INTERNAL REVENUE
BULLETIN

IRS

HIGHLIGHTS OF THIS ISSUE

Bulletin No. 2019–18
April 29, 2019

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

INCOME TAX

T.D. 9854, page 1075.

A bond is an arbitrage bond under §148 if the bond's proceeds are used to purchase certain investment property with a yield higher than the yield on the issue. Investment property includes not only securities but also, among other things, "investment-type property." Investment-type property is generally defined as any property that is held principally as a passive vehicle for the production of income. The final regulation amends this definition to clarify that real or tangible personal property purchased with proceeds of tax-exempt bonds is not investment-type property if that property is used in furtherance of the public purposes for which the tax-exempt bonds are issued.

NOT. 2019-28, page 1077.

This notice publishes the reference price under § 45K(d)(2)(C) of the Internal Revenue Code for calendar year 2018. The reference price applies in determining the amount of the enhanced oil recovery credit under § 43, the marginal well production credit under § 45I, and the percentage depletion in case of oil produced from marginal properties under § 613A.

REV. PROC. 2019-18, page 1077.

This revenue procedure provides a safe harbor for professional sports teams to treat certain personnel contacts and rights to draft players as having a zero value for the purpose of determining gain or loss to be recognized for federal income tax purposes on the trade of personnel contracts or draft picks.

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.

26 CFR 1.148-1: Definitions and elections

T.D. 9854

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Part 1

Arbitrage Investment Restrictions on Tax-Exempt Bonds

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final Regulations.

SUMMARY: This document contains final regulations regarding the arbitrage investment restrictions under section 148 of the Internal Revenue Code (Code) applicable to tax-exempt bonds and other tax-advantaged bonds issued by State and local governments. The final regulations clarify existing regulations regarding the definition of "investment-type property" by expressly providing an exception for investment in capital projects that are used in furtherance of the public purposes of the bonds. The final regulations affect State and local governmental issuers of these bonds and potential investors in capital projects financed with these bonds.

DATES: *Effective Date*: These final regulations are effective April 9, 2019.

Applicability Date: For the date of applicability, see §1.148-11(n).

FOR FURTHER INFORMATION CONTACT: Lewis Bell at (202) 317-6980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 1 under section 148 of the Code. For interest on State or local bonds to be excluded from the gross income of the bondholder under section 103, the bonds must satisfy various eligibility requirements, including a requirement that the bonds not be arbitrage bonds as defined in section 148. Section 148(a) generally defines an "arbitrage bond" as any bond issued as part of an issue any portion of the proceeds of which are reasonably expected to be used or are intentionally used to acquire "higher yielding investments" or to replace funds so used. Section 148(b)(1) defines the term "higher yielding investments" as any "investment property" that produces a yield over the term of the issue that is materially higher than the yield on the issue. Section 148(b)(2) defines the term "investment property" to include any security (within the meaning of section 165(g)(2)(A) or (B)), any obligation, any annuity contract, certain residential rental property, and any "investment-type property." Section 1.148-1(e)(1) of the Income Tax Regulations defines "investment-type property" to include any property (other than securities, obligations, annuity contracts, and covered residential rental property for family units under section 148(b)(2)(A), (B), (C), and (E)) "that is held principally as a passive vehicle for the production of income." Section 1.148-1(e)(1) provides that, for this purpose, the production of income includes any benefit based on the time value of money.

Institutional investors have suggested clarification of the scope of the regulatory definition of investment-type property under §1.148-1(e)(1) to ensure that the definition does not impede greater investment in public infrastructure.

