HIGHLIGHTS OF THIS ISSUE

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

INCOME TAX

Rev. Rul. 96–17, page 5.

Interest rates; underpayments and overpayments. The rate of *interest* determined under section 6621 of the Code for the calendar quarter beginning April 1, 1996, is 7 percent for overpayments, 8 percent for underpayments, and 10 percent for large corporate underpayments. The rate of interest paid on the portion of a corporate overpayment exceeding $10,000 is 5.5 percent.

Rev. Rul. 96–18, page 4.

LIFO; price indexes; department stores. The January 1996 Bureau of Labor Statistics price indexes are accepted for use by department stores employing the retail inventory and last-in, first-out inventory methods for valuing inventories for tax years ended on, or with reference to, January 31, 1996.

T.D. 8656, page 9.

Final and temporary regulations under section 6662(e) of the Code provide guidance on the imposition of the accuracy-related penalty for net section 482 transfer price adjustments.

EMPLOYEE PLANS

Notice 96–16, page 20.

Guidelines are set forth for determining for March 1996, the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for purposes of the full funding limitation of section 412(c)(7) of the Code as amended by the Omnibus Budget Reconciliation Act of 1987 and by the Uruguay Round Agreements Act (GATT).

EXEMPT ORGANIZATIONS

Announcement 96–17, page 22.

A list is provided of organizations that no longer qualify as organizations to which contributions are deductible under section 170 of the Code.

EXCISE TAX

Announcement 96–15, page 22.

If the criteria described in a proposed class exemption issued by the Department of Labor are met, the Service will not impose the excise taxes on prohibited transactions described in section 4975 of the Code.

ADMINISTRATIVE

Notice 96–15, page 19.

The ''differential earnings rate'' under section 809 is tentatively determined for 1995 together with the ''recomputed differential earnings rate'' for 1994.

Notice 96–17, page 20.

T.D. 8642, 1996–7 I.R.B. 4, relating to the recognition of gain or loss on certain distributions of contributed property by a partnership, and to the recognition of gain on certain distributions to a contributing partner, is corrected.

Announcement 96–16, page 22.

This announcement clarifies the purposes and functions of the Transfer Pricing Penalty Oversight Committee, established to monitor and gather information on the application of transfer pricing penalties under section 6662(e) of the Internal Revenue Code.

Finding Lists begin on page 27.
Announcement of Disbarments and Suspensions begin on page 24.

Mission of the Service

The purpose of the Internal Revenue Service is to collect the proper amount of tax revenue at the least cost; serve the public by continually improving the quality of our products and services; and perform in a manner warranting the highest degree of public confidence in our integrity, efficiency and fairness.

Statement of Principles of Internal Revenue Tax Administration

The function of the Internal Revenue Service is to administer the Internal Revenue Code. Tax policy for raising revenue is determined by Congress.

With this in mind, it is the duty of the Service to carry out that policy by correctly applying the laws enacted by Congress; to determine the reasonable meaning of various Code provisions in light of the Congressional purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view.

At the heart of administration is interpretation of the Code. It is the responsibility of each person in the Service, charged with the duty of interpreting the law, to try to find the true meaning of the statutory provision and not to adopt a strained construction in the belief that he or she is ''protecting the revenue.'' The revenue is properly protected only when we ascertain and apply the true meaning of the statute.

The Service also has the responsibility of applying and administering the law in a reasonable, practical manner. Issues should only be raised by examining officers when they have merit, never arbitrarily or for trading purposes. At the same time, the examining officer should never hesitate to raise a meritorious issue. It is also important that care be exercised not to raise an issue or to ask a court to adopt a position inconsistent with an established Service position.

Administration should be both reasonable and vigorous. It should be conducted with as little delay as possible and with great courtesy and considerateness. It should never try to overreach, and should be reasonable within the bounds of law and sound administration. It should, however, be vigorous in requiring compliance with law and it should be relentless in its attack on unreal tax devices and fraud.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents of a permanent nature are consolidated semiannually into Cumulative Bulletins, which are sold on a single-copy basis.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

With the exception of the Notice of Proposed Rulemaking and the disbarment and suspension list included in this part, none of these announcements are consolidated in the Cumulative Bulletins.

The first Bulletin for each month includes an index for the matters published during the preceding month. These monthly indexes are cumulated on a quarterly and semiannual basis, and are published in the first Bulletin of the succeeding quarterly and semi-annual period, respectively.

The Bulletin Index-Digest System, a research and reference service supplementing the Bulletin, may be obtained from the Superintendent of Documents on a subscription basis. It consists of four Services: Service No. 1, Income Tax; Service No. 2, Estate and Gift Taxes; Service No. 3, Employment Taxes; Service No. 4, Excise Taxes. Each Service consists of a basic volume and a cumulative supplement that provides (1) finding lists of items published in the Bulletin, (2) digests of revenue rulings, revenue procedures, and other published items, and (3) indexes of Public Laws, Treasury Decisions, and Tax Conventions.

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

Section 472.—Last-in, First-out Inventories

26 CFR 1.472–1: Last-in, first-out inventories.

LIFO; price indexes; department stores. The January 1996 Bureau of Labor Statistics price indexes are accepted for use by department stores employing the retail inventory and last-in, first-out inventory methods for valuing inventories for tax years ended on, or with reference to January 31, 1996.

Rev. Rul. 96–18

The following Department Store Inventory Price Indexes for January 1996 were issued by the Bureau of Labor Statistics on February 28, 1996. The indexes are accepted by the Internal Revenue Service, under § 1.472–1(k) of the Income Tax Regulations and Rev. Proc. 86–46, 1986–2 C.B. 739, for appropriate application to inventories of department stores employing the retail inventory and last-in, first-out inventory methods for tax years ended on, or with reference to, January 31, 1996.

The Department Store Inventory Price Indexes are prepared on a national basis and include (a) 23 major groups of departments, (b) three special combinations of the major groups—soft goods, durable goods, and miscellaneous goods, and (c) a store total, which covers all departments, including some not listed separately, except for the following: candy, foods, liquor, tobacco, and contract departments.

BUREAU OF LABOR STATISTICS, DEPARTMENT STORE INVENTORY PRICE INDEXES BY DEPARTMENT GROUPS
(January 1941 = 100, unless otherwise noted)

Groups	Jan 1995	Jan 1996	Percent Change from Jan 1995 to Jan 1996[1]
1. Piece Goods	480.1	519.0	8.1
2. Domestics and Draperies	632.3	648.4	2.5
3. Women's and Children's Shoes	627.4	628.8	0.2
4. Men's Shoes	917.6	887.6	–3.3
5. Infants' Wear	613.6	641.1	4.5
6. Women's Underwear	528.0	519.1	–1.7
7. Women's Hosiery	282.3	289.4	2.5
8. Women's and Girls' Accessories	542.2	554.2	2.2
9. Women's Outerwear and Girls' Wear	398.4	400.3	0.5
10. Men's Clothing	595.7	602.7	1.2
11. Men's Furnishings	553.7	560.6	1.2
12. Boys' Clothing and Furnishings	480.5	478.5	–0.4
13. Jewelry	1005.9	994.5	–1.1
14. Notions	746.3	802.7	7.6
15. Toilet Articles and Drugs	842.6	875.4	3.9
16. Furniture and Bedding	646.7	668.9	3.4
17. Floor Coverings	571.8	563.6	–1.4
18. Housewares	775.9	800.5	3.2
19. Major Appliances	248.5	247.6	–0.4
20. Radio and Television	84.2	78.9	–6.3
21. Recreation and Education[2]	114.6	112.6	–1.7
22. Home Improvements[2]	122.0	123.1	0.9
23. Auto Accessories[2]	106.4	107.7	1.2
Groups 1–15: Soft Goods	579.3	585.2	1.0
Groups 16–20: Durable Goods	464.5	467.0	0.5
Groups 21–23: Misc. Goods[2]	114.1	113.2	–0.8
Store Total[3]	541.2	544.9	0.7

[1]Absence of a minus sign before percentage change in this column signifies price increase.

