grace Cho and Anna Boyd of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue procedure contact Ms. Cho at (202) 317-6945 (not a toll-free number).

Section 856.—Definition of real estate investment trust

For purposes of determining whether a real estate investment trust (REIT) satisfies the gross income test in § 856(c)(2) of the Internal Revenue Code, how may a REIT treat amounts required to be included in gross income under §§ 951(a)(1) (except by reason of § 965), 951A(a), 1291(a), 1293(a)(1), 1296(a), and amounts required to be taken into account under § 986(c) as foreign currency gain with respect to distributions of previously taxed earnings and profits. See Rev. Proc. 2018–48, page 521.

Section 951.—Amounts included in gross income of United States shareholders

For purposes of determining whether a real estate investment trust (REIT) satisfies the gross income test in § 856(c)(2) of the Internal Revenue Code, how may a REIT treat amounts required to be included in gross income under §§ 951(a)(1) (except by reason of § 965), 951A(a), 1291(a), 1293(a)(1), 1296(a), and amounts required to be taken into account under § 986(c) as foreign currency gain with respect to distributions of previously taxed earnings and profits. See Rev. Proc. 2018–48, page 521.

Section 951A.—Global intangible low-taxed income included in gross income of United States shareholders

For purposes of determining whether a real estate investment trust (REIT) satisfies the gross income test in § 856(c)(2) of the Internal Revenue Code, how may a REIT treat amounts required to be included in gross income under §§ 951(a)(1) (except by reason of § 965), 951A(a), 1291(a), 1293(a)(1), 1296(a), and amounts required to be taken into account under § 986(c) as foreign currency gain with respect to distributions of previously taxed earnings and profits. See Rev. Proc. 2018–48, page 521.

Section 986.—Determination of foreign taxes and foreign corporation's earnings and profits

For purposes of determining whether a real estate investment trust (REIT) satisfies the gross income test in § 856(c)(2) of the Internal Revenue Code, how may a REIT treat amounts required to be included in gross income under §§ 951(a)(1) (except by reason of § 965), 951A(a), 1291(a), 1293(a)(1), 1296(a), and amounts required to be taken into account under § 986(c) as foreign currency gain with respect to distributions of previously taxed earnings and profits. See Rev. Proc. 2018–48, page 521.

Section 1291.—Interest on tax deferral

For purposes of determining whether a real estate investment trust (REIT) satisfies the gross income test in § 856(c)(2) of the Internal Revenue Code, how may a REIT treat amounts required to be included in gross income under §§ 951(a)(1) (except by reason of § 965), 951A(a), 1291(a), 1293(a)(1), 1296(a), and amounts required to be taken into account under § 986(c) as foreign currency gain with respect to distributions of previously taxed earnings and profits. See Rev. Proc. 2018–48, page 521.

Section 1293.—Election of mark to market for marketable stock

For purposes of determining whether a real estate investment trust (REIT) satisfies the gross income test in § 856(c)(2) of the Internal Revenue Code, how may a REIT treat amounts required to be included in gross income under §§ 951(a)(1) (except by reason of § 965), 951A(a), 1291(a), 1293(a)(1), 1296(a), and amounts required to be taken into account under § 986(c) as foreign currency gain with respect to distributions of previously taxed earnings and profits. See Rev. Proc. 2018–48, page 521.

Section 1296.—Interest on tax deferral

For purposes of determining whether a real estate investment trust (REIT) satisfies the gross income test in § 856(c)(2) of the Internal Revenue Code, how may a REIT treat amounts required to be included in gross income under §§ 951(a)(1) (except by reason of § 965), 951A(a), 1291(a), 1293(a)(1), 1296(a), and amounts required to be taken into account under § 986(c) as foreign currency gain with respect to distributions of previously taxed earnings and profits. See Rev. Proc. 2018–48, page 521.

Extension of the Phase-in Period for the Enforcement and Administration of Section 871(m)

Notice 2018–72

I. **PURPOSE**

This Notice provides taxpayers with additional guidance for complying with the final and temporary regulations under sections 871(m), 1441, 1461, and 1473 of the Internal Revenue Code (the Code) (collectively referred to as the section 871(m) regulations) in 2019,[1] 2020, and 2021. Specifically, this Notice announces that the Department of the Treasury (Trea-

[1]Unless otherwise provided, all references to years refer to calendar years.

sury Department) and the Internal Revenue Service (IRS) intend to amend the section 871(m) regulations to delay the effective/applicability date of certain rules in those final regulations. This Notice also extends the phase-in period provided in Notice 2016–76, 2016–51 I.R.B. 834, for certain provisions of the section 871(m) regulations and permits withholding agents to apply the transition rules from Notice 2010–46, 2010–24 I.R.B. 757, in 2020, as described in more detail below.

The anti-abuse rule provided in §1.871–15(o) will continue to apply during the phase-in years described in this Notice. As a result, a transaction that would not otherwise be treated as a section 871(m) transaction (including as a result of this Notice) may be a section 871(m) transaction under §1.871–15(o).[2]

II. **BACKGROUND**

On June 14, 2010, the Treasury Department and the IRS published Notice 2010–46, which addresses potential overwithholding in the context of securities lending and sale repurchase agreements. Notice 2010–46 provides a two-part solution to the problem of overwithholding on a chain of dividends and dividend equivalents. First, it provides an exception from withholding for payments to a qualified securities lender (QSL). Second, it provides a proposed framework to credit forward prior withholding on a chain of substitute dividends paid pursuant to a chain of securities loans or stock repurchase agreements. The QSL regime requires a person that agrees to act as a QSL to comply with certain withholding and documentation requirements. The Treasury Department and the IRS permitted withholding agents to rely on transition rules described in Notice 2010–46, Part III, until guidance was developed that would include documentation and substantiation of withholding.

On September 18, 2015, the **Federal Register** published final regulations and temporary regulations (TD 9734, 80 FR 56866), which finalized a portion of a 2013 notice of proposed rulemaking (78 FR 73128), and introduced new temporary regulations based on comments received with respect to that notice of proposed rulemaking (80 FR 56415) (2015 final regulations and 2015 temporary regulations, respectively). The Treasury Department and the IRS stated in the preamble that the final qualified derivatives dealer (“QDD”) regulations would supplant the proposed regulatory framework described in Notice 2010–46. 80 FR at 56878.

On July 18, 2016, the Treasury Department and the IRS published Notice 2016–42, 2016–29 I.R.B. 67, which contained the proposed qualified intermediary agreement (QI Agreement) that included provisions relating to the QDD regime and reiterated the intent to replace the proposed regulatory framework described in Notice 2010–46 with the QDD regime.

On December 19, 2016, the Treasury Department and the IRS published Notice 2016–76, which provided for the phased-in application of certain provisions of the section 871(m) regulations to allow for the orderly implementation of those final regulations and announced that taxpayers may continue to rely on Notice 2010–46 until January 1, 2018.

On January 17, 2017, the Treasury Department and the IRS published Revenue Procedure 2017–15, 2017–3 I.R.B. 437, which sets forth the final QI Agreement (2017 QI Agreement), including the requirements and obligations applicable to QDDs, and provided that taxpayers may continue to rely on Notice 2010–46 during 2017.

On January 24, 2017, the **Federal Register** published final regulations and temporary regulations (TD 9815, 82 FR 8144) (the 2017 regulations), which finalized the 2015 notice of proposed rulemaking (80 FR 56415) that was issued in conjunction with the 2015 temporary regulations. The effective/applicability dates in the 2017 regulations reflect the phased-in application described in Notice 2016–76. *See* Treas. Reg. §1.871–15(r)(3). Also, consistent with Notice 2016–76 and other announcements, the “Effect on Other Documents” section of the preamble to the 2017 regulations obsoleted Notice 2010–46 as of January 1, 2018. In response to a comment requesting that the QSL regime remain, the preamble to the 2017 regulations noted that “[w]hile the Treasury Department and the IRS understand that the QSL regime was administratively more convenient for taxpayers than the QI regime, it created administrability problems, particularly with respect to verification, for the IRS. That regime is being replaced by incorporating the QDD rules into the existing QI framework, including the specific rules for pooled reporting on Form 1042–S, and the QI requirements for compliance review and certification.” 82 FR at 8153.

On August 21, 2017, the Treasury Department and the IRS published Notice 2017–42, 2017–34 I.R.B. 212, which extended certain transition relief.

On February 5, 2018, the Treasury Department and the IRS published Notice 2018–5, 2018–6 I.R.B. 341, which permits withholding agents to apply the transition rules from Notice 2010–46 in 2018 and 2019.

Consistent with Executive Order 13777 (82 FR 12285), the Treasury Department and the IRS continue to evaluate the section 871(m) regulations and consider possible agency actions that may reduce unnecessary burdens imposed by the regulations. Pending consideration of the section 871(m) regulations pursuant to Executive Order 13777, this Notice extends parts of the phase-in period described in both Notice 2017–42 and Notice 2018–5 through 2020. *See* sections III through VI of this Notice for more details.

Dealers, issuers, and other withholding agents have indicated that the phase-in period for delta-one transactions provided in prior guidance has provided them with valuable time to test and further develop their withholding and reporting systems. Furthermore, comments have requested that the transition relief described in both Notice 2017–42 and Notice 2018–5 should be extended on a permanent basis. Market participants have indicated that they will require additional time to refine their systems based on any amendments to the section 871(m) regulations. In addition, dealers, issuers, and other withholding agents continue to design, build, and test new withholding and reporting systems that will enable testing and withholding on non-delta-one transactions, and have requested additional time to

[2]The terms used in this Notice have the meanings provided in the section 871(m) regulations.

complete those systems before being required to comply with the section 871(m) regulations with respect to non-delta-one transactions. Further, comments have requested that the QSL regime be extended for a longer transition period and have requested that the Treasury Department and the IRS consider simplifying the rules for securities lenders.

III. EXTENSION OF THE PHASE-IN YEAR FOR DELTA-ONE AND NON-DELTA-ONE TRANSACTIONS

This section describes the extension to the phased-in application of the section 871(m) regulations to delta-one and non-delta-one transactions. This Notice does not apply to any transaction that is a section 871(m) transaction pursuant to §1.871–15(d)(1) (providing that before January 1, 2017, a notional principal contract (NPC) is a specified NPC if certain factors are present).

The Treasury Department and the IRS have determined that it is appropriate for taxpayers and withholding agents to delay certain provisions in the section 871(m) regulations for non-delta-one transactions, including transactions that are combined transactions under §1.871–15(n). Therefore, the Treasury Department and the IRS intend to revise the effective/applicability date for §1.871–15(d)(2) and (e) to provide that these rules will not apply to any payment made with respect to any non-delta-one transaction issued before January 1, 2021.

Notice 2016–76 provides that the IRS will take into account the extent to which the taxpayer or withholding agent made a good faith effort to comply with the section 871(m) regulations with respect to delta-one transactions in 2017 and non-delta-one transactions in 2018 when it enforces the section 871(m) regulations. Notice 2017–42 extended the period during which the good faith effort standard applied to (1) any delta-one transaction in 2017 and 2018, and (2) any non-delta-one transaction that is a section 871(m) transaction pursuant to §1.871–15(d)(2) or (e) in 2019. This Notice further extends the periods during which the enforcement standards provided by Notice 2016–76 and Notice 2017–42 will apply. Consistent with this extension, the IRS will take into account the extent to which the taxpayer or withholding agent made a good faith effort to comply with the section 871(m) regulations in enforcing the section 871(m) regulations for (1) any delta-one transaction in 2017 through 2020, and (2) any non-delta-one transaction that is a section 871(m) transaction pursuant to §1.871–15(d)(2) or (e) in 2021.