The legislative history to the Tax Reform Act of 1986, Public Law 99-514, 100 Stat. 2085, indicates that Congress intended to limit the scope of the arbitrage restriction on investment-type property so that it did not extend to investments in capital projects in furtherance of the public purposes of the bonds. In this regard, the House Report to the Tax Reform Act of 1986 included the following statement about the intended scope of the definition of investment-type property: "The restriction would not apply, however, to real or tangible personal property acquired with bond proceeds for reasons other than investment (e.g., courthouse facilities financed with bond proceeds)." H.R. Rep. No. 99-426, at 552 (1985), 1986-3 (vol. 2) C.B. 457; *see also* S. Rep. No. 99-313, at 844 (1986), 1986-3 (vol. 3) C.B. 682 (containing a statement substantially identical to that in the House report); H.R. Rep. No. 99-841, at II-747 (1986) (Conf. Rep.), 1986-3 (vol. 4) C.B. 608 (stating that the conference agreement follows the House bill and the Senate amendment on this restriction).

To clarify the scope of the investment-type property definition consistent with Congressional intent reflected in the legislative history, in a notice of proposed rulemaking published in the **Federal Register** (83 FR 27302; REG-106977-18) on June 12, 2018 (the Proposed Regulations), the Department of the Treasury (Treasury Department) and the IRS proposed an exception to the definition of investment-type property for certain capital projects that further the public purposes for which the tax-exempt bonds were issued.

The Treasury Department and the IRS solicited requests for a public hearing and written comments on the Proposed Regulations. No public hearing was held because no request for a hearing was received. The Treasury Department and the IRS received four public comments favoring finalization of the Proposed Regulations to allow greater capital investment in public infrastructure and did not receive any unfavorable public comments. Accordingly, the Treasury Department and the IRS adopt the Proposed Regulations, without substantive change, as final regulations by this Treasury Decision.

Explanation of Provisions

1. *§1.148-1(e)(4): Exception to Investment-Type Property Definition for Certain Capital Projects*

Section 1.148-1(e)(4) of the Final Regulations provides that investment-type property does not include real property or tangible personal property (for example, land, buildings, and equipment) that is used in furtherance of the public pur-

poses for which the tax-exempt bonds are issued. For example, investment-type property does not include a courthouse financed with governmental bonds or an eligible exempt facility under section 142, such as a public road, financed with private activity bonds.

2. *Applicability Dates and Reliance*

The amendments to the definition of investment-type property in the Final Regulations apply to bonds sold on or after July 8, 2019. Issuers may apply the provisions of the Final Regulations to bonds that are sold before July 8, 2019.

Special Analyses

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations. Because this regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

Drafting Information

The principal authors of these regulations are Lewis Bell and Spence Hanemann of the Office of Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the Treasury Department and the IRS participated in their development.

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Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.148-0(c) is amended by adding entries for §§1.148-1(e)(4) and 1.148-11(n) to read as follows:

§1.148-0 Scope and table of contents.

* * * * *

(c) * * *

§1.148-1 Definitions and elections.

* * * * *

(e) * * *

(4) Exception for certain capital projects.

* * * * *

§1.148-11 Effective/applicability dates.

* * * * *

(n) Investment-type property.

Par. 3. Section 1.148-1 is amended by:

1. Revising the first sentence of paragraph (e)(1).

2. Adding paragraph (e)(4).

The revision and addition read as follows:

§1.148-1 Definitions and elections.

* * * * *

(e) *Investment-type property*--(1) *In general*. Except as otherwise provided in this paragraph (e), investment-type property includes any property, other than property described in section 148(b)(2)(A), (B), (C), or (E), that is held principally as a passive vehicle for the production of income. * * *

* * * * *

(4) *Exception for certain capital projects*. Investment-type property does not include real property or tangible personal property (for example, land, buildings, and equipment) that is used in furtherance of the public purposes for which the tax-exempt bonds are issued. For example, investment-type property does not include a courthouse financed with governmental bonds or an eligible exempt facility under section 142, such as a public road, financed with private activity bonds.

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Par. 4. Section 1.148-11 is amended by adding paragraph (n) to read as follows:

§1.148-11 Effective/applicability dates.