[2]Indexes on a January 1986=100 base.

[3]The store total index covers all departments, including some not listed separately, except for the following: candy, foods, liquor, tobacco, and contract departments.

DRAFTING INFORMATION

The principal author of this revenue ruling is Stan Michaels of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue ruling, contact Mr. Michaels on (202) 622-4970 (not a toll-free call).

Section 6621.— Determination of Interest Rate

26 CFR 301.6621–1: Interest rate.

Interest rates; underpayments and overpayments. The rate of *interest* determined under section 6621 of the Code for the calendar quarter beginning April 1, 1996, is 7 percent for overpayments, 8 percent for underpayments, and 10 percent for large corporate underpayments. The rate of interest paid on the portion of a corporate overpayment exceeding $10,000 is 5.5 percent.

Rev. Rul. 96–17

Section 6621 of the Internal Revenue Code establishes different rates for interest on tax overpayments and interest on tax underpayments. Under § 6621(a)(1), the overpayment rate is the sum of the federal short-term rate plus 2 percentage points, except the rate for the portion of a corporate overpayment of tax exceeding $10,000 for a taxable period is the sum of the federal short-term rate plus 0.5 of a percentage point for interest computations made after December 31, 1994. Under § 6621(a)(2), the underpayment rate is the sum of the federal short-term rate plus 3 percentage points.

Section 6621(c) provides that for purposes of interest payable under § 6601 on any large corporate underpayment, the underpayment rate under § 6621(a)(2) is determined by substituting ''5 percentage points'' for ''3 percentage points.'' See § 6621(c) and § 301.6621–3 of the Regulations on Procedure and Administration for the definition of a large corporate underpayment and for the rules for determining the applicable rate. Section 6621(c) and § 301.6621–3 are generally effective for periods after December 31, 1990.

Section 6621(b)(1) provides that the Secretary will determine the federal short-term rate for the first month in each calendar quarter.

Section 6621(b)(2)(A) provides that the federal short-term rate determined under § 6621(b)(1) for any month applies during the first calendar quarter beginning after such month.

Section 6621(b)(2)(B) provides that in determining the addition to tax under § 6654 for failure to pay individual estimated tax for any taxable year, the federal short-term rate that applies during the third month following such taxable year also applies during the first 15 days of the fourth month following such taxable year.

Section 6621(b)(3) provides that the federal short-term rate for any month is the federal short-term rate determined during such month by the Secretary in accordance with § 1274(d), rounded to the nearest full percent (or, if a multiple of ½ of 1 percent, the rate is increased to the next highest full percent).

Notice 88–59, 1988–1 C.B. 546, announced that in determining the quarterly interest rates to be used for overpayments and underpayments of tax under § 6621, the Internal Revenue Service will use the federal short-term rate based on daily compounding because that rate is most consistent with § 6621 which, pursuant to § 6622, is subject to daily compounding.

Rounded to the nearest full percent, the federal short-term rate based on daily compounding determined during the month of January 1996 is 5 percent. Accordingly, an overpayment rate of 7 percent and an underpayment rate of 8 percent are established for the calendar quarter beginning April 1, 1996. The overpayment rate for the portion of corporate overpayments exceeding $10,000 for the calendar quarter beginning April 1, 1996, is 5.5 percent. The underpayment rate for large corporate underpayments for the calendar quarter beginning April 1, 1996, is 10 percent. These rates apply to amounts bearing interest during that calendar quarter.

Under § 6621(b)(2)(B), the 9 percent rate that applies to individual estimated tax underpayments for the first calendar quarter in 1996, as provided in Rev. Rul. 95–78, 1995–49 I.R.B. 6, also applies to such underpayments for the first 15 days in April 1996.

Interest factors for daily compound interest for annual rates of 5.5 percent, 7 percent, 8 percent, and 10 percent are published in Tables 64, 67, 69, and 73 of Rev. Proc. 95–17, 1995–1 C.B. 556, 618, 621, 623, and 627.

Annual interest rates to be compounded daily pursuant to § 6622 that apply for prior periods are set forth in the accompanying tables.

DRAFTING INFORMATION

The principal author of this revenue ruling is Marcia Rachy of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue ruling, contact Ms. Rachy on (202) 622-4940 (not a toll-free call).

TABLE OF INTEREST RATES

PERIODS BEFORE JUL. 1, 1975 — PERIODS ENDING DEC. 31, 1986

OVERPAYMENTS AND UNDERPAYMENTS

PERIOD	RATE	DAILY RATE TABLE IN 1995–1 C.B.
Before Jul. 1, 1975	6%	Table 2, pg. 557
Jul. 1, 1975—Jan. 31, 1976	9%	Table 4, pg. 559
Feb. 1, 1976—Jan. 31, 1978	7%	Table 3, pg. 558
Feb. 1, 1978—Jan. 31, 1980	6%	Table 2, pg. 557
Feb. 1, 1980—Jan. 31, 1982	12%	Table 5, pg. 560
Feb. 1, 1982—Dec. 31, 1982	20%	Table 6, pg. 560
Jan. 1, 1983—Jun. 30, 1983	16%	Table 37, pg. 591
Jul. 1, 1983—Dec. 31, 1983	11%	Table 27, pg. 581
Jan. 1, 1984—Jun. 30, 1984	11%	Table 75, pg. 629
Jul. 1, 1984—Dec. 31, 1984	11%	Table 75, pg. 629
Jan. 1, 1985—Jun. 30, 1985	13%	Table 31, pg. 585
Jul. 1, 1985—Dec. 31, 1985	11%	Table 27, pg. 581
Jan. 1, 1986—Jun. 30, 1986	10%	Table 25 pg. 579
Jul. 1, 1986—Dec. 31, 1986	9%	Table 23, pg. 577