Similarly, for purposes of the IRS's enforcement and administration of the QDD rules in the section 871(m) regulations and the relevant provisions of the 2017 QI Agreement, this Notice extends through 2020 the period during which the IRS will take into account the extent to which the QDD made a good faith effort to comply with the section 871(m) regulations and the relevant provisions of the 2017 QI Agreement. In addition, the IRS intends to revise the 2017 QI Agreement to provide that a QDD will be considered to satisfy the obligations that apply specifically to a QDD under that agreement for 2017 through 2020 provided that the QDD makes a good faith effort to comply with the relevant provisions of the 2017 QI Agreement.

IV. EXTENSION OF THE SIMPLIFIED STANDARD FOR DETERMINING WHETHER TRANSACTIONS ARE COMBINED TRANSACTIONS

Notice 2016–76 provided a simplified standard for withholding agents to determine whether transactions entered into in 2017 are combined transactions. Specifically, a withholding agent is required to combine transactions entered into in 2017 for purposes of determining whether the transactions are section 871(m) transactions only when the transactions are over-the-counter transactions that are priced, marketed, or sold in connection with each other. Withholding agents are not required to combine any transactions that are listed securities entered into in 2017.

Notice 2017–42 extended the period during which this simplified standard for combined transactions applies to include 2018. This Notice further extends the period during which this simplified standard for combined transactions applies to include 2019 and 2020. Transactions that are entered into in 2017 through 2020 that are combined under this simplified standard will continue to be treated as combined transactions for future years and will not cease to be combined transactions as a result of applying §1.871–15(n) or disposing of less than all of the potential section 871(m) transactions that are combined under this rule. Transactions that are entered into in 2017 through 2020 that are not combined under this simplified standard will not become combined transactions as a result of applying §1.871–15(n) to these transactions in future years, unless a reissuance or other event causes the transactions to be retested to determine whether they are section 871(m) transactions. *See* §1.871–15(g)(2) (providing that the delta of a potential section 871(m) transaction generally is determined on the earlier of when the transaction is (1) priced or (2) issued); *see also* §1.871–15(a)(6) (defining the term "issue" to include "an issuance as a result of a deemed exchange pursuant to section 1001"). This simplified standard applies only to withholding agents, and does not apply to taxpayers that are long parties to potential section 871(m) transactions.

V. EXTENSION OF PHASE-IN RELIEF FOR QUALIFIED DERIVATIVES DEALERS

Section 1.871–15T(q)(1) of the 2015 temporary regulations provided that when a QDD received a dividend or dividend equivalent payment and the QDD was contractually obligated to make an offsetting dividend equivalent payment on the same underlying security in an amount that was less than the dividend and dividend equivalent amount received, the QDD would be liable for tax under section 871(a) or section 881 for the difference. The 2015 final regulations provided that a withholding agent who made a payment of a dividend to a qualified intermediary acting as a QDD was not required to withhold on that payment if the withholding agent reliably associated the payment with a valid qualified intermediary withholding form containing a certification described in §1.1441–1(e)(3)(ii)(E). *See* §1.1441–1(b)(4)(xxii) of the 2015 final regulations.

Comments requested that the Treasury Department and the IRS adopt a different method of determining a QDD's tax liability. Those comments generally requested that this method be based on the QDD's net delta exposure for each underlying security. The Treasury Department and the IRS agreed that the net delta approach was an administrable and accurate method for a QDD to determine its residual exposure to underlying securities, and the 2017 final regulations adopted the net delta exposure method.

In adopting the net delta approach, the Treasury Department and the IRS were concerned that the exemption from withholding on dividends paid to a QDD, when combined with the net delta exposure method, could result in U.S. source dividends escaping U.S. tax completely in certain circumstances. Therefore, the 2017 final regulations revised §§1.871–15(q)(1) and 1.1441–1(b)(4)(xxii) to provide that a QDD remains liable for tax under section 881(a)(1) and subject to withholding under chapters 3 and 4 on dividends. However, to allow taxpayers time to implement the net delta approach, the 2017 QI Agreement and the 2017 final regulations provided that dividends and dividend equivalents received by a QDD in its equity derivatives dealer capacity in 2017 will not be subject to tax under section 881(a)(1) or subject to withholding under chapters 3 and 4.

Notice 2017–42 announced that the Treasury Department and the IRS intend to amend §§1.871–15(q)(1) and (r)(3), and 1.1441–1(b)(4)(xxii)(C) to provide that a QDD will not be subject to tax on dividends and dividend equivalents received in 2017 and 2018 in its equity derivatives dealer capacity or withholding on those dividends (including deemed dividends). This Notice announces that the Treasury Department and the IRS intend to amend those provisions to provide that a QDD will not be subject to tax on dividends and dividend equivalents received in 2019 and 2020 in its equity derivatives dealer capacity or withholding on those dividends (including deemed dividends) as well.

Section 4.01(1) of Rev. Proc. 2017–15 provides that a QDD will be required to compute its section 871(m) amount using the net delta approach beginning in 2018. Notice 2017–42 provided that a QDD would be required to compute its section 871(m) amount using the net delta approach beginning in 2019. This Notice provides that a QDD will be required to compute its section 871(m) amount using the net delta approach beginning in 2021.

A QDD will remain liable for tax under section 881(a)(1) on dividends and dividend equivalents that it receives in any capacity other than as an equity derivatives dealer, and on any other U.S. source FDAP payments that it receives (whether or not in its equity derivatives dealer capacity). In addition, a QDD is responsible for withholding on dividend equivalents it pays to a foreign person on a section 871(m) transaction, whether acting in its capacity as an equity derivatives dealer or otherwise.

Finally, section 10.01(C) of the 2017 QI Agreement provides that: "For calendar year 2017, a QDD is not required to perform a periodic review with respect to its QDD activities (as otherwise required by section 10.04 of this Agreement) or provide the factual information specified in Appendix I." Notice 2017–42 provides that a QDD is not required to perform a periodic review with respect to its QDD activities for 2017 or 2018. This Notice provides that a QDD is not required to perform a periodic review with respect to its QDD activities for 2019 or 2020. Note that a QDD must use the same year for the periodic review of its QI activities and its QDD activities. A QI that is a QDD must choose 2021 or a later year within its certification period in which to perform its periodic review unless its applicable certification period ends in 2020 or an earlier year.

VI. **EXTENSION OF TRANSITION RULES FROM NOTICE 2010–46**

Notice 2018–5 provided that notwithstanding the preamble to the 2017 regulations, withholding agents may apply the transition rules described in Notice 2010–46, Part III, for payments made in 2018 and 2019. This Notice provides that withholding agents may also apply the transition rules described in Notice 2010–46, Part III, for payments made in 2020.

VII. **TAXPAYER RELIANCE**

Before the promulgation of the amendments to the section 871(m) regulations and the 2017 QI Agreement, taxpayers may rely on the provisions of this Notice regarding the proposed amendments described in sections III and V. Withholding agents may rely on the simplified standard for determining whether transactions are combined transactions as described in section IV and may apply the QSL transition rules described in section VI.

VIII. **DRAFTING INFORMATION**

The principal authors of this Notice are Karen Walny and Peter Merkel of the Office of Associate Chief Counsel (International). For further information regarding this Notice, contact Karen Walny or Peter Merkel at (202) 317-6938 (not a toll-free number).

Notice 2018–72 Cross-References

Section 1.—TD 9815, 82 FR 8144 (Jan. 24, 2017)

These final and temporary regulations relate to the treatment of dividend equivalent payments for purposes of section 871(m) of the Internal Revenue Code. Section 871(m) treats certain payments made with respect to securities loans, sale-repurchase transactions, certain notional principal contracts, and substantially similar transactions as dividend equivalent payments. Dividend equivalent payments are treated as actual U.S. source dividends for purposes of U.S. gross basis taxation and withholding. These regulations also provide rules relating to the substantial equivalence test for complex contracts and the rules for qualified derivatives dealers. See Notice 2018–72, page 522.

Section 2.—Notice 2017–42, 2017–34 I.R.B. 212 (Aug. 21, 2017)

The Notice extended the phase-in period for the application of the final regulations relating dividend equivalent under section 871(m). The notice provides that the section 871(m) regulations: (1) only apply to delta-one transactions in calendar year 2017 and 2018, and (2) will apply to non-delta-one transactions beginning in calendar year 2019. The proposed notice also provides phased-in enforcement of the section 871(m) regulations, including the qualified derivatives dealer rules. See Notice 2018–72, page 522.

Section 3.—Notice 2018–5, 2018–6 I.R.B. 341 (Feb. 5, 2018)

The final section 871(m) regulations replaced the qualified securities lender regime with the qualified derivatives dealer effective January 1, 2018, and the preamble obsoleted Notice 2010–46 as of January 1, 2018. The Notice provide that withholding agents would be permitted to use the qualified securities lender regime in calendar years 2018 and 2019. See Notice 2018–72, page 522.

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

Notice 2018–73

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

Section 430 specifies the minimum funding requirements that apply to single-employer plans (except for CSEC plans under § 414(y)) 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.[3] 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 August 2018 data is in Table 2018–8 at the end of this notice. The spot first, second, and third segment rates for the month of August 2018 are, respectively, 3.10, 4.15, and 4.46.

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 2021, the applicable minimum percentage is 90% and the applicable maximum percentage is 110%. The 25-year average segment rates for plan years beginning in 2017 and 2018 were published in Notice 2016–54, 2016–40 I.R.B. 429 and Notice 2017–50, 2017–41 I.R.B. 280, respectively. For plan years beginning in 2019, based on the segment rates applicable for October 1993 to September 2018, the 25-year averages for the period ending September 30, 2018, of the first, second, and third segment rates are 4.15, 5.94, and 6.79 percent, respectively.

24-MONTH AVERAGE CORPORATE BOND SEGMENT RATES

The three 24-month average corporate bond segment rates applicable for September 2018 without adjustment for the 25-year average segment rate limits are as follows:

24-Month Average Segment Rates Without 25-Year Average Adjustment

Applicable Month	First Segment	Second Segment	Third Segment
September 2018	2.28	3.81	4.46

Based on § 430(h)(2)(C)(iv), the 24-month averages applicable for September 2018, adjusted to be within the applicable minimum and maximum percentages of the corresponding 25-year average segment rates, are as follows:

Adjusted 24-Month Average Segment Rates

For Plan Years Beginning In	Applicable Month	First Segment	Second Segment	Third Segment
2017	September 2018	4.16	5.72	6.48
2018	September 2018	3.92	5.52	6.29
2019	September 2018	3.74	5.35	6.11

[3]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)).

30-YEAR TREASURY SECURITIES INTEREST RATES

Section 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 August 2018 is 3.04 percent. The Service determined this rate as the average of the daily determinations of yield on the 30-year Treasury bond maturing in May 2048 determined each day through August 8, 2018 and the yield on the 30-year Treasury bond maturing in August 2048 determined each day for the balance of the month. For plan years beginning in September 2018, the weighted average of the rates of interest on 30-year Treasury securities and the permissible range of rates used to calculate current liability are as follows:

Treasury Weighted Average Rates

For Plan Years Beginning In	30-Year Treasury Weighted Average	Permissible Range 90% to 105%
September 2018	2.87	2.58 to 3.01

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 August 2018 are as follows:

Minimum Present Value Segment Rates

Month	First Segment	Second Segment	Third Segment
August 2018	3.10	4.15	4.46

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 Paul Stern at 202-317-8702 (not toll-free numbers).