* * * * *

(n) *Investment-type property*. Section 1.148-1(e)(1) and (4) apply to bonds sold on or after **July 8, 2019**. An issuer may apply the provisions of §1.148-1(e)(1) and (4) to bonds sold before July 8, 2019.

Kirsten Wielobob,
Deputy Commissioner for Services and Enforcement.

Approved: November 16, 2018.

David J. Kautter,
Assistant Secretary of the Treasury (Tax Policy).

(Filed by the Office of the Federal Register on April 8, 2019, 8:45 a.m., and published in the issue of the Federal Register for April 9, 2019, 84 F.R. 14006)

Part III.

Notice 2019-28

SECTION 1. PURPOSE

This notice publishes the reference price under § 45K(d)(2)(C) of the Internal Revenue Code for calendar year 2018. The credit period for the nonconventional source production credit under § 45K ended on December 31, 2013, for facilities producing coke or coke gas (other than from petroleum based products). However, the reference price continues to apply in determining the amount of the enhanced oil recovery credit under § 43, the marginal well production credit for qualified crude oil production under § 45I, and the percentage depletion in case of oil and natural gas produced from marginal properties under § 613A.

SECTION 2. BACKGROUND

Section 45K(d)(2)(C) provides that the term "reference price" means, with respect to a calendar year, the Secretary's estimate of the annual average wellhead price per barrel for all domestic crude oil the price of which is not subject to regulation by the United States.

Section 43(a) provides that, for purposes of § 38, the enhanced oil recovery credit for any taxable year is an amount equal to 15 percent of the taxpayer's qualified enhanced oil recovery costs for such taxable year.

Section 43(b)(1) provides that the amount of enhanced oil recovery credit for any taxable year shall be reduced by an amount which bears the same ratio to the amount of such credit (determined without regard to this paragraph) as - (A) the amount by which the reference price for the calendar year preceding the calendar year in which the taxable year begins exceeds $28, bears to (B) $6. Section 43(b)(2) provides that the term "reference price" means, with respect to any calendar year, the reference price determined for such calendar year under § 45K(d)(2)(C).

Section 45I(a) provides that, for purposes of § 38, the marginal well production credit for any taxable year is an amount equal to the product of the credit amount and the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

Section 45I(b)(1) provides that for crude oil, the amount of the marginal well production credit is $3 per barrel of qualified crude oil production.

Section 45I(b)(2) provides that the $3 amount under § 45I(b)(1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as – (i) the excess (if any) of the applicable reference price over $15, bears to (ii) $3. The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

Section 45I(c) provides that the term reference price means, with respect to any calendar year – (i) in the case of qualified crude oil production, the reference price determined under § 45K(d)(2)(C).

Section 613A(c)(6)(A) provides, in general, the allowance for depletion under § 611 shall be computed in accordance with § 613 with respect to - (i) so much of the taxpayer's average daily marginal production of domestic crude oil as does not exceed the taxpayer's depletable oil quantity (determined without regard to paragraph (3)(A)(ii)), and (ii) so much of the taxpayer's average daily marginal production of domestic natural gas as does not exceed the taxpayer's depletable natural gas quantity (determined without regard to paragraph (3)(A)(ii)), and the applicable percentage shall be deemed to be specified in subsection (b) of § 613 for purposes of subsection (a) of that section.

Section 613A(c)(6)(C) provides that the term "applicable percentage" means the percentage (not greater than 25 percent) equal to the sum of - (i) 15 percent, plus (ii) 1 percentage point for each whole dollar by which $20 exceeds the reference price for crude oil for the calendar year preceding the calendar year in which the taxable year begins. For purposes of this paragraph, the term "reference price" means, with respect to any calendar year, the reference price determined for such calendar year under § 45K(d)(2)(C).

SECTION 3. REFERENCE PRICE

The reference price under § 45K(d)(2)(C) for calendar year 2018 is $61.41.

SECTION 4. DRAFTING INFORMATION

The principal author of this notice is Martha M. Garcia of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, contact Ms. Garcia on (202) 317-6853 (not a toll-free number).