TABLE OF INTEREST RATES

FROM JAN. 1, 1987 — PRESENT

	OVERPAYMENTS			UNDERPAYMENTS		
	RATE	TABLE 1995–1 C.B.	PG	RATE	TABLE 1995–1 C.B.	PG
Jan. 1, 1987—Mar. 31, 1987	8%	21	575	9%	23	577
Apr. 1, 1987—Jun. 30, 1987	8%	21	575	9%	23	577
Jul. 1, 1987—Sep. 30, 1987	8%	21	575	9%	23	577
Oct. 1, 1987—Dec. 31, 1987	9%	23	577	10%	25	579
Jan. 1, 1988—Mar. 31, 1988	10%	73	627	11%	75	629
Apr. 1, 1988—Jun. 30, 1988	9%	71	625	10%	73	627
Jul. 1, 1988—Sep. 30, 1988	9%	71	625	10%	73	627
Oct. 1, 1988—Dec. 31, 1988	10%	73	627	11%	75	629
Jan. 1, 1989—Mar. 31, 1989	10%	25	579	11%	27	581
Apr. 1, 1989—Jun. 30, 1989	11%	27	581	12%	29	583
Jul. 1, 1989—Sep. 30, 1989	11%	27	581	12%	29	583
Oct. 1, 1989—Dec. 31, 1989	10%	25	579	11%	27	581
Jan. 1, 1990—Mar. 31, 1990	10%	25	579	11%	27	581
Apr. 1, 1990—Jun. 30, 1990	10%	25	579	11%	27	581
Jul. 1, 1990—Sep. 30, 1990	10%	25	579	11%	27	581
Oct. 1, 1990—Dec. 31, 1990	10%	25	579	11%	27	581
Jan. 1, 1991—Mar. 31, 1991	10%	25	579	11%	27	581
Apr. 1, 1991—Jun. 30, 1991	9%	23	577	10%	25	579
Jul. 1, 1991—Sep. 30, 1991	9%	23	577	10%	25	579
Oct. 1, 1991—Dec. 31, 1991	9%	23	577	10%	25	579
Jan. 1, 1992—Mar. 31, 1992	8%	69	623	9%	71	625
Apr. 1, 1992—Jun. 30, 1992	7%	67	621	8%	69	623
Jul. 1, 1992—Sep. 30, 1992	7%	67	621	8%	69	623
Oct. 1, 1992—Dec. 31, 1992	6%	65	619	7%	67	621
Jan. 1, 1993—Mar. 31, 1993	6%	17	571	7%	19	573
Apr. 1, 1993—Jun. 30, 1993	6%	17	571	7%	19	573
Jul. 1, 1993—Sep. 30, 1993	6%	17	571	7%	19	573
Oct. 1, 1993—Dec. 31, 1993	6%	17	571	7%	19	573
Jan. 1, 1994—Mar. 31, 1994	6%	17	571	7%	19	573
Apr. 1, 1994—Jun. 30, 1994	6%	17	571	7%	19	573
Jul. 1, 1994—Sep. 30, 1994	7%	19	573	8%	21	575
Oct. 1, 1994—Dec. 31, 1994	8%	21	575	9%	23	577
Jan. 1, 1995—Mar. 31, 1995	8%	21	575	9%	23	577
Apr. 1, 1995—Jun. 30, 1995	9%	23	577	10%	25	579
Jul. 1, 1995—Sep. 30, 1995	8%	21	575	9%	23	577
Oct. 1, 1995—Dec. 31, 1995	8%	21	575	9%	23	577
Jan. 1, 1996—Mar. 31, 1996	8%	69	623	9%	71	625
Apr. 1, 1996—Jun. 30, 1996	7%	67	621	8%	69	623

TABLE OF INTEREST RATES FOR
LARGE CORPORATE UNDERPAYMENTS

FROM JANUARY 1, 1991 — PRESENT

	RATE	TABLE 1995–1 C.B.	PG
Jan. 1, 1991—Mar. 31, 1991	13%	31	585
Apr. 1, 1991—Jun. 30, 1991	12%	29	583
Jul. 1, 1991—Sep. 30, 1991	12%	29	583
Oct. 1, 1991—Dec. 31, 1991	12%	29	583
Jan. 1, 1992—Mar. 31, 1992	11%	75	629
Apr. 1, 1992—Jun. 30, 1992	10%	73	627
Jul. 1, 1992—Sep. 30, 1992	10%	73	627
Oct. 1, 1992—Dec. 31, 1992	9%	71	625
Jan. 1, 1993—Mar. 31, 1993	9%	23	577
Apr. 1, 1993—Jun. 30, 1993	9%	23	577
Jul. 1, 1993—Sep. 30, 1993	9%	23	577
Oct. 1, 1993—Dec. 31, 1993	9%	23	577
Jan. 1, 1994—Mar. 31, 1994	9%	23	577
Apr. 1, 1994—Jun. 30, 1994	9%	23	577
Jul. 1, 1994—Sep. 30, 1994	10%	25	579
Oct. 1, 1994—Dec. 31, 1994	11%	27	581
Jan. 1, 1995—Mar. 31, 1995	11%	27	581
Apr. 1, 1995—Jun. 30, 1995	12%	29	583
Jul. 1, 1995—Sep. 30, 1995	11%	27	581
Oct. 1, 1995—Dec. 31, 1995	11%	27	581
Jan. 1, 1996—Mar. 31, 1996	11%	75	629
Apr. 1, 1996—Jun. 30, 1996	10%	73	627

TABLE OF INTEREST RATES FOR CORPORATE
OVERPAYMENTS EXCEEDING $10,000

FROM JANUARY 1, 1995 — PRESENT

	RATE	TABLE 1995–1 C.B.	PG
Jan. 1, 1995—Mar. 31, 1995	6.5%	18	572
Apr. 1, 1995—Jun. 30, 1995	7.5%	20	574
Jul. 1, 1995—Sep. 30, 1995	6.5%	18	572
Oct. 1, 1995—Dec. 31, 1995	6.5%	18	572
Jan. 1, 1996—Mar. 31, 1996	6.5%	66	620
Apr. 1, 1996—Jun. 30, 1996	5.5%	64	618

Section 6662—Imposition of Accuracy-Related Penalty

26 CFR 1.6662–5T: Substantial and gross valuation misstatements under Chapter I (Temporary).

T.D. 8656

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Parts 1 and 602

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: These regulations provide guidance on the imposition of the accuracy related penalty under Internal Revenue Code section 6662(e) for net section 482 transfer price adjustments. This action implements changes to the applicable tax laws made by the Omnibus Budget Reconciliation Act of 1993.

DATES: These regulations are effective February 9, 1996.

Applicability: At the election of the taxpayer, these regulations may be applied to all open taxable years beginning after December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Carolyn D. Fanaroff of the Office of Associate Chief Counsel (International), IRS (202) 622-3880 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–1426. Responses to this collection of information are required by section 6662(e) of the Internal Revenue Code in order to administer the transfer pricing penalty under that section.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The estimated average annual burden per recordkeeper varies from 5 to 15 hours, depending on individual circumstances, with an estimated average of 10 hours per recordkeeper.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books and records relating to this collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Sections 6662(e) and (h) of the Internal Revenue Code reflect amendments made by Section 13236 of the Omnibus Budget Reconciliation Act of 1993 (OBRA '93, Public Law 103–66, 107 Stat. 312). On February 2, 1994, the IRS and Treasury published temporary regulations (59 FR 4791 [TD 8519, 1994–1 298]) and a notice of proposed rulemaking (58 FR 5263) setting forth rules for imposing a substantial valuation misstatement penalty in connection with transactions between persons described in section 482 (the transactional penalty) and net section 482 transfer price adjustments (the net adjustment penalty) and withdrawing previously proposed regulations issued on January 21, 1993 (58 FR 5304). On July 8, 1994, the IRS and Treasury issued new temporary regulations (59 FR 35030) under section 6662(e) conforming the previously issued regulations to the final 482 regulations published on the same day. A cross-referenced notice of proposed rulemaking accompanied the temporary regulations (59 FR 35066).

The IRS and Treasury received numerous comments on the proposed and temporary regulations from taxpayers, practitioners, tax treaty partners, industry representatives, and professional associations. In general, most commenters recognized the government's interest in encouraging timely compliance with the arm's length standard at the time that a tax return is filed. These commenters primarily addressed particular aspects of the specified method rule in §1.6662–6(d)(2)(ii) of the temporary regulations that they believed imposed an unnecessary burden.

In response to these comments, the IRS and Treasury have attempted to simplify the requirements set forth in the proposed and temporary regulations without departing from the basic objective of section 6662(e): to improve compliance with the arm's length standard by encouraging taxpayers to make reasonable efforts to determine and document arm's length prices for their intercompany transactions. The regulations are adopted as revised by this Treasury decision, and the corresponding proposed and temporary regulations are removed. Set forth below is a discussion of the most significant comments and the changes made in response to them.

Discussion of Major Comments and Changes to the Regulations

The Reasonableness Standard

Commenters expressed concern that the standard for assertion of the transactional penalty and the net adjustment penalty (together, the penalty) under the proposed and temporary regulations effectively makes the penalty a ''no fault'' penalty to be imposed in any case in which the statutory thresholds for imposition are met. Commenters suggested that, in all cases, a taxpayer could not have used the most reliable measure of an arm's length result if it subsequently is determined that the taxpayer's analysis was incorrect. Some of these commenters urged the IRS to impose the penalty only where a taxpayer deliberately attempts to shift income.