Table 2018–8

Monthly Yield Curve for August 2018
Derived from August 2018 Data

Maturity	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*
0.5	2.52	20.5	4.43	40.5	4.46	60.5	4.48	80.5	4.48
1.0	2.74	21.0	4.43	41.0	4.46	61.0	4.48	81.0	4.48
1.5	2.93	21.5	4.43	41.5	4.46	61.5	4.48	81.5	4.48
2.0	3.07	22.0	4.43	42.0	4.46	62.0	4.48	82.0	4.48
2.5	3.16	22.5	4.43	42.5	4.46	62.5	4.48	82.5	4.48
3.0	3.23	23.0	4.43	43.0	4.46	63.0	4.48	83.0	4.48
3.5	3.27	23.5	4.43	43.5	4.46	63.5	4.48	83.5	4.48
4.0	3.32	24.0	4.43	44.0	4.46	64.0	4.48	84.0	4.48
4.5	3.37	24.5	4.43	44.5	4.46	64.5	4.48	84.5	4.49
5.0	3.42	25.0	4.43	45.0	4.46	65.0	4.48	85.0	4.49
5.5	3.48	25.5	4.43	45.5	4.46	65.5	4.48	85.5	4.49
6.0	3.54	26.0	4.43	46.0	4.47	66.0	4.48	86.0	4.49
6.5	3.61	26.5	4.43	46.5	4.47	66.5	4.48	86.5	4.49
7.0	3.68	27.0	4.44	47.0	4.47	67.0	4.48	87.0	4.49
7.5	3.75	27.5	4.44	47.5	4.47	67.5	4.48	87.5	4.49
8.0	3.82	28.0	4.44	48.0	4.47	68.0	4.48	88.0	4.49
8.5	3.89	28.5	4.44	48.5	4.47	68.5	4.48	88.5	4.49
9.0	3.95	29.0	4.44	49.0	4.47	69.0	4.48	89.0	4.49
9.5	4.01	29.5	4.44	49.5	4.47	69.5	4.48	89.5	4.49
10.0	4.07	30.0	4.44	50.0	4.47	70.0	4.48	90.0	4.49
10.5	4.12	30.5	4.44	50.5	4.47	70.5	4.48	90.5	4.49
11.0	4.16	31.0	4.44	51.0	4.47	71.0	4.48	91.0	4.49
11.5	4.21	31.5	4.45	51.5	4.47	71.5	4.48	91.5	4.49
12.0	4.24	32.0	4.45	52.0	4.47	72.0	4.48	92.0	4.49
12.5	4.27	32.5	4.45	52.5	4.47	72.5	4.48	92.5	4.49
13.0	4.30	33.0	4.45	53.0	4.47	73.0	4.48	93.0	4.49
13.5	4.32	33.5	4.45	53.5	4.47	73.5	4.48	93.5	4.49
14.0	4.34	34.0	4.45	54.0	4.47	74.0	4.48	94.0	4.49
14.5	4.36	34.5	4.45	54.5	4.47	74.5	4.48	94.5	4.49
15.0	4.38	35.0	4.45	55.0	4.47	75.0	4.48	95.0	4.49
15.5	4.39	35.5	4.45	55.5	4.47	75.5	4.48	95.5	4.49
16.0	4.40	36.0	4.45	56.0	4.47	76.0	4.48	96.0	4.49
16.5	4.40	36.5	4.45	56.5	4.47	76.5	4.48	96.5	4.49
17.0	4.41	37.0	4.45	57.0	4.47	77.0	4.48	97.0	4.49
17.5	4.41	37.5	4.46	57.5	4.47	77.5	4.48	97.5	4.49
18.0	4.42	38.0	4.46	58.0	4.47	78.0	4.48	98.0	4.49
18.5	4.42	38.5	4.46	58.5	4.47	78.5	4.48	98.5	4.49
19.0	4.42	39.0	4.46	59.0	4.47	79.0	4.48	99.0	4.49
19.5	4.43	39.5	4.46	59.5	4.48	79.5	4.48	99.5	4.49
20.0	4.43	40.0	4.46	60.0	4.48	80.0	4.48	100.0	4.49

Safe Harbor Explanations – Eligible Rollover Distributions

Notice 2018–74

I. PURPOSE

This notice modifies the two safe harbor explanations in Notice 2014–74, 2014–50 I.R.B. 937, that may be used to satisfy the requirement under § 402(f) of the Internal Revenue Code ("Code") that certain information be provided to recipients of eligible rollover distributions. The safe harbor explanations as modified by this notice take into consideration certain legislative changes and recent guidance, including changes related to qualified plan loan offsets (as defined in section 13613 of the Tax Cuts and Jobs Act of 2017 ("TCJA"), P.L. 115–97) and guidance issued on self-certification of eligibility for a waiver of the deadline for completing a rollover (described in Rev. Proc. 2016–47, 2016–37 I.R.B. 346), and include other clarifying changes.

To assist with the implementation of the modified safe harbor explanations, this notice contains two appendices. Appendix A contains two model safe harbor explanations: one for distributions that are not from a designated Roth account, and a second for distributions from a designated Roth account. Appendix B provides instructions on how to amend the safe harbor explanations contained in Notice 2014–74 to reflect the revisions included in the modified safe harbor explanations in Appendix A.

II. BACKGROUND

A. Section 402(f)

Section 402(f) requires the plan administrator of a plan qualified under § 401(a) to provide the written explanation described in § 402(f)(1) to any recipient of an eligible rollover distribution, as defined in § 402(c)(4). In addition, §§ 403(a)(4)(B) and 457(e)(16)(B) require the plan administrator of a § 403(a) plan, or an eligible § 457(b) plan maintained by a governmental employer described in § 457(e)(1)(A), to provide the written explanation to any recipient of an eligible rollover distribution. Further, § 403(b)(8)(B) requires a payor under a § 403(b) plan to provide the written explanation to any recipient of an eligible rollover distribution.

Section 1.402(f)–1, Q&A–1(a), provides that the plan administrator of a qualified plan is required, within a reasonable period of time before making an eligible rollover distribution, to provide the distributee with the written explanation described in § 402(f) ("§ 402(f) notice").

Notice 2014–74 contains two safe harbor explanations that reflect relevant law as of December 8, 2014: one safe harbor explanation is for payments not from a designated Roth account and the other safe harbor explanation is for payments from a designated Roth account. Notice 2014–74 provides that the safe harbor explanations may be used by plan administrators and payors to satisfy § 402(f) to the extent that the explanations accurately reflect current law.

B. Recent Statutory Changes Related to Qualified Plan Loan Offsets

Section 1.402(c)–2, Q&A–3(a), provides that, unless specifically excluded, an eligible rollover distribution means any distribution to an employee (or to a spousal distributee described in § 1.402(c)–2, Q&A–12(a)) of all or any portion of the balance to the credit of the employee in a qualified plan. Section 1.402(c)–2, Q&A–3(b), provides that certain distributions (for example, required minimum distributions under § 401(a)(9)) are not eligible rollover distributions.

Section 1.402(c)–2, Q&A–9(a), provides that a distribution of a plan loan offset amount (as defined in § 1.402(c)–2, Q&A–9(b)) is an eligible rollover distribution if it satisfies § 1.402(c)–2, Q&A–3. Thus, an amount up to the plan loan offset amount may be rolled over by the employee (or spousal distributee) to an eligible retirement plan within the 60-day period described in § 402(c)(3), unless the plan loan offset amount fails to be an eligible rollover distribution for another reason.

Section 1.402(c)–2, Q&A–9(b), provides that a distribution of a plan loan offset amount is a distribution that occurs when, under the plan terms governing a plan loan, the participant's accrued benefit is reduced (offset) in order to repay the loan. This can occur when, for example, the terms governing a plan loan require that, in the event of an employee's termination of employment or request for a distribution, the loan is to be repaid immediately or treated as in default. A plan loan offset can also occur when, under the terms of the plan loan, the loan is canceled, accelerated, or treated as if it were in default (for example, when the plan treats a loan as in default upon an employee's termination of employment or within a specified period thereafter). See also § 1.72(p)–1, Q&A–13(a)(2). Because a plan loan offset is an actual distribution for purposes of the Code, not a deemed distribution under § 72(p), a plan loan offset cannot occur prior to a distributable event. See generally § 1.72(p)–1, Q&A–13(b).

Section 13613 of the TCJA amended § 402(c)(3) of the Code to provide an extended rollover deadline for qualified plan loan offset amounts (as defined in § 402(c)(3)(C)(ii)). Any portion of a qualified plan loan offset amount (up to the entire qualified plan loan offset amount) may be rolled over into an eligible retirement plan by the individual's tax filing due date (including extensions) for the taxable year in which the offset occurs.

A qualified plan loan offset amount is defined in § 402(c)(3)(C)(ii) as a plan loan offset amount that is distributed from a qualified employer plan to a participant or beneficiary solely by reason of: (1) the termination of the qualified employer plan, or (2) the failure to meet the repayment terms of the loan from such plan because of the severance from employment of the participant. Additionally, under § 402(c)(3)(C)(iv), a qualified plan loan offset may occur only if the relevant plan loan meets the requirements of § 72(p)(2).

C. Other Recent Statutory Changes[1]

Section 100121 of the Moving Ahead for Progress in the 21st Century Act ("MAP-21"), P.L. 112–141, amended chapters 83 and 84 of title 5 of the United States Code ("U.S.C."), to permit certain federal retirees to participate in phased retirement. MAP-21 amended the Code to add § 72(t)(2)(A)(viii), which provides that if an employee participates in phased retirement, any payments made under a phased retirement annuity under § 8336a(a)(5) or 8412a(a)(5) of title 5 of the U.S.C., or a composite retirement annuity under § 8336a(a)(1) or 8412a(a)(1) of title 5 of the U.S.C., are excepted from the 10% additional tax under § 72(t).

Section 2 of the Defending Public Safety Employees' Retirement Act ("DPSERA"), P.L. 114–26, amended § 72(t)(10)(B) with respect to the exception to the 10% additional tax under § 72(t) on early distributions from a governmental retirement plan for qualified public safety employees who have reached age 50 by expanding the exception to include specified federal law enforcement officers, customs and border protection officers, federal firefighters, and air traffic controllers who have reached age 50, and eliminating the requirement that the distributions be from a defined benefit plan. Section 306 of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114–113, includes a list of federal governmental employees added to the definition of qualified public safety employee in § 72(t)(10)(B).

D. Other Extensions of 60-Day Rollover Deadline

Rev. Proc. 2016–47 provides guidance concerning waivers of the 60-day rollover deadline contained in §§ 402(c)(3) and 408(d)(3). Specifically, it provides for a self-certification procedure (subject to verification on audit) that may be used by a taxpayer claiming, in specified circumstances, eligibility for a waiver under § 402(c)(3)(B) or 408(d)(3)(I) with respect to a rollover into a qualified plan or individual retirement arrangement ("IRA"). A plan administrator or an IRA trustee generally may rely on a taxpayer's self-certification in determining whether a taxpayer has satisfied the conditions for a waiver of the 60-day rollover deadline.