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26 CFR 601.601: Rules and regulations
(Also Part 1, §§ 61, 165, 167, 197, 1001, 1011, 1012, 1231, 1245; 1.167(a)-3, 1.167(a)-8.)

Rev. Proc. 2019-18

SECTION 1. PURPOSE

This revenue procedure provides a safe harbor for a professional sports team to treat certain personnel contracts and rights to draft players as having a zero value for determining gain or loss to be recognized for federal income tax purposes on the trade of a personnel contract or a draft pick that is within the scope of this revenue procedure.

SECTION 2. BACKGROUND

.01 *Applicable law*.

(1) Section 61(a)(3) of the Internal Revenue Code provides that, except as otherwise provided by law, gross income means all income from whatever source derived, including gains from dealings in property.

(2) Section 165(a) allows a deduction for any loss sustained during the taxable year that is not compensated for by insurance or otherwise. Under § 165(b), the basis for determining the amount of the deduction for any loss is the adjusted basis provided in § 1011.

(3) Section 167(a) allows as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear, and ob-

solescence of property used in a trade or business, or of property held for the production of income. Section 1.167(a)-3(a) of the Income Tax Regulations provides that if an intangible asset is known from experience or other factors to be of use in the business or in the production of income for only a limited period of time, the length of which can be estimated with reasonable accuracy, such an intangible asset may be the subject of a depreciation allowance. However, see §§ 167(f), 197, 1.167(a)-14, and 1.197-2 for amortization of goodwill and certain other intangibles acquired after August 10, 1993.

(4) Section 1001(a) provides that gain from the sale or other disposition of property is the excess of the amount realized on the disposition over the adjusted basis provided in § 1011 for determining gain, and loss is the excess of the adjusted basis over the amount realized. Under § 1001(b), the amount realized from the sale or other disposition of property is the sum of any money received, plus the fair market value of the property (other than money) received, with certain adjustments. Section 1001(c) provides that except as otherwise provided, the entire amount of gain or loss determined on a sale or exchange of property is recognized.

(5) Section 1012 generally provides that the basis of property is the cost of such property, with certain exceptions.

(6) Section 1231 provides rules for determining whether gain or loss on sales or exchanges of property used in a trade or business is capital or ordinary.

(7) Section 1245(a)(1) generally provides that, upon the disposition of section 1245 property, the amount by which the lower of (A) the recomputed basis of the property, or (B) the amount realized in the case of a sale, exchange, or involuntary conversion, or the fair market value of the property in the case of any other disposition, exceeds the adjusted basis of such property is treated as ordinary income. Such gain is recognized notwithstanding any other provision of Subtitle A of the Code.

.02 *Trades of player contracts, staff-member contracts, and draft picks*.

(1) Professional sports teams (teams) generally engage the services of players and staff members, such as managers and coaches, through the use of employment contracts that provide agreed upon compensation to the employed individual in return for future performance of specified services for a defined period of time, usually longer than one year (personnel contract). During the term of a personnel contract, the value of that contract may fluctuate based on a variety of factors, including player performance, the changing needs of the team, the changing needs of other teams, a player's effect on fan attendance, and the number of years until a player becomes a free agent and is able to sign a contract to play for any team in a league. Other considerations affecting the value of a player contract include the size of the team's market (whether a smaller city or a major urban population), the cost of player development, and the impact of injuries and slumps on player performance. Players may underperform or outperform the expectations of their teams, and the performance of other players on the team, or future prospects, may cause the team to develop a different view as to the value of the player and the contract. In addition to these unique factors, the market in which personnel contracts are traded is small and private. From time to time, teams trade one or more personnel contracts to other teams in exchange for one or more personnel contracts for the services of other personnel. Trades may include the transfer of a right to draft players in the league's player draft (draft pick) or a cash payment. Some trades involve only draft picks.