The IRS and Treasury have determined that it is not necessary to revise the proposed and temporary regulations in response to these comments. The proposed and temporary regulations do not adopt a ''no-fault'' approach. Like other penalty statutes, the provisions of section 6662(e) incorporate standards of reasonable cause and good faith. See section 6662(e)(3)(D) and section 6664(c). Accordingly, under both the temporary and final regulations, the penalty is excused if the taxpayer, based upon the data that was reason-

ably available to it, reasonably concluded that its analysis was the most reliable and satisfied the documentation requirement of the regulations. In such a case, the taxpayer may be subject to an adjustment if the IRS later employs a different analysis or uses different data leading to a different result, but an adjustment does not necessarily trigger the imposition of the penalty. The regulations provide guidance on the interpretation of the reasonableness standard. See §1.6662–6(d).

Reported Results

In response to comments, the final regulations clarify the method of determining reported results, and what will be considered amended returns for taxpayers electing Accelerated Issue Resolution or similar procedures.

Evaluation of Methods Other Than the Method Actually Applied

Under §1.6662–6T(d)(2)(ii) of the temporary regulations, taxpayers may satisfy the specified method requirement by selecting and applying a specified method in a reasonable manner. In order to meet this requirement, taxpayers must make a reasonable effort to evaluate the potential applicability of the other specified methods in a manner consistent with the principles of the best method rule of §1.482–1(c). Some commenters argued that this requirement would be overly burdensome because it could mean that the taxpayer effectively must disprove all other methods in order to avoid imposition of the penalty. Others asserted that the requirement in §1.6662–6T(d)(2)(ii) that taxpayers make a reasonable effort to evaluate other methods in a manner consistent with the principles of the best method rule was inconsistent with language contained in §1.482–1(c)(1).

The notion of a comparison of methods is inherent in the best method rule of §1.482–1(c)(1). In order to be judged the ''best'' method, the method to some extent must be compared to other methods. The examples set forth under §1.482–8 illustrate an appropriate application of a comparative analysis. In introducing these examples, §1.482–8 states that ''a method may be applied in a particular case only if the comparability, quality of data, and reliability of assumptions under that method make it more reliable than any other available measure of the arm's length result.''

The comparison to be done under the best method rule will not necessarily entail a thorough analysis under every potentially applicable method. The nature of the available data will often indicate either that a particular method should be the most reliable or that certain other specified methods would be clearly unreliable. Indeed, in some cases, it might be reasonable to conclude that a particular method is likely to be the most reliable with virtually no consideration of other potentially applicable methods. For example, if the comparable uncontrolled price method can be applied based upon a closely comparable uncontrolled transaction, it normally would be unnecessary to give any serious consideration to the other methods. Whether more extensive consideration could be needed in other cases will depend on the facts and circumstances.

Accordingly, the final regulations retain the notion that comparisons to other specified methods may have to be made and the extent of such comparisons may vary depending upon the data available and other factors.

Most Current Data Requirement

One of the factors taken into account in determining whether a taxpayer reasonably selected and applied a specified method is whether the taxpayer made a reasonable search for data. The proposed and temporary regulations provided that this factor would not be met unless the taxpayer used the most current data that was available prior to filing the tax return. Section 1.6662–6T(d)(2)(iii)(B).

Commenters expressed concern that this requirement would be unduly burdensome because it would require a taxpayer to continually update its transfer pricing analysis until the filing of its tax return. Commenters also argued that this rule could lead to an increased incidence of double taxation if particular foreign jurisdictions did not permit alterations to transactional prices either after the transaction or after the close of a taxable year.

In response to these comments, the requirement to consider the most current available data has been modified. Under the final regulations, taxpayers are expected to use only data available before the end of the taxable year and consequently have no obligation to continue to search for data after the close of the taxable year to avoid the penalty. However, when a taxpayer obtains additional relevant data between the close of the year and the date on which the tax return is filed (for example, in connection with transfer pricing analyses conducted with respect to the subsequent taxable year), the final regulations require the taxpayer to include such data in its principal documents as provided in §1.6662–6(d)(2)(iii)(B)(9). These documents must be provided to the IRS upon request. These changes are intended to relieve much of the burden on taxpayers and at the same time to ensure that, upon examination, the taxpayer provides the IRS with all relevant information in its possession.

Reasonably Thorough Search for Data

Commenters requested additional guidance regarding the scope of the term *reasonably thorough search for data* under §1.6662–6(d)(2)(ii)(B). The proposed and temporary regulations provide that, in determining whether a search for data was reasonably thorough, the expense of acquiring additional data may be weighed against the dollar amount of the transactions.

The IRS and Treasury have determined that more specific guidelines that would be applicable to all situations cannot be provided because the determination of whether a taxpayer engaged in a reasonable search for data depends on the facts and circumstances of each case. Therefore, the final regulations adhere to the general approach of the proposed and temporary regulations.

However, the final regulations provide a more precise statement of the rule that governs the determination of whether the taxpayer made a reasonable search for data. Section 1.6662–6(d)(2)(ii)(B) of the final regulations provides that taxpayers may weigh the expense a search for data against (i) the likelihood that they will find additional data that will improve the reliability of the results and (ii) the amount by which any new data would change the taxpayer's taxable income. Thus, a taxpayer that has located reliable data leading to an analysis that is unlikely to become more reliable if additional

data were located would not need to continue a search. In addition, as the amount of taxable income potentially at stake declines (either because of low dollar amounts of the controlled transactions or because of low variability in results that are expected under the facts and circumstances), the need to continue to search for data also decreases.

Experience and Knowledge

Section 1.6662–6(d)(2)(ii)(A) provides that one of the factors taken into account in determining whether a taxpayer reasonably applied a specified method is the experience and knowledge of the taxpayer, including all members of the taxpayer's controlled group. Commenters objected to this factor because it is not limited to consideration of the experience and knowledge of the taxpayer. The purpose of this factor is to consider the experience and knowledge of all the parties that are likely to be involved in the pricing of the controlled transactions. If the scope of this factor were limited to the taxpayer participating in the controlled transaction, the experience and knowledge of related persons who may have had a role in determining intercompany prices of the taxpayer might not be taken into account. Accordingly, this factor has not been changed in the final regulations.

Thresholds for Application

The net adjustment penalty under section 6662(e)(1)(B)(ii) potentially applies if the net section 482 adjustment exceeds the lesser of $5 million or 10 percent of the taxpayer's gross receipts. Some commenters objected to the statutory $5 million threshold, pointing out that a relatively insignificant error could easily lead to a $5 million adjustment with respect to very large intercompany transactions. As a result, taxpayers that made reasonable efforts to determine an arm's length result might nonetheless be subject to penalty.

The $5 million threshold for imposition of the penalty is fixed by statute. However, §1.6662–6(d)(2)(ii)(G) of the final regulations has been added to provide that the size of an adjustment in relation to the size of the controlled transaction is relevant to determining whether a taxpayer made a reasonable effort to apply a specified or unspecified method. Accordingly, the fact that a proposed adjustment is small in relation to the dollar amount of the controlled transaction to which it relates is relevant in determining if a taxpayer made a reasonable effort to apply a specified or unspecified method.

Reliance on Prior Analyses

Citing the preamble to the temporary regulations and the 1993 legislative history, some commenters requested that a pricing methodology that was approved by the IRS on audit or in connection with an Advanced Pricing Agreement (APA) be considered to satisfy the specified method requirement of the regulations. In response to this comment, §1.6662–6(d)(2)(ii)(F) of the final regulations has been added to provide that whether a taxpayer relied on a methodology developed in connection with an APA or approved by the IRS pursuant to an audit is relevant to determining whether the taxpayer made a reasonable effort to apply a specified or unspecified method, as long as the taxpayer applied the agreed method reasonably and consistently with its prior application, and adjustments have been made for any material changes in the facts and circumstances since the original application of that method. Pursuant to §1.6662–6(d)(3)(ii)(B) and (C), this factor is also relevant if the taxpayer employed an unspecified method.