Rev. Proc. 2007–56, 2007–2 C.B. 388, provides a list of time-sensitive acts, the performance of which may be postponed under §§ 7508 (relating to service in combat zones or contingency operations) and 7508A (relating to taxpayers affected by a federally declared disaster or a terroristic or military action). Rev. Proc. 2007–56 includes on the list of acts that may be postponed under §§ 7508 and 7508A the 60-day deadline for rolling over an eligible rollover distribution to an eligible retirement plan (which includes an IRA). Rev. Proc. 2007–56 does not, by itself, provide any postponements under § 7508A. Rather, for taxpayers to be entitled to a postponement under § 7508A of any act listed in the revenue procedure, the IRS must publish a notice or issue other guidance (including an IRS News Release) providing relief with respect to a federally declared disaster or a terroristic or military action. For example, News Release TX–2018–05, July 9, 2018, provides tax relief relating to severe storms and flooding in Texas.[2]

III. MODIFICATIONS TO THE SAFE HARBOR EXPLANATIONS

There are two updated safe harbor explanations appended to this notice (see Appendix A). The safe harbor explanations modify the safe harbor explanations in Notice 2014–74 to reflect certain legislative changes and guidance issued after December 8, 2014, including: (1) the extended rollover deadline for qualified plan loan offset amounts under TCJA, (2) the exception to the 10% additional tax under § 72(t) for phased retirement distributions to certain federal retirees under MAP-21, (3) the expanded exception to the 10% additional tax under § 72(t) for specified federal employees who have reached age 50 under DPSERA, and (4) the self-certification procedures under Rev. Proc. 2016–47 for claiming eligibility for a waiver of the deadline for making rollovers. The safe harbor explanations also include other clarifying modifications, such as modifications clarifying that the 10% additional tax under § 72(t) for early distributions applies only to amounts includable in income, explaining how the rollover rules apply to governmental § 457(b) plans that include designated Roth accounts, clarifying that the general exception to the 10% additional tax under § 72(t) for payments from a governmental plan made after a qualified public safety employee separates from service (if the employee will be at least age 50 in the year of the separation) is not available for payments from IRAs, and recognizing the possibility that taxpayers affected by federally declared disasters and other events may have an extended deadline for making rollovers. For instructions on how to amend the safe harbor explanations in Notice 2014–74 to reflect these modifications, see Appendix B. The updated safe harbor explanations provided in this notice may be used by plan administrators and payors to satisfy § 402(f). However, the updated safe harbor explanations will not satisfy § 402(f) to the extent the explanations are no longer accurate because of a change in the relevant law occurring after September 18, 2018.

The first safe harbor explanation reflects the rules relating to distributions not from a designated Roth account. Thus, the first safe harbor explanation should only be used for a distribution that is not from a designated Roth account. The second safe harbor explanation reflects the rules relating to distributions from a designated Roth account. Thus, the second safe harbor explanation should only be used for a distribution from a designated Roth ac-

[1]Although not requiring modifications to the safe harbor explanations, section 41104 of the Bipartisan Budget Act of 2018, P.L. 115–123, amended § 6343 of the Code to provide that certain retirement plan benefits distributed from a plan as a result of an improper levy may, when they are returned to an individual, be eligible to be rolled over into the plan or an IRA. These amounts may be rolled over by the tax filing due date (not including extensions) for the tax year during which the Internal Revenue Service ("IRS") returns the improperly levied funds to the individual. As amended, § 6343 provides that, when the IRS returns improperly levied funds, the Secretary of the Treasury will notify the individual that the returned amount may be eligible to be rolled over.

[2]For certain disasters, Congress has enacted legislation providing special rules for distributions made on account of the disaster. For information on rules applicable to distributions (and the ability to repay those distributions) made on account of Hurricane Harvey or Tropical Storm Harvey, Hurricane Irma, Hurricane Maria, the 2017 California wildfires, and certain 2016 disasters, see Publication 976, *Disaster Relief*. Distributions made on account of these disasters (assuming certain requirements are met) are not treated as eligible rollover distributions for purposes of § 402(f). See, for example, section 502(a)(6)(A) of the Disaster Tax Relief and Airport and Airway Extension Act of 2017, P.L. 115–63.

count. Both explanations should be provided to a participant if the participant is eligible to receive eligible rollover distributions both from a designated Roth account and from an account other than a designated Roth account.

The safe harbor explanation in this notice for distributions not from a designated Roth account meets the requirements of § 402(f) for an eligible rollover distribution that is not from a designated Roth account if provided to the recipient of the eligible rollover distribution within a reasonable period of time before the distribution is made. Similarly, the safe harbor explanation in this notice for distributions from a designated Roth account meets the requirements of § 402(f) for an eligible rollover distribution from a designated Roth account if provided to the recipient of the eligible rollover distribution within a reasonable period of time before the distribution is made.

Section 1.402(f)–1, Q&A–2, provides, in general, that a reasonable period of time for providing an explanation is no less than 30 days (subject to waiver) and no more than 90 days before the date on which the distribution is made. However, § 1.402(f)–1, Q&A–2(a), of the Proposed Income Tax Regulations, pursuant to section 1102(a)(1)(B) of the Pension Protection Act of 2006, P.L. 109–280, provides that a notice required to be provided under § 402(f) may be provided to a participant as much as 180 days before the date on which the distribution is made (or the annuity starting date). These proposed regulations further provide that, with respect to the extended period for notices, plans may rely on the proposed regulations for notices provided during the period beginning on the first day of the first plan year beginning on or after January 1, 2007 and ending on the effective date of final regulations. Thus, the § 402(f) notice may be provided as much as 180 days before the date on which the distribution is made (or the annuity starting date).

A plan administrator or payor may customize a safe harbor explanation by omitting any information that does not apply to the plan. For example, if the plan does not hold after-tax employee contributions, it would be appropriate to eliminate the section "If your payment includes after-tax contributions" in the explanation for payments not from a designated Roth account. Similarly, if the plan does not provide for distributions of employer stock or other employer securities, it would be appropriate to eliminate the section "If your payment includes employer stock that you do not roll over." Other information that may not be relevant to a particular plan includes, for example, the sections "If your payment is from a governmental section 457(b) plan" and "If you are an eligible retired public safety officer and your payment is used to pay for health coverage or qualified long-term care insurance." In addition, the plan administrator or payor may provide additional information with a safe harbor explanation if the information is not inconsistent with § 402(f).

Alternatively, a plan administrator or payor may satisfy § 402(f) by providing an explanation that is different from a safe harbor explanation. Any explanation must contain the information required by § 402(f) and must be written in a manner designed to be easily understood.

IV. EFFECT ON OTHER DOCUMENTS

Notice 2014–74 is modified.

DRAFTING INFORMATION

The principal author of this notice is Naomi Lehr of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this notice, contact Ms. Lehr at (202) 317-4102 (not a toll-free number).

* * *

Appendix A

For Payments Not From a
Designated Roth Account

YOUR ROLLOVER OPTIONS

You are receiving this notice because all or a portion of a payment you are receiving from the [INSERT NAME OF PLAN] (the "Plan") is eligible to be rolled over to an IRA or an employer plan. This notice is intended to help you decide whether to do such a rollover.

This notice describes the rollover rules that apply to payments from the Plan that are *not* from a designated Roth account (a type of account with special tax rules in some employer plans). If you also receive a payment from a designated Roth account in the Plan, you will be provided a different notice for that payment, and the Plan administrator or the payor will tell you the amount that is being paid from each account.

Rules that apply to most payments from a plan are described in the "General Information About Rollovers" section. Special rules that only apply in certain circumstances are described in the "Special Rules and Options" section.

GENERAL INFORMATION ABOUT ROLLOVERS

How can a rollover affect my taxes?

You will be taxed on a payment from the Plan if you do not roll it over. If you are under age 59½ and do not do a rollover, you will also have to pay a 10% additional income tax on early distributions (generally, distributions made before age 59½), unless an exception applies. However, if you do a rollover, you will not have to pay tax until you receive payments later and the 10% additional income tax will not apply if those payments are made after you are age 59½ (or if an exception applies).

What types of retirement accounts and plans may accept my rollover?

You may roll over the payment to either an IRA (an individual retirement account or individual retirement annuity) or an employer plan (a tax-qualified plan, section 403(b) plan, or governmental section 457(b) plan) that will accept the rollover. The rules of the IRA or employer plan that holds the rollover will determine your investment options, fees, and rights to payment from the IRA or employer plan (for example, no spousal consent rules apply to IRAs and IRAs may not provide loans). Further, the amount rolled over will become subject to the tax rules that apply to the IRA or employer plan.

How do I do a rollover?

There are two ways to do a rollover. You can do either a direct rollover or a 60-day rollover.

If you do a direct rollover, the Plan will make the payment directly to your IRA or an employer plan. You should contact the IRA sponsor or the administrator of the employer plan for information on how to do a direct rollover.

If you do not do a direct rollover, you may still do a rollover by making a deposit into an IRA or eligible employer plan that will accept it. Generally, you will have 60 days after you receive the payment to make the deposit. If you do not do a direct rollover, the Plan is required to withhold 20% of the payment for federal income taxes (up to the amount of cash and property received other than employer stock). This means that, in order to roll over the entire payment in a 60-day rollover, you must use other funds to make up for the 20% withheld. If you do not roll over the entire amount of the payment, the portion not rolled over will be taxed and will be subject to the 10% additional income tax on early distributions if you are under age 59½ (unless an exception applies).

How much may I roll over?

If you wish to do a rollover, you may roll over all or part of the amount eligible for rollover. Any payment from the Plan is eligible for rollover, except:

- Certain payments spread over a period of at least 10 years or over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary);
- Required minimum distributions after age 70½ (or after death);
- Hardship distributions;
- ESOP dividends;
- Corrective distributions of contributions that exceed tax law limitations;
- Loans treated as deemed distributions (for example, loans in default due to missed payments before your employment ends);
- Cost of life insurance paid by the Plan;
- Payments of certain automatic enrollment contributions requested to be withdrawn within 90 days of the first contribution; and
- Amounts treated as distributed because of a prohibited allocation of S corporation stock under an ESOP (also, there will generally be adverse tax consequences if you roll over a distribution of S corporation stock to an IRA).

The Plan administrator or the payor can tell you what portion of a payment is eligible for rollover.

If I don't do a rollover, will I have to pay the 10% additional income tax on early distributions?

If you are under age 59½, you will have to pay the 10% additional income tax on early distributions for any payment from the Plan (including amounts withheld for income tax) that you do not roll over, unless one of the exceptions listed below applies. This tax applies to the part of the distribution that you must include in income and is in addition to the regular income tax on the payment not rolled over.

The 10% additional income tax does not apply to the following payments from the Plan:

- Payments made after you separate from service if you will be at least age 55 in the year of the separation;
- Payments that start after you separate from service if paid at least annually in equal or close to equal amounts over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary);
- Payments from a governmental plan made after you separate from service if you are a qualified public safety employee and you will be at least age 50 in the year of the separation;
- Payments made due to disability;
- Payments after your death;
- Payments of ESOP dividends;
- Corrective distributions of contributions that exceed tax law limitations;
- Cost of life insurance paid by the Plan;
- Payments made directly to the government to satisfy a federal tax levy;
- Payments made under a qualified domestic relations order (QDRO);

- Payments up to the amount of your deductible medical expenses (without regard to whether you itemize deductions for the taxable year);
- Certain payments made while you are on active duty if you were a member of a reserve component called to duty after September 11, 2001 for more than 179 days;
- Payments of certain automatic enrollment contributions requested to be withdrawn within 90 days of the first contribution;
- Payments for certain distributions relating to certain federally declared disasters; and
- Phased retirement payments made to federal employees.

If I do a rollover to an IRA, will the 10% additional income tax apply to early distributions from the IRA?