(2) In general, a team does not agree to a trade of one personnel contract (or set of personnel contracts) or a draft pick (or set of draft picks) unless the team believes that it is receiving something of equal or greater value to what it is giving up in light of the team's circumstances and priorities at the time. The exact value that a team places on the future performance of services by the personnel it is receiving in a trade is highly subjective and may be influenced by the team's specific needs at the time rather than by whether the compensation provided for under the contract may be viewed as at market value, over market value, or under market value. In addition, for the reasons stated above, judgments as to whether the amount of compensation agreed to in the personnel contract is at, above, or below what a willing third-party would pay at a particular point in time to the personnel member for services to be performed in the future are highly subjective. Indeed, these judgments may fluctuate often depending on the performance of a player or staff member and the circumstances under which each individual team in a league is operating. The subjective needs of each team will differ for particular players at different points in time throughout a league's season and is highly dependent on the particular needs of each team. Financial considerations, including leagues rules and regulations, and the market in which a personnel contract may be traded may impact the valuation of a personnel contract. As a result, although each team may believe it is receiving something of equal or greater value to what it is giving up in a trade of personnel contracts or draft picks in light of its particular circumstances and priorities at the time, it is unusually difficult to assign an objective monetary value to the personnel contracts or draft picks.

(3) In order to avoid highly subjective, complex, lengthy, and expensive disputes between professional sports teams and the IRS regarding the value of personnel contracts and draft picks for the purpose of determining the proper amount of gain or loss to be recognized for federal income tax purposes on the trade of one or more personnel contracts or draft picks, this revenue procedure provides a safe harbor permitting teams to treat the value of traded personnel contracts and draft picks as zero if certain conditions are satisfied.

SECTION 3. SCOPE

This revenue procedure applies to trades of personnel contracts and draft picks by professional sports teams (trades) that meet all of the following requirements:

.01 *All parties to trade must use safe harbor*. The parties to the trade that are subject to federal income tax in the United States must treat the trade on their respective federal income tax returns consistent with this revenue procedure;

.02 *Only personnel contracts, draft picks, and cash*. Each team that is a party to the trade must transfer and receive a personnel contract or draft pick. In the trade, no team may transfer property oth-

er than a personnel contract, draft pick, or cash;

.03 *No amortizable section 197 intangibles*. In the trade, no personnel contract or draft pick may be an amortizable section 197 intangible; and

.04 *Accounting treatment*. The financial statements of teams that are parties to the trade must not reflect assets or liabilities resulting from the trade other than cash.

SECTION 4. SAFE HARBOR

.01 *In general*. This revenue procedure provides a safe harbor for determining the amount of gain or loss to be recognized on a trade by a professional sports team of personnel contracts or draft picks. For a team making a trade of a personnel contract or draft pick within the scope of this revenue procedure, the value of the personnel contract or draft pick is treated as zero for purposes of this section 4.

.02 *Application of safe harbor*.

(1) *No gain or loss on a trade*. Except as provided in paragraph (5), below, for a professional sports team making a trade of a personnel contract or draft pick within the scope of this revenue procedure, because the contract value of each personnel contract or draft pick is treated as zero for purposes of this revenue procedure, no gain or loss is recognized on the trade for federal income tax purposes.

(2) *Receipt of cash in a trade, computing amount realized*. Under § 1001, a team receiving cash in a trade includes in amount realized the cash the team receives from another team in the trade. Under this revenue procedure, because the contract value of each personnel contract or draft pick is treated as zero for purposes of this revenue procedure, a team that does not receive cash in a trade has an amount realized of zero.

(3) *Providing cash in a trade, computing basis*. Under § 1012, a team providing cash to another team in a trade has a basis in the personnel contract or draft pick received equal to the cash the team provides in the trade. Under this revenue procedure, because the contract value of each personnel contract or draft pick is treated as zero for purposes of this revenue procedure, a team that provides no cash in the trade has a zero basis in the personnel contract or draft pick received in the trade.