Principal Documents

Section 1.6662–6(d)(2)(iii)(B) of the final regulations provides a list of principal documents that must be provided to the IRS within 30 days of a request. The proposed and temporary regulations set forth a contemporaneous documentation requirement pursuant to which all of these documents must have been in existence at the time that the taxpayer filed its tax return. In response to comments, several changes have been made to these provisions.

Under the final regulations, the contemporaneous documentation requirement does not apply to the summary of data acquired after the close of the taxable year or the general index of principal and background documents. Thus, these documents do not have to be prepared at the time the return is filed.

Several commenters argued that the requirement that the principal documents generally be provided within 30 days of a request is too short, but this requirement has not been changed in the final regulations because the statute mandates this 30-day disclosure period. Moreover, except for the two principal documents excluded from the contemporaneous documentation requirement, as described above, all principal documents are required to be prepared by the time the tax return is filed. The IRS and Treasury believe that 30 days should be adequate to provide documents that already exist and that were prepared with the intention of being provided to the IRS.

Other commenters suggested that the list of documents in §1.6662–6(d)(2)-(iii)(B) is too specific and that, in some cases, it should not be necessary to provide all of the documents listed. Some of these commenters suggested that the list of documents be replaced with a more flexible approach under which the documents required would depend on the facts and circumstances.

The final regulations have not been changed in response to this comment. The list of principal documents is intended to provide the IRS with the documents necessary to conduct a complete examination of a taxpayer's transfer pricing. It is anticipated that all of the principal documents listed would be needed in connection with all transfer pricing audits. In addition, the suggested flexible approach would deprive taxpayers and the IRS of much-needed certainty. In the absence of the specific guidance provided by the regulations, most taxpayers would face uncertainty as to the appropriate scope of the documentation requirement.

Disclosure of Profit Split, Lump Sum, and Unspecified Methods

The proposed and temporary regulations require that the taxpayer disclose on its tax return if the taxpayer used a profit split method, an unspecified method, or transferred an intangible in exchange for a lump sum payment. Commenters expressed concern about this requirement, particularly with respect to the profit split method. They asserted that it is inappropriate to impose a penalty on a taxpayer that used a profit split method, solely because it failed to comply with disclosure requirements, if the taxpayer otherwise fully complied with the regulations under section 6662(e). In

response to this comment, the final regulations eliminate the disclosure requirement with respect to the profit split method, lump sum payments, and unspecified methods. The IRS and Treasury believe that these matters are more appropriately addressed under section 6038 and section 6038A of the Internal Revenue Code governing, in part, information returns on Forms 5471 and 5472. The IRS intends to review these forms to determine whether they should be revised.

Effective Date

These regulations are effective February 9, 1996. However, taxpayers may elect to apply these regulations to all open taxable years beginning after December 31, 1993.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to the regulations and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking and temporary regulations preceding these regulations were sent to the Small Business Administration for comment on their impact on small business.

Drafting Information

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

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority for part 1 is amended by removing the entry ''Sections 1.6662–0 and 1.6662–6T'' and adding an entry in numerical order to read as follows:

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

Section 1.6662–6 also issued under 26 U.S.C. 6662. * * *

Par. 2. Section 1.6662–0 is amended by:

1. Revising the entry for §1.6662–5T.
2. Adding an entry for §1.6662–6.
3. Removing the entry for §1.6662–6T.

The revisions and additions read as follows:

§1.6662–0 Table of contents.

* * * * * *

§1.6662–5T Substantial and gross valuation misstatements under chapter 1 (Temporary).

(a) through (e)(3) [Reserved].
(e)(4) Tests related to section 481.
  (i) Substantial valuation statement.
  (ii) Gross valuation misstatement.
  (iii) Property.
(f) through (i) [Reserved].
(j) Transactions between persons described in section 482 and net section 482 transfer price adjustments.

§1.6662–6 Transactions between persons described in section 482 and net section 482 transfer price adjustments.

(a) In general.
  (1) Purpose and scope.
  (2) Reported results.
  (3) Identical terms used in the section 482 regulations.
(b) The transactional penalty.
  (1) Substantial valuation misstatement.
  (2) Gross valuation misstatement.
  (3) Reasonable cause and good faith.
(c) Net adjustment penalty.
  (1) Net section 482 adjustment.
  (2) Substantial valuation misstatement.
  (3) Gross valuation misstatement.
  (4) Setoff allocation rule.
  (5) Gross receipts.
  (6) Coordination with reasonable cause exception under section 6664(c).
  (7) Examples.
(d) Amounts excluded from net section 482 adjustments.
  (1) In general.
  (2) Application of a specified section 482 method.
  (i) In general.
  (ii) Specified method requirement.
  (iii) Documentation requirement.
    (A) In general.
    (B) Principal documents.
    (C) Background documents.
  (3) Application of an unspecified method.
  (i) In general.
  (ii) Unspecified method requirement.
    (A) In general.
    (B) Specified method potentially applicable.
    (C) No specified method applicable.
  (iii) Documentation requirement.
    (A) In general.
    (B) Principal and background documents.
  (4) Certain foreign to foreign transactions.
  (5) Special rule.
  (6) Examples.
(e) Special rules in the case of carrybacks and carryovers.
(f) Rules for coordinating between the transactional penalty and the net adjustment penalty.
  (1) Coordination of a net section 482 adjustment subject to the net adjustment penalty and a gross valuation misstatement subject to the transactional penalty.
  (2) Coordination of net section 482 adjustment subject to the net adjustment penalty and substantial valuation misstatements subject to the transactional penalty.
  (3) Examples.
(g) Effective date.

* * * * * *

Par. 3. Section 1.6662–5T is revised to read as follows:

§1.6662–5T Substantial and gross valuation misstatements under chapter 1 (Temporary).

(a) through (e)(3) [Reserved]. For further information, see §1.6662–5(a) through (e)(3).

(e)(4) *Tests related to section 482*—(i) *Substantial valuation misstatement*. There is a substantial valuation misstatement if there is a misstatement described in §1.6662–6(b)(1) or (c)(1) (concerning substantial valuation misstatements pertaining to transactions between related persons).

(ii) *Gross valuation misstatement*. There is a gross valuation misstatement if there is a misstatement described in §1.6662–6(b)(2) or (c)(2) (concerning gross valuation misstatements pertaining to transactions between related persons).

(iii) *Property*. For purposes of this section, the term *property* refers to both tangible and intangible property. Tangible property includes property such as land, buildings, fixtures and inventory. Intangible property includes property such as goodwill, covenants not to compete, leaseholds, patents, contract rights, debts and choses in action, and any other item of intangible property described in §1.482–4(b).

(f) through (h) [Reserved] For further information, see §1.6662–5(f) through (h).

(i) [Reserved].

(j) *Transactions between persons described in section 482 and net section 482 transfer price adjustments*. For rules relating to the penalty imposed with respect to a substantial or gross valuation misstatement arising from a section 482 allocation, see §1.6662–6.

Par. 4. Section 1.6662–6 is added to read as follows:

§1.6662–6 Transactions between persons described in section 482 and net section 482 transfer price adjustments.