If you receive a payment from an IRA when you are under age 59½, you will have to pay the 10% additional income tax on early distributions on the part of the distribution that you must include in income, unless an exception applies. In general, the exceptions to the 10% additional income tax for early distributions from an IRA are the same as the exceptions listed above for early distributions from a plan. However, there are a few differences for payments from an IRA, including:

- The exception for payments made after you separate from service if you will be at least age 55 in the year of the separation (or age 50 for qualified public safety employees) does not apply.
- The exception for qualified domestic relations orders (QDROs) does not apply (although a special rule applies under which, as part of a divorce or separation agreement, a tax-free transfer may be made directly to an IRA of a spouse or former spouse).
- The exception for payments made at least annually in equal or close to equal amounts over a specified period applies without regard to whether you have had a separation from service.
- There are additional exceptions for (1) payments for qualified higher education expenses, (2) payments up to $10,000 used in a qualified first-time home purchase, and (3) payments for health insurance premiums after you have received unemployment compensation for 12 consecutive weeks (or would have been eligible to receive unemployment compensation but for self-employed status).

Will I owe State income taxes?

This notice does not describe any State or local income tax rules (including withholding rules).

SPECIAL RULES AND OPTIONS

If your payment includes after-tax contributions

After-tax contributions included in a payment are not taxed. If a payment is only part of your benefit, an allocable portion of your after-tax contributions is included in the payment, so you cannot take a payment of only after-tax contributions. However, if you have pre-1987 after-tax contributions maintained in a separate account, a special rule may apply to determine whether the after-tax contributions are included in a payment. In addition, special rules apply when you do a rollover, as described below.

You may roll over to an IRA a payment that includes after-tax contributions through either a direct rollover or a 60-day rollover. You must keep track of the aggregate amount of the after-tax contributions in all of your IRAs (in order to determine your taxable income for later payments from the IRAs). If you do a direct rollover of only a portion of the amount paid from the Plan and at the same time the rest is paid to you, the portion directly rolled over consists first of the amount that would be taxable if not rolled over. For example, assume you are receiving a distribution of $12,000, of which $2,000 is after-tax contributions. In this case, if you directly roll over $10,000 to an IRA that is not a Roth IRA, no amount is taxable because the $2,000 amount not directly rolled over is treated as being after-tax contributions. If you do a direct rollover of the entire amount paid from the Plan to two or more destinations at the same time, you can choose which destination receives the after-tax contributions.

If you do a 60-day rollover to an IRA of only a portion of a payment made to you, the after-tax contributions are treated as rolled over last. For example, assume you are receiving a distribution of $12,000, of which $2,000 is after-tax contributions, and no part of the distribution is directly rolled over. In this case, if you roll over $10,000 to an IRA that is not a Roth IRA in a 60-day rollover, no amount is taxable because the $2,000 amount not rolled over is treated as being after-tax contributions.

You may roll over to an employer plan all of a payment that includes after-tax contributions, but only through a direct rollover (and only if the receiving plan separately accounts for after-tax contributions and is not a governmental section 457(b) plan). You can do a 60-day rollover to an employer plan of part of a payment that includes after-tax contributions, but only up to the amount of the payment that would be taxable if not rolled over.

If you miss the 60-day rollover deadline

Generally, the 60-day rollover deadline cannot be extended. However, the IRS has the limited authority to waive the deadline under certain extraordinary circumstances, such as when external events prevented you from completing the rollover by the 60-day rollover deadline. Under certain circumstances, you may claim eligibility for a waiver of the 60-day rollover deadline by making a written self-certification. Otherwise, to apply for a waiver from the IRS, you must file a private letter ruling request with the IRS. Private letter ruling requests require the payment of a nonrefundable user fee. For more information, see IRS Publication 590–A, *Contributions to Individual Retirement Arrangements (IRAs)*.

If your payment includes employer stock that you do not roll over

If you do not do a rollover, you can apply a special rule to payments of employer stock (or other employer securities) that are either attributable to after-tax contributions or paid in a lump sum after separation from service (or after age 59½, disability, or the participant's death). Under the special rule, the net unrealized appreciation on the stock will not be taxed when distributed from the Plan and will be taxed at capital gain rates when you sell the stock. Net unrealized appreciation is generally the increase in the value of employer stock after it was acquired by the Plan. If you do a rollover for a payment that includes employer stock (for example, by selling the stock and rolling over the proceeds within 60 days of the payment), the special rule relating to the distributed employer stock will not apply to any subsequent payments from the IRA or employer plan. The Plan administrator can tell you the amount of any net unrealized appreciation.

If you have an outstanding loan that is being offset

If you have an outstanding loan from the Plan, your Plan benefit may be offset by the outstanding amount of the loan, typically when your employment ends. The offset amount is treated as a distribution to you at the time of the offset. Generally, you may roll over all or any portion of the offset amount. Any offset amount that is not rolled over will be taxed (including the 10% additional income tax on early distributions, unless an exception applies). You may roll over offset amounts to an IRA or an employer plan (if the terms of the employer plan permit the plan to receive plan loan offset rollovers).

How long you have to complete the rollover depends on what kind of plan loan offset you have. If you have a qualified plan loan offset, you will have until your tax return due date (including extensions) for the tax year during which the offset occurs to complete your rollover. A qualified plan loan offset occurs when a plan loan in good standing is offset because your employer plan terminates, or because you sever from employment. If your plan loan offset occurs for any other reason, then you have 60 days from the date the offset occurs to complete your rollover.

If you were born on or before January 1, 1936

If you were born on or before January 1, 1936 and receive a lump sum distribution that you do not roll over, special rules for calculating the amount of the tax on the payment might apply to you. For more information, see IRS Publication 575, *Pension and Annuity Income*.

If your payment is from a governmental section 457(b) plan

If the Plan is a governmental section 457(b) plan, the same rules described elsewhere in this notice generally apply, allowing you to roll over the payment to an IRA or an employer plan that accepts rollovers. One difference is that, if you do not do a rollover, you will not have to pay the 10% additional income tax on early distributions from the Plan even if you are under age 59½ (unless the payment is from a separate account holding rollover contributions that were made to the Plan from a tax-qualified plan, a section 403(b) plan, or an IRA). However, if you do a rollover to an IRA or to an employer plan that is not a governmental section 457(b) plan, a later distribution made before age 59½ will be subject to the 10% additional income tax on early distributions (unless an exception applies). Other differences include that you cannot do a rollover if the payment is due to an "unforeseeable emergency" and the special rules under "If your payment includes employer stock that you do not roll over" and "If you were born on or before January 1, 1936" do not apply.

If you are an eligible retired public safety officer and your payment is used to pay for health coverage or qualified long-term care insurance

If the Plan is a governmental plan, you retired as a public safety officer, and your retirement was by reason of disability or was after normal retirement age, you can exclude from your taxable income Plan payments paid directly as premiums to an accident or health plan (or a qualified long-term care insurance contract) that your employer maintains for you, your spouse, or your dependents, up to a maximum of $3,000 annually. For this purpose, a public safety officer is a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew.

If you roll over your payment to a Roth IRA

If you roll over a payment from the Plan to a Roth IRA, a special rule applies under which the amount of the payment rolled over (reduced by any after-tax amounts) will be taxed. However, the 10% additional income tax on early distributions will not apply (unless you take the amount rolled over out of the Roth IRA within 5 years, counting from January 1 of the year of the rollover).

If you roll over the payment to a Roth IRA, later payments from the Roth IRA that are qualified distributions will not be taxed (including earnings after the rollover). A qualified distribution from a Roth IRA is a payment made after you are age 59½ (or after your death or disability, or as a qualified first-time homebuyer distribution of up to $10,000) and after you have had a Roth IRA for at least 5 years. In applying this 5-year rule, you count from January 1 of the year for which your first contribution was made to a Roth IRA. Payments from the Roth IRA that are not qualified distributions will be taxed to the extent of earnings after the rollover, including the 10% additional income tax on early distributions (unless an exception applies). You do not have to take required minimum distributions from a Roth IRA during your lifetime. For more information, see IRS Publication 590–A, *Contributions to Individual Retirement Arrangements (IRAs)*, and IRS Publication 590–B, *Distributions from Individual Retirement Arrangements (IRAs).*

If you do a rollover to a designated Roth account in the Plan

You cannot roll over a distribution to a designated Roth account in another employer's plan. However, you can roll the distribution over into a designated Roth account in the distributing Plan. If you roll over a payment from the Plan to a designated Roth account in the Plan, the amount of the payment rolled over (reduced by any after-tax amounts directly rolled over) will be taxed. However, the 10% additional tax on early distributions will not apply (unless you take the amount rolled over out of the designated Roth account within the 5-year period that begins on January 1 of the year of the rollover).

If you roll over the payment to a designated Roth account in the Plan, later payments from the designated Roth account that are qualified distributions will not be taxed (including earnings after the rollover). A qualified distribution from a designated Roth account is a payment made both after you are age 59½ (or after your death or disability) and after you have had a designated Roth account in the Plan for at least 5 years. In applying this 5-year rule, you count from January 1 of the year your first contribution was made to the designated Roth account. However, if you made a direct rollover to a designated Roth account in the Plan from a designated Roth account in a plan of another employer, the 5-year period begins on January 1 of the year you made the first contribution to the designated Roth account in the Plan or, if earlier, to the designated Roth account in the plan of the other employer. Payments from the designated Roth account that are not qualified distributions will be taxed to the extent of earnings after the rollover, including the 10% additional income tax on early distributions (unless an exception applies).

If you are not a Plan participant

Payments after death of the participant. If you receive a distribution after the participant's death that you do not roll over, the distribution will generally be taxed in the same manner described elsewhere in this notice. However, the 10% additional income tax on early distributions and the special rules for public safety officers do not apply, and the special rule described under the section "If you were born on or before January 1, 1936" applies only if the participant was born on or before January 1, 1936.

If you are a surviving spouse. If you receive a payment from the Plan as the surviving spouse of a deceased participant, you have the same rollover options that the participant would have had, as described elsewhere in this notice. In addition, if you choose to do a rollover to an IRA, you may treat the IRA as your own or as an inherited IRA.

An IRA you treat as your own is treated like any other IRA of yours, so that payments made to you before you are age 59½ will be subject to the 10% additional income tax on early distributions (unless an exception applies) and required minimum distributions from your IRA do not have to start until after you are age 70½.

If you treat the IRA as an inherited IRA, payments from the IRA will not be subject to the 10% additional income tax on early distributions. However, if the participant had started taking required minimum distributions, you will have to receive required minimum distributions from the inherited IRA. If the participant had not started taking required minimum distributions from the Plan, you will not have to start receiving required minimum distributions from the inherited IRA until the year the participant would have been age 70½.

If you are a surviving beneficiary other than a spouse. If you receive a payment from the Plan because of the participant's death and you are a designated beneficiary other than a surviving spouse, the only rollover option you have is to do a direct rollover to an inherited IRA. Payments from the inherited IRA will not be subject to the 10% additional income tax on early distributions. You will have to receive required minimum distributions from the inherited IRA.

Payments under a qualified domestic relations order. If you are the spouse or former spouse of the participant who receives a payment from the Plan under a qualified domestic relations order (QDRO), you generally have the same options and the same tax treatment that the participant would have (for example, you may roll over the payment to your own IRA or an eligible employer plan that will accept it). However, payments under the QDRO will not be subject to the 10% additional income tax on early distributions.

If you are a nonresident alien

If you are a nonresident alien and you do not do a direct rollover to a U.S. IRA or U.S. employer plan, instead of withholding 20%, the Plan is generally required to withhold 30% of the payment for federal income taxes. If the amount withheld exceeds the amount of tax you owe (as may happen if you do a 60-day rollover), you may request an income tax refund by filing Form 1040NR and attaching your Form 1042–S. See Form W–8BEN for claiming that you are entitled to a reduced rate of withholding under an income tax treaty. For more information, see also IRS Publication 519, *U.S. Tax Guide for Aliens*, and IRS Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*.