(4) *Providing cash in a trade for multiple personnel contracts or draft picks, allocating basis*. A team providing cash to another team in a trade for two or more personnel contracts or draft picks must allocate its basis to each personnel contract or draft pick received from such team in the trade by dividing the basis by the number of personnel contracts or draft picks received from the team.

(5) *Trades of personnel contracts or draft picks, determining gain or loss*. Under §§ 1001 and 1.167(a)-8, a team making a trade of a personnel contract or draft pick recognizes gain to the extent of the excess of the amount realized under section 4.02(2), over the unrecovered basis (if any) of the personnel contract or draft pick traded, subject to the rules of §§ 1231 and 1245. Under §§ 1001, 165, and 1.167(a)-8, a team making a trade of a personnel contract or draft pick recognizes a loss to the extent of the excess of the unrecovered basis of the personnel contract or draft pick traded, over the amount realized under section 4.02(2), subject to the rules of § 1231. A team's unrecovered basis in a personnel contract or draft pick is the team's basis in such contract or draft pick as determined under § 167(c).

.03 *Limited applicability*. This revenue procedure applies only to trades of personnel contracts or draft picks among teams in professional sports leagues and has no application to transactions not described in this revenue procedure. In addition, this revenue procedure does not apply to trades of a team for another team or a sale of a team.

.04 *No inference*. No inference is intended with respect to the federal income tax treatment of transactions similar to, but outside the scope of, those described in this revenue procedure.

.05 *Examination*. Nothing in this revenue procedure precludes the examination and adjustment, if appropriate, of amounts reported in income in connection with trades of personnel contracts or draft picks in order to ensure that this revenue procedure is properly administered.

.06 *Substantiation*. Teams making trades to which this revenue procedure applies must retain books and records to substantiate that all requirements of section 3 of this revenue procedure have been met. Pursuant to § 6001, teams making trades to which this revenue procedure applies also must make available to the IRS, upon request, all documentation substantiating compliance with this revenue procedure.

SECTION 5. EXAMPLES

The following examples illustrate the application of the safe harbor described in section 4 of this revenue procedure. Unless otherwise provided, the teams in the examples have a $0 basis in the player contracts being traded. In addition, assume the requirements of section 3 of this revenue procedure are met, and the player contracts with signing bonuses were entered into on the first day of the applicable team's taxable year.

Example 1. Trade with no cash. In 2018, Team A trades Player Contract 1 to Team B for Player Contract 2. The teams apply the safe harbor in this revenue procedure. Under section 4.02(1), neither Team A nor Team B has an amount realized or gain on the trade because neither team received cash in the trade. Under section 4.02(3), Team A has a $0 basis in Player Contract 2, and Team B has a $0 basis in Player Contract 1.

Example 2. One team provides cash in the trade. The facts are the same as in *Example 1*, except Team A trades Player Contract 1 and $10x to Team B for Player Contract 2. Under section 4.02(1), Team A has no amount realized or gain on the trade because Team A did not receive cash in the trade. Under section 4.02(2), Team B has a $10x amount realized on the trade because Team B received $10x from Team A in the trade. Under section 4.02(5), Team B must recognize $10x of gain, the excess of Team B's $10x amount realized over its $0 basis in the Player Contract 2 it traded. Team B's $10x gain is subject to the rules of §§ 1231 and 1245. Under section 4.02(3), Team A has a $10x basis in Player Contract 2, the amount of cash Team A provided to Team B in the trade. Team A's $10x basis is recovered through depreciation under § 1.167(a)-3(a) over the life of Player Contract 2. Under section 4.02(3), Team B has a $0 basis in Player Contract 1 because Team B provided no cash to Team A in the trade.

Example 3. No cash in the trade, one team has an unrecovered basis. (i) In 2019, Team C signs Player 3 to a contract (Player Contract 3) for 5 years. Under the terms of Player Contract 3, Team C pays Player 3 a $25x signing bonus in 2019. In each of 2019 and 2020, Team C takes a depreciation deduction under § 1.167(a)-3(a) of $5x for the $25x it paid to Player 3. In 2021, Team C trades Player Contract 3 to Team D for Player Contract 4, and the teams apply the safe harbor in this revenue procedure.