(a) *In general*—(1) *Purpose and scope*. Pursuant to section 6662(e) a penalty is imposed on any underpayment attributable to a substantial valuation misstatement pertaining to either a transaction between persons described in section 482 (the transactional penalty) or a net section 482 transfer price adjustment (the net adjustment penalty). The penalty is equal to 20 percent of the underpayment of tax attributable to that substantial valuation misstatement. Pursuant to section 6662(h) the penalty is increased to 40 percent of the underpayment in the case of a gross valuation misstatement with respect to either penalty. Paragraph (b) of this section provides specific rules related to the transactional penalty. Paragraph (c) of this section provides specific rules related to the net adjustment penalty, and paragraph (d) of this section describes amounts that will be excluded for purposes of calculating the net adjustment penalty. Paragraph (e) of this section sets forth special rules in the case of carrybacks and carryovers. Paragraph (f) of this section provides coordination rules between penalties. Paragraph (g) of this section provides the effective date of this section.

(2) *Reported results*. Whether an underpayment is attributable to a substantial or gross valuation misstatement must be determined from the results of controlled transactions that are reported on an income tax return, regardless of whether the amount reported differs from the transaction price initially reflected in the taxpayer's books and records. The results of controlled transactions that are reported on an amended return will be used only if the amended return is filed before the Internal Revenue Service has contacted the taxpayer regarding the corresponding original return. A written statement furnished by a taxpayer subject to the Coordinated Examination Program or a written statement furnished by the taxpayer when electing Accelerated Issue Resolution or similar procedures will be considered an amended return for purposes of this section if it satisfies either the requirements of a qualified amended return for purposes of §1.6664–2(c)(3) or such requirements as the Commissioner may prescribe by revenue procedure. In the case of a taxpayer that is a member of a consolidated group, the rules of this paragraph (a)(2) apply to the consolidated income tax return of the group.

(3) *Identical terms used in the section 482 regulations*. For purposes of this section, the terms used in this section shall have the same meaning as identical terms used in regulations under section 482.

(b) *The transactional penalty*—(1) *Substantial valuation misstatement*. In the case of any transaction between related persons, there is a substantial valuation misstatement if the price for any property or services (or for the use of property) claimed on any return is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct price.

(2) *Gross valuation misstatement*. In the case of any transaction between related persons, there is a gross valuation misstatement if the price for any property or services (or for the use of property) claimed on any return is 400 percent or more (or 25 percent or less) of the amount determined under section 482 to be the correct price.

(3) *Reasonable cause and good faith*. Pursuant to section 6664(c), the transactional penalty will not be imposed on any portion of an underpayment with respect to which the requirements of §1.6664–4 are met. In applying the provisions of §1.6664–4 in a case in which the taxpayer has relied on professional analysis in determining its transfer pricing, whether the professional is an employee of, or related to, the taxpayer is not determinative in evaluating whether the taxpayer reasonably relied in good faith on advice. A taxpayer that meets the requirements of paragraph (d) of this section with respect to an allocation under section 482 will be treated as having established that there was reasonable cause and good faith with respect to that item for purposes of §1.6664–4. If a substantial or gross valuation misstatement under the transactional penalty also constitutes (or is part of) a substantial or gross valuation misstatement under the net adjustment penalty, then the rules of paragraph (d) of this section (and not the rules of §1.6664–4) will be applied to determine whether the adjustment is excluded from calculation of the net section 482 adjustment.

(c) *Net adjustment penalty*—(1) *Net section 482 adjustment*. For purposes of this section, the term *net section 482 adjustment* means the sum of all increases in the taxable income of a taxpayer for a taxable year resulting from allocations under section 482 (determined without regard to any amount carried to such taxable year from another taxable year) less any decreases in taxable income attributable to collateral adjustments as described in §1.482–1(g). For purposes of this section, amounts that meet the require-

ments of paragraph (d) of this section will be excluded from the calculation of the net section 482 adjustment. Substantial and gross valuation misstatements that are subject to the transactional penalty under paragraph (b)(1) or (2) of this section are included in determining the amount of the net section 482 adjustment. See paragraph (f) of this section for coordination rules between penalties.

(2) *Substantial valuation misstatement*. There is a substantial valuation misstatement if a net section 482 adjustment is greater than the lesser of 5 million dollars or ten percent of gross receipts.

(3) *Gross valuation misstatement*. There is a gross valuation misstatement if a net section 482 adjustment is greater than the lesser of 20 million dollars or twenty percent of gross receipts.

(4) *Setoff allocation rule*. If a taxpayer meets the requirements of paragraph (d) of this section with respect to some, but not all of the allocations made under section 482, then for purposes of determining the net section 482 adjustment, setoffs, as taken into account under §1.482–1(g)(4), must be applied ratably against all such allocations. The following example illustrates the principle of this paragraph (c)(4):

Example. (i) The Internal Revenue Service makes the following section 482 adjustments for the taxable year:

(1) Attributable to an increase in gross income because of an increase in royalty payments	$9,000,000
(2) Attributable to an increase in sales proceeds due to a decrease in the profit margin of a related buyer	6,000,000
(3) Because of a setoff under §1.482–1(g)(4)	(5,000,000)
Total section 482 adjustments	10,000,000

(ii) The taxpayer meets the requirements of paragraph (d) with respect to adjustment number one, but not with respect to adjustment number two. The five million dollar setoff will be allocated ratably against the nine million dollar adjustment ($9,000,000/$15,000,000 × $5,000,000 = $3,000,000) and the six million dollar adjustment ($6,000,000/$15,000,000 × $5,000,000 = $2,000,000). Accordingly, in determining the net section 482 adjustment, the nine million dollar adjustment is reduced to six million dollars ($9,000,000 – $3,000,000) and the six million dollar adjustment is reduced to four million dollars ($6,000,000 –$2,000,000). Therefore, the net section 482 adjustment equals four million dollars.

(5) *Gross receipts*. For purposes of this section, gross receipts must be computed pursuant to the rules contained in §1.448–1T(f)(2)(iv), as adjusted to reflect allocations under section 482.

(6) *Coordination with reasonable cause exception under section 6664(c)*. Pursuant to section 6662(e)(3)(D), a taxpayer will be treated as having reasonable cause under section 6664(c) for any portion of an underpayment attributable to a net section 482 adjustment only if the taxpayer meets the requirements of paragraph (d) of this section with respect to that portion.

(7) *Examples*. The principles of this paragraph (c) are illustrated by the following examples:

Example 1. (i) The Internal Revenue Service makes the following section 482 adjustments for the taxable year:

(1) Attributable to an increase in gross income because of an increase in royalty payments	$2,000,000
(2) Attributable to an increase in sales proceeds due to a decrease in the profit margin of a related buyer	2,500,000
(3) Attributable to a decrease in the cost of goods sold because of a decrease in the cost plus mark-up of a related seller	2,000,000
Total section 482 adjustments	6,500,000

(ii) None of the adjustments are excluded under paragraph (d) of this section. The net section 482 adjustment ($6.5 million) is greater than five million dollars. Therefore, there is a substantial valuation misstatement.

Example 2. (i) The Internal Revenue Service makes the following section 482 adjustments for the taxable year:

(1) Attributable to an increase in gross income because of an increase in royalty payments	$11,000,000
(2) Attributable to an increase in sales proceeds due to a decrease in the profit margin of a related buyer	2,000,000
(3) Because of a setoff under §1.482–1(g)(4)	(9,000,000)
Total section 482 adjustments	4,000,000

(ii) The taxpayer has gross receipts of sixty million dollars after taking into account all section 482 adjustments. None of the adjustments are excluded under paragraph (d) of this section. The net section 482 adjustment ($4 million) is less than the lesser of five million dollars or ten percent of gross receipts ($60 million × 10% = $6 million). Therefore, there is no substantial valuation misstatement.

Example 3. (i) The Internal Revenue Service makes the following section 482 adjustments to the income of an affiliated group that files a consolidated return for the taxable year:

(1) Attributable to Member A	$1,500,000
(2) Attributable to Member B	1,000,000
(3) Attributable to Member C	2,000,000
Total section 482 adjustments	4,500,000

(ii) Members A, B, and C have gross receipts of 20 million dollars, 12 million dollars, and 11 million dollars, respectively. Thus, the total gross receipts are 43 million dollars. None of the adjustments are excluded under paragraph (d) of this section. The net section 482 adjustment ($4.5 million) is greater than the lesser of five million dollars or ten percent of gross receipts ($43 million × 10% = $4.3 million). Therefore, there is a substantial valuation misstatement.