Other special rules

If a payment is one in a series of payments for less than 10 years, your choice whether to make a direct rollover will apply to all later payments in the series (unless you make a different choice for later payments).

If your payments for the year are less than $200 (not including payments from a designated Roth account in the Plan), the Plan is not required to allow you to do a direct rollover and is not required to withhold federal income taxes. However, you may do a 60-day rollover.

Unless you elect otherwise, a mandatory cashout of more than $1,000 (not including payments from a designated Roth account in the Plan) will be directly rolled over to an IRA chosen by the Plan administrator or the payor. A mandatory cashout is a payment from a plan to a participant made before age 62 (or normal retirement age, if later) and without consent, where the participant's benefit does not exceed $5,000 (not including any amounts held under the plan as a result of a prior rollover made to the plan).

You may have special rollover rights if you recently served in the U.S. Armed Forces. For more information on special rollover rights related to the U.S. Armed Forces, see IRS Publication 3, *Armed Forces' Tax Guide*. You also may have special rollover rights if you were affected by a federally declared disaster (or similar event), or if you received a distribution on account of a disaster. For more information on special rollover rights related to disaster relief, see the IRS website at *www.irs.gov*.

FOR MORE INFORMATION

You may wish to consult with the Plan administrator or payor, or a professional tax advisor, before taking a payment from the Plan. Also, you can find more detailed information on the federal tax treatment of payments from employer plans in: IRS Publication 575, *Pension and Annuity Income*; IRS Publication 590–A, *Contributions to Individual Retirement Arrangements (IRAs)*; IRS Publication 590–B, *Distributions from Individual Retirement Arrangements (IRAs)*; and IRS Publication 571, *Tax-Sheltered Annuity Plans (403(b) Plans)*. These publications are available from a local IRS office, on the web at *www.irs.gov*, or by calling 1-800-TAX-FORM.

For Payments From a
Designated Roth Account

YOUR ROLLOVER OPTIONS

You are receiving this notice because all or a portion of a payment you are receiving from the [INSERT NAME OF PLAN] (the "Plan") is eligible to be rolled over to a Roth IRA or designated Roth account in an employer plan. This notice is intended to help you decide whether to do a rollover.

This notice describes the rollover rules that apply to payments from the Plan that are from a designated Roth account. If you also receive a payment from the Plan that is not from a designated Roth account, you will be provided a different notice for that payment, and the Plan administrator or the payor will tell you the amount that is being paid from each account.

Rules that apply to most payments from a designated Roth account are described in the "General Information About Rollovers" section. Special rules that only apply in certain circumstances are described in the "Special Rules and Options" section.

GENERAL INFORMATION ABOUT ROLLOVERS

How can a rollover affect my taxes?

After-tax contributions included in a payment from a designated Roth account are not taxed, but earnings might be taxed. The tax treatment of earnings included in the payment depends on whether the payment is a qualified distribution. If a payment is only part of your designated Roth account, the payment will include an allocable portion of the earnings in your designated Roth account.

If the payment from the Plan is not a qualified distribution and you do not do a rollover to a Roth IRA or a designated Roth account in an employer plan, you will be taxed on the earnings in the payment. If you are under age 59½, a 10% additional income tax on early distributions (generally, distributions made before age 59½) will also apply to the earnings (unless an exception applies).

However, if you do a rollover, you will not have to pay taxes currently on the earnings and you will not have to pay taxes later on payments that are qualified distributions.

If the payment from the Plan is a qualified distribution, you will not be taxed on any part of the payment even if you do not do a rollover. If you do a rollover, you will not be taxed on the amount you roll over and any earnings on the amount you roll over will not be taxed if paid later in a qualified distribution.

A qualified distribution from a designated Roth account in the Plan is a payment made after you are age 59½ (or after your death or disability) and after you have had a designated Roth account in the Plan for at least 5 years. In applying the 5-year rule, you count from January 1 of the year your first contribution was made to the designated Roth account. However, if you did a direct rollover to a designated Roth account in the Plan from a designated Roth account in another employer plan, your participation will count from January 1 of the year your first contribution was made to the designated Roth account in the Plan or, if earlier, to the designated Roth account in the other employer plan.

What types of retirement accounts and plans may accept my rollover?

You may roll over the payment to either a Roth IRA (a Roth individual retirement account or Roth individual retirement annuity) or a designated Roth account in an employer plan (a tax-qualified plan, section 403(b) plan, or governmental section 457 plan) that will accept the rollover. The rules of the Roth IRA or employer plan that holds the rollover will determine your investment options, fees, and rights to payment from the Roth IRA or employer plan (for example, no spousal consent rules apply to Roth IRAs and Roth IRAs may not provide loans). Further, the amount rolled over will become subject to the tax rules that apply to the Roth IRA or the designated Roth account in the employer plan. In general, these tax rules are similar to those described elsewhere in this notice, but differences include:

- If you do a rollover to a Roth IRA, all of your Roth IRAs will be considered for purposes of determining whether you have satisfied the 5-year rule (counting from January 1 of the year for which your first contribution was made to any of your Roth IRAs).
- If you do a rollover to a Roth IRA, you will not be required to take a distribution from the Roth IRA during your lifetime and you must keep track of the aggregate amount of the after-tax contributions in all of your Roth IRAs (in order to determine your taxable income for later Roth IRA payments that are not qualified distributions).
- Eligible rollover distributions from a Roth IRA can only be rolled over to another Roth IRA.

How do I do a rollover?

There are two ways to do a rollover. You can either do a direct rollover or a 60-day rollover.

If you do a direct rollover, the Plan will make the payment directly to your Roth IRA or designated Roth account in an employer plan. You should contact the Roth IRA sponsor or the administrator of the employer plan for information on how to do a direct rollover.

If you do not do a direct rollover, you may still do a rollover by making a deposit (generally within 60 days) into a Roth IRA, whether the payment is a qualified or nonqualified distribution. In addition, you can do a rollover by making a deposit within 60 days into a designated Roth account in an employer plan if the payment is a nonqualified distribution and the rollover does not exceed the amount of the earnings in the payment. You cannot do a 60-day rollover to an employer plan of any part of a qualified distribution. If you receive a distribution that is a nonqualified distribution and you do not roll over an amount at least equal to the earnings allocable to the distribution, you will be taxed on the amount of those earnings not rolled over, including the 10% additional income tax on early distributions if you are under age 59½ (unless an exception applies).

If you do a direct rollover of only a portion of the amount paid from the Plan and a portion is paid to you at the same time, the portion directly rolled over consists first of earnings.

If you do not do a direct rollover and the payment is not a qualified distribution, the Plan is required to withhold 20% of the earnings for federal income taxes (up to the amount of cash and property received other than employer stock). This means that, in order to roll over the entire payment in a 60-day rollover to a Roth IRA, you must use other funds to make up for the 20% withheld.

How much may I roll over?

If you wish to do a rollover, you may roll over all or part of the amount eligible for rollover. Any payment from the Plan is eligible for rollover, except:

- Certain payments spread over a period of at least 10 years or over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary);
- Required minimum distributions after age 70½ (or after death);
- Hardship distributions;
- ESOP dividends;

- Corrective distributions of contributions that exceed tax law limitations;
- Loans treated as deemed distributions (for example, loans in default due to missed payments before your employment ends);
- Cost of life insurance paid by the Plan;
- Payments of certain automatic enrollment contributions requested to be withdrawn within 90 days of the first contribution; and
- Amounts treated as distributed because of a prohibited allocation of S corporation stock under an ESOP (also, there will generally be adverse tax consequences if S corporation stock is held by an IRA).

The Plan administrator or the payor can tell you what portion of a payment is eligible for rollover.

If I don't do a rollover, will I have to pay the 10% additional income tax on early distributions?

If a payment is not a qualified distribution and you are under age 59½, you will have to pay the 10% additional income tax on early distributions with respect to the earnings allocated to the payment that you do not roll over (including amounts withheld for income tax), unless one of the exceptions listed below applies. This tax is in addition to the regular income tax on the earnings not rolled over.

The 10% additional income tax does not apply to the following payments from the Plan:

- Payments made after you separate from service if you will be at least age 55 in the year of the separation;
- Payments that start after you separate from service if paid at least annually in equal or close to equal amounts over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary);
- Payments from a governmental plan made after you separate from service if you are a qualified public safety employee and you will be at least age 50 in the year of the separation;
- Payments made due to disability;
- Payments after your death;
- Payments of ESOP dividends;
- Corrective distributions of contributions that exceed tax law limitations;
- Cost of life insurance paid by the Plan;
- Payments made directly to the government to satisfy a federal tax levy;
- Payments made under a qualified domestic relations order (QDRO);
- Payments up to the amount of your deductible medical expenses (without regard to whether you itemize deductions for the taxable year);
- Certain payments made while you are on active duty if you were a member of a reserve component called to duty after September 11, 2001 for more than 179 days;
- Payments of certain automatic enrollment contributions requested to be withdrawn within 90 days of the first contribution; and
- Payments for certain distributions relating to certain federally declared disasters.

If I do a rollover to a Roth IRA, will the 10% additional income tax apply to early distributions from the IRA?

If you receive a payment from a Roth IRA when you are under age 59½, you will have to pay the 10% additional income tax on early distributions on the earnings paid from the Roth IRA, unless an exception applies or the payment is a qualified distribution. In general, the exceptions to the 10% additional income tax for early distributions from a Roth IRA listed above are the same as the exceptions for early distributions from a plan. However, there are a few differences for payments from a Roth IRA, including:

- The exception for payments made after you separate from service if you will be at least age 55 in the year of the separation (or age 50 for qualified public safety employees) does not apply.
- The exception for qualified domestic relations orders (QDROs) does not apply (although a special rule applies under which, as part of a divorce or separation agreement, a tax-free transfer may be made directly to a Roth IRA of a spouse or former spouse).
- The exception for payments made at least annually in equal or close to equal amounts over a specified period applies without regard to whether you have had a separation from service.
- There are additional exceptions for (1) payments for qualified higher education expenses, (2) payments up to $10,000 used in a qualified first-time home purchase, and (3) payments for health insurance premiums after you have received unemployment compensation for 12 consecutive weeks (or would have been eligible to receive unemployment compensation but for self-employed status).

Will I owe State income taxes?

This notice does not describe any State or local income tax rules (including withholding rules).

SPECIAL RULES AND OPTIONS

If you miss the 60-day rollover deadline

Generally, the 60-day rollover deadline cannot be extended. However, the IRS has the limited authority to waive the deadline under certain extraordinary circumstances, such as when external events prevented you from completing the rollover by the 60-day rollover deadline. Under certain circumstances, you may claim eligibility for a waiver of the 60-day rollover deadline by making a written self-certification. Otherwise, to apply for a waiver from the IRS, you must file a private letter ruling request with the IRS. Private letter ruling requests require the payment of a nonrefundable user fee. For more information, see IRS Publication 590–A, *Contributions to Individual Retirement Arrangements (IRAs).*

If your payment includes employer stock that you do not roll over

If you receive a payment that is not a qualified distribution and you do not roll it over, you can apply a special rule to payments of employer stock (or other employer securities) that are paid in a lump sum after separation from service (or after age 59½, disability, or the participant's death). Under the special rule, the net unrealized appreciation on the stock included in the earnings in the payment will not be taxed when distributed to you from the Plan and will be taxed at capital gain rates when you sell the stock. If you do a rollover to a Roth IRA for a nonqualified distribution that includes employer stock (for example, by selling the stock and rolling over the proceeds within 60 days of the distribution), you will not have any taxable income and the special rule relating to the distributed employer stock will not apply to any subsequent payments from the Roth IRA or employer plan. Net unrealized appreciation is generally the increase in the value of the employer stock after it was acquired by the Plan. The Plan administrator can tell you the amount of any net unrealized appreciation.