(ii) Under section 4.02(1), neither Team C nor Team D has an amount realized or gain on the trade because neither team received cash in the trade. Because neither team provided cash in the trade, under section 4.02(3), each team has a $0 basis in the contract it received in the trade. Under section 4.02(5), Team C may deduct in 2021 a $15x loss under §§ 165 and 1.167(a)-8, the excess of its unrecovered

basis in Player Contract 3 over its amount realized of $0. Team C's $15x loss is subject to the rules of § 1231.

Example 4. *One team provides cash and one team has an unrecovered basis*. The facts are the same as in *Example 3*, except Team D trades Player Contract 4 and $20x to Team C for Player Contract 3. Under section 4.02(2), Team C has a $20x amount realized on the trade because Team C received $20x from Team D in the trade. Under section 4.02(1), Team D has no amount realized or gain on the trade because Team D did not receive cash in the trade. Under section 4.02(5), Team C must recognize $5x of gain, the excess of Team C's $20x amount realized over its $15x basis in the Player Contract 3 it traded. Team C's $5x gain is subject to the rules of §§ 1231 and 1245. Under section 4.02(3), Team C has a $0 basis in Player Contract 4 because Team C provided no cash to Team D in the trade. Under section 4.02(3), Team D has a $20x basis in Player Contract 3, the amount of cash Team D provided to Team C in the trade. Team D's $20x basis is recovered through depreciation under § 1.167(a)-3(a) over the life of Player Contract 3.

Example 5. *Allocation of basis among multiple contracts*. (i) In 2019, Team E trades Player Contract 5 and $30x to Team F for Player Contract 6, Player Contract 7, and Player Contract 8. The teams apply the safe harbor in this revenue procedure.

(ii) Under section 4.02(1), Team E has no amount realized or gain on the trade because Team E did not receive cash in the trade. Under section 4.02(3), Team E has a $30x basis in Player Contract 6, Player Contract 7, and Player Contract 8, collectively. Under section 4.02(4), Team E has a basis of $10x in Player Contract 6, $10x in Player Contract 7, and $10x in Player Contract 8 because Team E allocates the $30x cash provided to Team F in the trade by dividing the basis equally among the three player contracts received in the trade. Team E's $10x basis of each player contract is recovered through depreciation under § 1.167(a)-3(a) over the life of the respective player contract.

(iii) Under section 4.02(2), Team F has a $30x amount realized on the trade because Team F received $30x from Team E in the trade. Under section 4.02(5), Team F must recognize $30x of gain, the excess of Team F's $30x amount realized over its $0 basis in the Player Contract 5 it traded. Team F's $30x gain is subject to the rules of §§ 1231 and 1245. Under section 4.02(3), Team F has a $0 basis in Player Contract 5 because Team F provided no cash to Team E in the trade.

SECTION 6. EFFECTIVE DATE

This revenue procedure is effective only for agreements involving trades of personnel contracts or draft picks entered into by a professional sports team after April 10, 2019. However, a team may choose to apply this revenue procedure in any open taxable year.

SECTION 7. DRAFTING INFORMATION

The principal authors of this revenue procedure are Edward C. Schwartz, Suzanne R. Sinno, and Stephen J. Toomey of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding the revenue procedure, contact Mr. Schwartz at (202) 317-7006, or Ms. Sinno or Mr. Toomey at (202) 317-4718 (not toll-free numbers).

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.

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[1]A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2018–27 through 2018–52 is in Internal Revenue Bulletin 2018–52, dated December 27, 2018.

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[1]A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2018–27 through 2018–52 is in Internal Revenue Bulletin 2018–52, dated December 27, 2018.

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We Welcome Comments About the Internal Revenue Bulletin

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