Example 4. (i) The Internal Revenue Service makes the following section 482 adjustments to the income of an affiliated group that files a consolidated return for the taxable year:

(1) Attributable to Member A	$1,500,000
(2) Attributable to Member B	3,000,000
(3) Attributable to Member C	2,500,000
Total section 482 adjustments	7,000,000

(ii) Members A, B, and C have gross receipts of 20 million dollars, 35 million dollars, and 40 million dollars, respectively. Thus, the total gross receipts are 95 million dollars. None of the adjustments are excluded under paragraph (d) of this section. The net section 482 adjustment (7 million dollars) is greater than the lesser of five million dollars or ten percent of gross receipts ($95 million × 10% = $9.5 million). Therefore, there is a substantial valuation misstatement.

Example 5. (i) The Internal Revenue Service makes the following section 482 adjustments to the income of an affiliated group that files a consolidated return for the taxable year:

(1) Attributable to Member A	$2,000,000
(2) Attributable to Member B	1,000,000
(3) Attributable to Member C	1,500,000
Total section 482 adjustments	4,500,000

(ii) Members A, B, and C have gross receipts of 10 million dollars, 35 million dollars, and 40 million dollars, respectively. Thus, the total gross receipts are 85 million dollars. None of the adjustments are excluded under paragraph (d) of this section. The net section 482 adjustment ($4.5 million) is less than the lesser of five million dollars or ten percent of gross receipts ($85 million × 10% = $8.5 million). Therefore, there is no substantial valuation misstatement even though individual member A's adjustment ($2 million) is greater than ten percent of its individual gross receipts ($10 million × 10% = $1 million).

(d) *Amounts excluded from net section 482 adjustments*—(1) *In general*. An amount is excluded from the calculation of a net section 482 adjustment if the requirements of paragraph (d)(2), (3), or (4) of this section are met with respect to that amount.

(2) *Application of a specified section 482 method*—(i) *In general*. An amount is excluded from the calculation of a net section 482 adjustment if the taxpayer establishes that both the specified method and documentation requirements of this paragraph (d)(2) are met with respect to that amount. For purposes of this paragraph (d), a method will be considered a specified

method if it is described in the regulations under section 482 and the method applies to transactions of the type under review. A qualified cost sharing arrangement is considered a specified method. See §1.482–7. An unspecified method is not considered a specified method. See §§1.482–3(e) and 1.482–4(d).

(ii) *Specified method requirement.* The specified method requirement is met if the taxpayer selects and applies a specified method in a reasonable manner. The taxpayer's selection and application of a specified method is reasonable only if, given the available data and the applicable pricing methods, the taxpayer reasonably concluded that the method (and its application of that method) provided the most reliable measure of an arm's length result under the principles of the best method rule of §1.482–1(c). A taxpayer can reasonably conclude that a specified method provided the most reliable measure of an arm's length result only if it has made a reasonable effort to evaluate the potential applicability of the other specified methods in a manner consistent with the principles of the best method rule. The extent of this evaluation generally will depend on the nature of the available data, and it may vary from case to case and from method to method. This evaluation may not entail an exhaustive analysis or detailed application of each method. Rather, after a reasonably thorough search for relevant data, the taxpayer should consider which method would provide the most reliable measure of an arm's length result given that data. The nature of the available data may enable the taxpayer to conclude reasonably that a particular specified method provides a more reliable measure of an arm's length result than one or more of the other specified methods, and accordingly no further consideration of such other specified methods is needed. Further, it is not necessary for a taxpayer to conclude that the selected specified method provides a more reliable measure of an arm's length result than any unspecified method. For examples illustrating the selection of a specified method consistent with this paragraph (d)(2)(ii), see §1.482–8. Whether the taxpayer's conclusion was reasonable must be determined from all the facts and circumstances. The factors relevant to this determination include the following:

(A) The experience and knowledge of the taxpayer, including all members of the taxpayer's controlled group.

(B) The extent to which reliable data was available and the data was analyzed in a reasonable manner. A taxpayer must engage in a reasonably thorough search for the data necessary to determine which method should be selected and how it should be applied. In determining the scope of a reasonably thorough search for data, the expense of additional efforts to locate new data may be weighed against the likelihood of finding additional data that would improve the reliability of the results and the amount by which any new data would change the taxpayer's taxable income. Furthermore, a taxpayer must use the most current reliable data that is available before the end of the taxable year in question. Although the taxpayer is not required to search for relevant data after the end of the taxable year, the taxpayer must maintain as a principal document described in paragraph (d)(2)(iii)(B)(*9*) of this section any relevant data it obtains after the end of the taxable year but before the return is filed, if that data would help determine whether the taxpayer has reported its true taxable income.

(C) The extent to which the taxpayer followed the relevant requirements set forth in regulations under section 482 with respect to the application of the method.

(D) The extent to which the taxpayer reasonably relied on a study or other analysis performed by a professional qualified to conduct such a study or analysis, including an attorney, accountant, or economist. Whether the professional is an employee of, or related to, the taxpayer is not determinative in evaluating the reliability of that study or analysis, as long as the study or analysis is objective, thorough, and well reasoned. Such reliance is reasonable only if the taxpayer disclosed to the professional all relevant information regarding the controlled transactions at issue. A study or analysis that was reasonably relied upon in a prior year may reasonably be relied upon in the current year if the relevant facts and circumstances have not changed or if the study or analysis has been appropriately modified to reflect any change in facts and circumstances.

(E) If the taxpayer attempted to determine an arm's length result by using more than one uncontrolled comparable, whether the taxpayer arbitrarily selected a result that corresponds to an extreme point in the range of results derived from the uncontrolled comparables. Such a result generally would not likely be closest to an arm's length result. If the uncontrolled comparables that the taxpayer uses to determine an arm's length result are described in §1.482–1(e)(2)(ii)(B), one reasonable method of selecting a point in the range would be that provided in §1.482–1(e)(3).

(F) The extent to which the taxpayer relied on a transfer pricing methodology developed and applied pursuant to an Advance Pricing Agreement for a prior taxable year, or specifically approved by the Internal Revenue Service pursuant to a transfer pricing audit of the transactions at issue for a prior taxable year, provided that the taxpayer applied the approved method reasonably and consistently with its prior application, and the facts and circumstances surrounding the use of the method have not materially changed since the time of the IRS's action, or if the facts and circumstances have changed in a way that materially affects the reliability of the results, the taxpayer makes appropriate adjustments to reflect such changes.

(G) The size of a net transfer pricing adjustment in relation to the size of the controlled transaction out of which the adjustment arose.

(iii) *Documentation requirement*—(A) *In general.* The documentation requirement of this paragraph (d)(2)(iii) is met if the taxpayer maintains sufficient documentation to establish that the taxpayer reasonably concluded that, given the available data and the applicable pricing methods, the method (and its application of that method) provided the most accurate measure of an arm's length result under the principles of the best method rule in §1.482–1(c), and provides that documentation to the Internal Revenue Service within 30 days of a request for it in connection with an examination of the taxable year to which the documentation relates. With the exception of the documentation described in paragraphs (d)(2)(iii)(B)(*9*) and (*10*) of this section, that documentation must be in existence when the return is filed. The district director may, in his discretion, excuse a minor or inadvertent failure to provide required documents, but only if the taxpayer has made a good faith effort to comply, and the taxpayer promptly remedies the failure when it becomes known. The required documentation is divided into two categories, principal

documents and background documents as described in paragraphs (d)(2)(iii)(B) and (C) of this section.