If you receive a payment that is a qualified distribution that includes employer stock and you do not roll it over, your basis in the stock (used to determine gain or loss when you later sell the stock) will equal the fair market value of the stock at the time of the payment from the Plan.

If you have an outstanding loan that is being offset

If you have an outstanding loan from the Plan, your Plan benefit may be offset by the outstanding amount of the loan, typically when your employment ends. The offset amount is treated as a distribution to you at the time of the offset. Generally, you may roll over all or any portion of the offset amount. If the distribution attributable to the offset is not a qualified distribution and you do not roll over the offset amount, you will be taxed on any earnings included in the distribution (including the 10% additional income tax on early distributions, unless an exception applies). You may roll over the earnings included in the loan offset to a Roth IRA or designated Roth account in an employer plan (if the terms of the employer plan permit the plan to receive plan loan offset rollovers). You may also roll over the full amount of the offset to a Roth IRA.

How long you have to complete the rollover depends on what kind of plan loan offset you have. If you have a qualified plan loan offset, you will have until your tax return due date (including extensions) for the tax year during which the offset occurs to complete your rollover. A qualified plan loan offset occurs when a plan loan in good standing is offset because your employer plan terminates, or because you sever from employment. If your plan loan offset occurs for any other reason, then you have 60 days from the date the offset occurs to complete your rollover.

If you receive a nonqualified distribution and you were born on or before January 1, 1936

If you were born on or before January 1, 1936, and receive a lump sum distribution that is not a qualified distribution and that you do not roll over, special rules for calculating the amount of the tax on the earnings in the payment might apply to you. For more information, see IRS Publication 575, *Pension and Annuity Income*.

If your payment is from a governmental section 457(b) plan

If the Plan is a governmental section 457(b) plan, the same rules described elsewhere in this notice generally apply, allowing you to roll over the payment to an IRA or an employer plan that accepts rollovers. One difference is that, if you receive a payment that is not a qualified distribution and you do not roll it over, you will not have to pay the 10% additional income tax on early distributions with respect to the earnings allocated to the payment that you do not roll over, even if you are under age 59½ (unless the payment is from a separate account holding rollover contributions that were made to the Plan from a tax-qualified plan, a section 403(b) plan, or an IRA). However, if you do a rollover to an IRA or to an employer plan that is not a governmental section 457(b) plan, a later distribution that is not a qualified distribution made before age 59½ will be subject to the 10% additional income tax on earnings allocated to the payment (unless an exception applies). Other differences include that you cannot do a rollover if the payment is due to an "unforeseeable emergency" and the special rules under "If your payment includes employer stock that you do not roll over" and "If you were born on or before January 1, 1936" do not apply.

If you receive a nonqualified distribution, are an eligible retired public safety officer, and your payment is used to pay for health coverage or qualified long-term care insurance

If the Plan is a governmental plan, you retired as a public safety officer, and your retirement was by reason of disability or was after normal retirement age, you can exclude from your taxable income nonqualified distributions paid directly as premiums to an accident or health plan (or a qualified long-term care insurance contract) that your employer maintains for you, your spouse, or your dependents, up to a maximum of $3,000 annually. For this purpose, a public safety officer is a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew.

If you are not a Plan participant

Payments after death of the participant. If you receive a distribution after the participant's death that you do not roll over, the distribution will generally be taxed in the same manner described elsewhere in this notice. However, whether the payment is a qualified distribution generally depends on when the participant first made a contribution to the designated Roth account in the Plan. Also, the 10% additional income tax on early distributions and the special rules for public safety officers do not apply, and the special rule described under the section "If you receive a nonqualified distribution and you were born on or before January 1, 1936" applies only if the participant was born on or before January 1, 1936.

If you are a surviving spouse. If you receive a payment from the Plan as the surviving spouse of a deceased participant, you have the same rollover options that the participant would have had, as described elsewhere in this notice. In addition, if you choose to do a rollover to a Roth IRA, you may treat the Roth IRA as your own or as an inherited Roth IRA.

A Roth IRA you treat as your own is treated like any other Roth IRA of yours, so that you will not have to receive any required minimum distributions during your lifetime and earnings paid to you in a nonqualified distribution before you are age 59½ will be subject to the 10% additional income tax on early distributions (unless an exception applies).

If you treat the Roth IRA as an inherited Roth IRA, payments from the Roth IRA will not be subject to the 10% additional income tax on early distributions. An inherited Roth IRA is subject to required minimum distributions. If the participant had started taking required minimum distributions from the Plan, you will have to receive required minimum distributions from the inherited Roth IRA. If the participant had not started taking required minimum distributions, you will not have to start receiving required minimum distributions from the inherited Roth IRA until the year the participant would have been age 70½.

If you are a surviving beneficiary other than a spouse. If you receive a payment from the Plan because of the participant's death and you are a designated beneficiary other than a surviving spouse, the only rollover option you have is to do a direct rollover to an inherited Roth IRA. Payments from the inherited Roth IRA, even if made in a nonqualified distribution, will not be subject to the 10% additional income tax on early distributions. You will have to receive required minimum distributions from the inherited Roth IRA.

Payments under a qualified domestic relations order. If you are the spouse or a former spouse of the participant who receives a payment from the Plan under a qualified domestic relations order (QDRO), you generally have the same options and the same tax treatment that the participant would have (for example, you may roll over the payment as described in this notice).

If you are a nonresident alien

If you are a nonresident alien and you do not do a direct rollover to a U.S. IRA or U.S. employer plan, instead of withholding 20%, the Plan is generally required to withhold 30% of the payment for federal income taxes. If the amount withheld exceeds the amount of tax you owe (as may happen if you do a 60-day rollover), you may request an income tax refund by filing Form 1040NR and attaching your Form 1042–S. See Form W–8BEN for claiming that you are entitled to a reduced rate of withholding under an income tax treaty. For more information, see also IRS Publication 519, *U.S. Tax Guide for Aliens*, and IRS Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*.

Other special rules

If a payment is one in a series of payments for less than 10 years, your choice whether to make a direct rollover will apply to all later payments in the series (unless you make a different choice for later payments).

If your payments for the year (only including payments from the designated Roth account in the Plan) are less than $200, the Plan is not required to allow you to do a direct rollover and is not required to withhold federal income taxes. However, you can do a 60-day rollover.

Unless you elect otherwise, a mandatory cashout from the designated Roth account in the Plan of more than $1,000 will be directly rolled over to a Roth IRA chosen by the Plan administrator or the payor. A mandatory cashout is a payment from a plan to a participant made before age 62 (or normal retirement age, if later) and without consent, where the participant's benefit does not exceed $5,000 (not including any amounts held under the plan as a result of a prior rollover made to the plan).

You may have special rollover rights if you recently served in the U.S. Armed Forces. For more information on special rollover rights related to the U.S. Armed Forces, see IRS Publication 3, *Armed Forces' Tax Guide*. You also may have special rollover rights if you were affected by a federally declared disaster (or similar event), or if you received a distribution on account of a disaster. For more information on special rollover rights related to disaster relief, see the IRS website at *www.irs.gov*.

FOR MORE INFORMATION

You may wish to consult with the Plan administrator or payor, or a professional tax advisor, before taking a payment from the Plan. Also, you can find more detailed information on the federal tax treatment of payments from employer plans in: IRS Publication 575, *Pension and Annuity Income*; IRS Publication 590–A, *Contributions to Individual Retirement Arrangements (IRAs)*; IRS Publication 590–B, *Distributions from Individual Retirement Arrangements (IRAs)*; and IRS Publication 571, *Tax-Sheltered Annuity Plans* (403(b) Plans). These publications are available from a local IRS office, on the web at *www.irs.gov*, or by calling 1-800-TAX-FORM.

Appendix B

Some plan administrators that have been using the safe harbor explanations in Notice 2014–74 may wish to update those explanations by making amendments to them (rather than by simply replacing them with the revised safe harbor explanations in Appendix A). This appendix provides instructions on how to amend the safe harbor explanations in Notice 2014–74 to reflect the modifications made in the revised safe harbor explanations in Appendix A. Part 1 contains amendments to the safe harbor explanation for payments not from a designated Roth account and Part 2 contains amendments to the safe harbor explanation for payments from a designated Roth account.

Part 1 – Amendments to the Safe Harbor Explanation for Payments not from a Designated Roth Account

1. Under the heading "**How can a rollover affect my taxes?**," replace the second sentence with the following:

   If you are under age 59½ and do not do a rollover, you will also have to pay a 10% additional income tax on early distributions (generally, distributions made before age 59½), unless an exception applies.

2. Replace the heading "**Where may I roll over the payment?**" with the following:

   What types of retirement accounts and plans may accept my rollover?

3. Under the heading "**How do I do a rollover?**," replace the second sentence of the third paragraph beginning "*If you do not do a direct rollover*" with the following:

   Generally, you will have 60 days after you receive the payment to make the deposit.

4. Under the heading "**How much may I roll over?**," add semicolons at the end of the first 8 bullets, and the word "and" after the semicolon in the eighth bullet.

5. Under the heading "**If I don't do a rollover, will I have to pay the 10% additional income tax on early distributions?**," replace the second sentence of the first paragraph with the following:

   This tax applies to the part of the distribution that you must include in income and is in addition to the regular income tax on the payment not rolled over.

6. Under the heading "**If I don't do a rollover, will I have to pay the 10% additional income tax on early distributions?**," replace the bullet list with the following:

   - Payments made after you separate from service if you will be at least age 55 in the year of the separation;
   - Payments that start after you separate from service if paid at least annually in equal or close to equal amounts over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary);
   - Payments from a governmental plan made after you separate from service if you are a qualified public safety employee and you will be at least age 50 in the year of the separation;
   - Payments made due to disability;
   - Payments after your death;
   - Payments of ESOP dividends;
   - Corrective distributions of contributions that exceed tax law limitations;
   - Cost of life insurance paid by the Plan;

- Payments made directly to the government to satisfy a federal tax levy;
- Payments made under a qualified domestic relations order (QDRO);
- Payments up to the amount of your deductible medical expenses (without regard to whether you itemize deductions for the taxable year);
- Certain payments made while you are on active duty if you were a member of a reserve component called to duty after September 11, 2001 for more than 179 days;
- Payments of certain automatic enrollment contributions requested to be withdrawn within 90 days of the first contribution;
- Payments for certain distributions relating to certain federally declared disasters; and
- Phased retirement payments made to federal employees.

7. Under the heading "**If I do a rollover to an IRA, will the 10% additional income tax apply to early distributions from the IRA?**," replace the first sentence of the first paragraph with the following:

   If you receive a payment from an IRA when you are under age 59½, you will have to pay the 10% additional income tax on early distributions on the part of the distribution that you must include in income, unless an exception applies.

8. Under the heading "**If I do a rollover to an IRA, will the 10% additional income tax apply to early distributions from the IRA?**," replace the first bullet with the following:

   The exception for payments made after you separate from service if you will be at least age 55 in the year of the separation (or age 50 for qualified public safety employees) does not apply.

9. Under the heading, "**If you miss the 60-day rollover deadline**," replace the paragraph with the following:

   Generally, the 60-day rollover deadline cannot be extended. However, the IRS has the limited authority to waive the deadline under certain extraordinary circumstances, such as when external events prevented you from completing the rollover by the 60-day rollover deadline. Under certain circumstances, you may claim eligibility for a waiver of the 60-day rollover deadline by making a written self-certification. Otherwise, to apply for a waiver from the IRS, you must file a private letter ruling request with the IRS. Private letter ruling requests require the payment of a nonrefundable user fee. For more information, see IRS Publication 590–A, *Contributions to Individual Retirement Arrangements (IRAs)*.

10. Under the heading, "**If you have an outstanding loan that is being offset**," replace the paragraph with the following two paragraphs:

    If you have an outstanding loan from the Plan, your Plan benefit may be offset by the outstanding amount of the loan, typically when your employment ends. The offset amount is treated as a distribution to you at the time of the offset. Generally, you may roll over all or any portion of the offset amount. Any offset amount that is not rolled over will be taxed (including the 10% additional income tax on early distributions, unless an exception applies). You may roll over offset amounts to an IRA or an employer plan (if the terms of the employer plan permit the plan to receive plan loan offset rollovers).

    How long you have to complete the rollover depends on what kind of plan loan offset you have. If you have a qualified plan loan offset, you will have until your tax return due date (including extensions) for the tax year during which the offset occurs to complete your rollover. A qualified plan loan offset occurs when a plan loan in good standing is offset because your employer plan terminates, or because you sever from employment. If your plan loan offset occurs for any other reason, then you have 60 days from the date the offset occurs to complete your rollover.

11. Under the heading "**If your payment is from a governmental section 457(b) plan**," replace the last sentence with the following:

    Other differences include that you cannot do a rollover if the payment is due to an "unforeseeable emergency" and the special rules under "If your payment includes employer stock that you do not roll over" and "If you were born on or before January 1, 1936" do not apply.

12. Replace the heading "**If you are an eligible retired public safety officer and your pension payment is used to pay for health coverage or qualified long-term care insurance**" with the following:

    If you are an eligible retired public safety officer and your payment is used to pay for health coverage or qualified long-term care insurance.

13. Under the heading "**If you are an eligible retired public safety officer and your payment is used to pay for health coverage or qualified long-term care insurance**," replace the first sentence with the following:

    If the Plan is a governmental plan, you retired as a public safety officer, and your retirement was by reason of disability or was after normal retirement age, you can exclude from your taxable income Plan payments paid directly as premiums to an accident or health plan (or a qualified long-term care insurance contract) that your employer maintains for you, your spouse, or your dependents, up to a maximum of $3,000 annually.

14. Replace the heading "**If you are not a plan participant**" with the following:

    If you are not a Plan participant

15. Replace the paragraph under the heading "*Payments under a qualified domestic relations order*" with the following:

    If you are the spouse or former spouse of the participant who receives a payment from the Plan under a qualified domestic relations order (QDRO), you generally have the same options and the same tax treatment that the participant would have (for example, you may roll over the payment to your own IRA or an eligible employer plan that will accept it). However, payments under the QDRO will not be subject to the 10% additional income tax on early distributions.

16. Under the heading "**Other special rules**," replace the first sentence of the second paragraph with the following:

    If your payments for the year are less than $200 (not including payments from a designated Roth account in the Plan), the Plan is not required to allow you to do a direct rollover and is not required to withhold federal income taxes.

17. Under the heading "**Other special rules**," replace the fourth paragraph with the following:

    You may have special rollover rights if you recently served in the U.S. Armed Forces. For more information on special rollover rights related to the U.S. Armed Forces, see IRS Publication 3, *Armed Forces' Tax Guide*. You also may have special rollover rights if you were affected by a federally declared disaster (or similar event), or if you received a distribution on account of a disaster. For more information on special rollover rights related to disaster relief, see the IRS website at *www.irs.gov*.

Part 2 – Amendments to the Safe Harbor Explanation for Payments from a Designated Roth Account

1. Under the heading "**How can a rollover affect my taxes?**," replace the second sentence of the second paragraph with the following:

   If you are under age 59½, a 10% additional income tax on early distributions (generally, distributions made before age 59½) will also apply to the earnings (unless an exception applies).

2. Replace the heading "**Where may I roll over the payment?**" with the following:

   What types of retirement accounts and plans may accept my rollover?

3. Under the heading "**What types of retirement accounts and plans may accept my rollover?**," replace the second parenthetical in the first sentence with the following:

   (a tax-qualified plan, section 403(b) plan, or governmental section 457 plan)

4. Under the heading "**How do I do a rollover?**," replace the first sentence of the third paragraph beginning "*If you do not do a direct rollover*" with the following:

   If you do not do a direct rollover, you may still do a rollover by making a deposit (generally within 60 days) into a Roth IRA, whether the payment is a qualified or nonqualified distribution.

5. Under the heading "**How much may I roll over?**," add semicolons at the end of the first eight bullets, and the word "and" after the semicolon in the eighth bullet.

6. Under the heading "**If I don't do a rollover, will I have to pay the 10% additional income tax on early distributions?**," replace the bullet list with the following:

   - Payments made after you separate from service if you will be at least age 55 in the year of the separation;
   - Payments that start after you separate from service if paid at least annually in equal or close to equal amounts over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary);
   - Payments from a governmental plan made after you separate from service if you are a qualified public safety employee and you will be at least age 50 in the year of the separation;
   - Payments made due to disability;
   - Payments after your death;
   - Payments of ESOP dividends;
   - Corrective distributions of contributions that exceed tax law limitations;
   - Cost of life insurance paid by the Plan;
   - Payments made directly to the government to satisfy a federal tax levy;
   - Payments made under a qualified domestic relations order (QDRO);
   - Payments up to the amount of your deductible medical expenses (without regard to whether you itemize deductions for the taxable year);

- Certain payments made while you are on active duty if you were a member of a reserve component called to duty after September 11, 2001 for more than 179 days;
- Payments of certain automatic enrollment contributions requested to be withdrawn within 90 days of the first contribution; and
- Payments for certain distributions relating to certain federally declared disasters.

7. Under the heading "**If I do a rollover to a Roth IRA, will the 10% additional income tax apply to early distributions from the IRA?**," replace the first bullet with the following:

   The exception for payments made after you separate from service if you will be at least age 55 in the year of the separation (or age 50 for qualified public safety employees) does not apply.

8. Under the heading "**If you miss the 60-day rollover deadline**," replace the paragraph with the following:

   Generally, the 60-day rollover deadline cannot be extended. However, the IRS has the limited authority to waive the deadline under certain extraordinary circumstances, such as when external events prevented you from completing the rollover by the 60-day rollover deadline. Under certain circumstances, you may claim eligibility for a waiver of the 60-day rollover deadline by making a written self-certification. Otherwise, to apply for a waiver from the IRS, you must file a private letter ruling request with the IRS. Private letter ruling requests require the payment of a nonrefundable user fee. For more information, see IRS Publication 590–A, *Contributions to Individual Retirement Arrangements (IRAs)*.

9. Under the heading "**If you have an outstanding loan that is being offset**," replace the paragraph with the following two paragraphs:

   If you have an outstanding loan from the Plan, your Plan benefit may be offset by the outstanding amount of the loan, typically when your employment ends. The offset amount is treated as a distribution to you at the time of the offset. Generally, you may roll over all or any portion of the offset amount. If the distribution attributable to the offset is not a qualified distribution and you do not roll over the offset amount, you will be taxed on any earnings included in the distribution (including the 10% additional income tax on early distributions, unless an exception applies). You may roll over the earnings included in the loan offset to a Roth IRA or designated Roth account in an employer plan (if the terms of the employer plan permit the plan to receive plan loan offset rollovers). You may also roll over the full amount of the offset to a Roth IRA.

   How long you have to complete the rollover depends on what kind of plan loan offset you have. If you have a qualified plan loan offset, you will have until your tax return due date (including extensions) for the tax year during which the offset occurs to complete your rollover. A qualified plan loan offset occurs when a plan loan in good standing is offset because your employer plan terminates, or because you sever from employment. If your plan loan offset occurs for any other reason, then you have 60 days from the date the offset occurs to complete your rollover.

10. Before the heading "**If you receive a nonqualified distribution, are an eligible retired public safety officer, and your pension payment is used to pay for health coverage or qualified long-term care insurance**," add the following new heading and paragraph:

    If your payment is from a governmental section 457(b) plan

    If the Plan is a governmental section 457(b) plan, the same rules described elsewhere in this notice generally apply, allowing you to roll over the payment to an IRA or an employer plan that accepts rollovers. One difference is that, if you receive a payment that is not a qualified distribution and you do not roll it over, you will not have to pay the 10% additional income tax on early distributions with respect to the earnings allocated to the payment that you do not roll over, even if you are under age 59½ (unless the payment is from a separate account holding rollover contributions that were made to the Plan from a tax-qualified plan, a section 403(b) plan, or an IRA). However, if you do a rollover to an IRA or to an employer plan that is not a governmental section 457(b) plan, a later distribution that is not a qualified distribution made before age 59½ will be subject to the 10% additional income tax on earnings allocated to the payment (unless an exception applies). Other differences include that you cannot do a rollover if the payment is due to an "unforeseeable emergency" and the special rules under "If your payment includes employer stock that you do not roll over" and "If you were born on or before January 1, 1936" do not apply.

11. Replace the heading "**If you receive a nonqualified distribution, are an eligible retired public safety officer, and your pension payment is used to pay for health coverage or qualified long-term care insurance**" with the following:

    If you receive a nonqualified distribution, are an eligible retired public safety officer, and your payment is used to pay for health coverage or qualified long-term care insurance

12. Replace the heading "**If you are not a plan participant**" with the following:

    If you are not a Plan participant

13. Replace the paragraph under the heading "*Payments under a qualified domestic relations order*" with the following:

    If you are the spouse or former spouse of the participant who receives a payment from the Plan under a qualified domestic relations order (QDRO), you generally have the same options and the same tax treatment that the participant would have (for example, you may roll over the payment as described in this notice).

14. Under the heading "**Other special rules**," replace the first sentence of the second paragraph with the following:

If your payments for the year (only including payments from the designated Roth account in the Plan) are less than $200, the Plan is not required to allow you to do a direct rollover and is not required to withhold federal income taxes.

15. Under the heading "**Other special rules**," replace the fourth paragraph with the following:

You may have special rollover rights if you recently served in the U.S. Armed Forces. For more information on special rollover rights related to the U.S. Armed Forces, see IRS Publication 3, *Armed Forces' Tax Guide*. You also may have special rollover rights if you were affected by a federally declared disaster (or similar event), or if you received a distribution on account of a disaster. For more information on special rollover rights related to disaster relief, see the IRS website at *www.irs.gov*.

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]

Bulletin 2018–27 through 2018–40

Announcements:

Notices:

Proposed Regulations:

Revenue Procedures:

Revenue Rulings:

Treasury Decisions:

[1]A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2018–01 through 2018–26 is in Internal Revenue Bulletin 2018–26, dated June 27, 2018.

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

Bulletin 2018–27 through 2018–40

Notices:

2014-5
Modified by
Notice 2018-69, 2018-37 I.R.B. *426*

2015-28
Modified by
Notice 2018-69, 2018-37 I.R.B. *426*

2016-57
Modified by
Notice 2018-69, 2018-37 I.R.B. *426*

2017-45
Modified by
Notice 2018-69, 2018-37 I.R.B. *426*

Revenue Procedures:

2015-27
Amplified by
Rev. Proc. 2018-39, 2018-34 I.R.B. *319*

2017-24
Amplified by
Rev. Proc. 2018-39, 2018-34 I.R.B. *319*

2018-31
Modified by
Rev. Proc. 2018-44, 2018-37 I.R.B. *426*

[1]A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2018–01 through 2018–26 is in Internal Revenue Bulletin 2018–26, dated June 27, 2018.

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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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