(B) *Principal documents*. The principal documents should accurately and completely describe the basic transfer pricing analysis conducted by the taxpayer. The documentation must include the following—

(*1*) An overview of the taxpayer's business, including an analysis of the economic and legal factors that affect the pricing of its property or services;

(*2*) A description of the taxpayer's organizational structure (including an organization chart) covering all related parties engaged in transactions potentially relevant under section 482, including foreign affiliates whose transactions directly or indirectly affect the pricing of property or services in the United States;

(*3*) Any documentation explicitly required by the regulations under section 482;

(*4*) A description of the method selected and an explanation of why that method was selected;

(*5*) A description of the alternative methods that were considered and an explanation of why they were not selected;

(*6*) A description of the controlled transactions (including the terms of sale) and any internal data used to analyze those transactions. For example, if a profit split method is applied, the documentation must include a schedule providing the total income, costs, and assets (with adjustments for different accounting practices and currencies) for each controlled taxpayer participating in the relevant business activity and detailing the allocations of such items to that activity;

(*7*) A description of the comparables that were used, how comparability was evaluated, and what (if any) adjustments were made;

(*8*) An explanation of the economic analysis and projections relied upon in developing the method. For example, if a profit split method is applied, the taxpayer must provide an explanation of the analysis undertaken to determine how the profits would be split;

(*9*) A description or summary of any relevant data that the taxpayer obtains after the end of the tax year and before filing a tax return, which would help determine if a taxpayer selected and applied a specified method in a reasonable manner; and

(*10*) A general index of the principal and background documents and a description of the recordkeeping system used for cataloging and accessing those documents.

(C) *Background documents*. The assumptions, conclusions, and positions contained in principal documents ordinarily will be based on, and supported by, additional background documents. Documents that support the principal documentation may include the documents listed in §1.6038A–3(c) that are not otherwise described in paragraph (d)(2)(iii)(B) of this section. Every document listed in those regulations may not be relevant to pricing determinations under the taxpayer's specific facts and circumstances and, therefore, each of those documents need not be maintained in all circumstances. Moreover, other documents not listed in those regulations may be necessary to establish that the taxpayer's method was selected and applied in the way that provided the most accurate measure of an arm's length result under the principles of the best method rule in §1.482–1(c). Background documents need not be provided to the Internal Revenue Service in response to a request for principal documents. If the Internal Revenue Service subsequently requests background documents, a taxpayer must provide that documentation to the Internal Revenue Service within 30 days of the request. However, the district director may, in his discretion, extend the period for producing the background documentation.

(3) *Application of an unspecified method*—(i) *In general*. An adjustment is excluded from the calculation of a net section 482 adjustment if the taxpayer establishes that both the unspecified method and documentation requirements of this paragraph (d)(3) are met with respect to that amount.

(ii) *Unspecified method requirement*—(A) *In general*. If a method other than a specified method was applied, the unspecified method requirement is met if the requirements of paragraph (d)(3)(ii)(B) or (C) of this section, as appropriate, are met.

(B) *Specified method potentially applicable*. If the transaction is of a type for which methods are specified in the regulations under section 482, then a taxpayer will be considered to have met the unspecified method requirement if the taxpayer reasonably concludes, given the available data, that none of the specified methods was likely to provide a reliable measure of an arm's length result, and that it selected and applied an unspecified method in a way that would likely provide a reliable measure of an arm's length result. A taxpayer can reasonably conclude that no specified method was likely to provide a reliable measure of an arm's length result only if it has made a reasonable effort to evaluate the potential applicability of the specified methods in a manner consistent with the principles of the best method rule. However, it is not necessary for a taxpayer to conclude that the selected method provides a more reliable measure of an arm's length result than any other unspecified method. Whether the taxpayer's conclusion was reasonable must be determined from all the facts and circumstances. The factors relevant to this conclusion include those set forth in paragraph (d)(2)(ii) of this section.

(C) *No specified method applicable*. If the transaction is of a type for which no methods are specified in the regulations under section 482, then a taxpayer will be considered to have met the unspecified method requirement if it selected and applied an unspecified method in a reasonable manner. For purposes of this paragraph (d)(3)(ii)(C), a taxpayer's selection and application is reasonable if the taxpayer reasonably concludes that the method (and its application of that method) provided the most reliable measure of an arm's length result under the principles of the best method rule in §1.482–1(c). However, it is not necessary for a taxpayer to conclude that the selected method provides a more reliable measure of an arm's length result than any other unspecified method. Whether the taxpayer's conclusion was reasonable must be determined from all the facts and circumstances. The factors relevant to this conclusion include those set forth in paragraph (d)(2)(ii) of this section.

(iii) *Documentation requirement*—(A) *In general*. The documentation requirement of this paragraph (d)(3) is met if the taxpayer maintains sufficient documentation to establish that the unspecified method requirement of paragraph (d)(3)(ii) of this section is met and provides that documentation to the Internal Revenue Service within 30 days of a request for it. That documentation must be in existence when the return is filed. The district director

may, in his discretion, excuse a minor or inadvertent failure to provide required documents, but only if the taxpayer has made a good faith effort to comply, and the taxpayer promptly remedies the failure when it becomes known.

(B) *Principal and background documents*. See paragraphs (d)(2)(iii)(B) and (C) of this section for rules regarding these two categories of required documentation.

(4) *Certain foreign to foreign transactions*. For purposes of calculating a net section 482 adjustment, any increase in taxable income resulting from an allocation under section 482 that is attributable to any controlled transaction solely between foreign corporations will be excluded unless the treatment of that transaction affects the determination of either corporation's income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States.

(5) *Special rule*. If the regular tax (as defined in section 55(c)) imposed on the taxpayer is determined by reference to an amount other than taxable income, that amount shall be treated as the taxable income of the taxpayer for purposes of section 6662(e)(3). Accordingly, for taxpayers whose regular tax is determined by reference to an amount other than taxable income, the increase in that amount resulting from section 482 allocations is the taxpayer's net section 482 adjustment.

(6) *Examples*. The principles of this paragraph (d) are illustrated by the following examples:

Example 1. (i) The Internal Revenue Service makes the following section 482 adjustments for the taxable year:

(1) Attributable to an increase in gross income because of an increase in royalty payments	$9,000,000
(2) Not a 200 percent or 400 percent adjustment	2,000,000
(3) Attributable to a decrease in the cost of goods sold because of a decrease in the cost plus mark-up of a related seller	9,000,000
Total section 482 adjustments	20,000,000

(ii) The taxpayer has gross receipts of 75 million dollars after all section 482 adjustments. The taxpayer establishes that for adjustments number one and three, it applied a transfer pricing method specified in section 482, the selection and application of the method was reasonable, it documented the pricing analysis, and turned that documentation over to the IRS within 30 days of a request. Accordingly, eighteen million dollars is excluded from the calculation of the net section 482 adjustment. Because the net section 482 adjustment is two million dollars, there is no substantial valuation misstatement.

Example 2. (i) The Internal Revenue Service makes the following section 482 adjustments for the taxable year:

(1) Attributable to an increase in gross income because of an increase in royalty payments	$9,000,000
(2) Attributable to an adjustment that is 200 percent or more of the correct section 482 price	2,000,000
(3) Attributable to a decrease in the cost of goods sold because of a decrease in the cost plus mark-up of a related seller	9,000,000
Total section 482 adjustments	20,000,000

(ii) The taxpayer has gross receipts of 75 million dollars after all section 482 adjustments. The taxpayer establishes that for adjustments number one and three it applied a transfer pricing method specified in section 482, the selection and application of the method was reasonable, it documented that analysis, and turned the documentation over to the IRS within 30 days. Accordingly, eighteen million dollars is excluded from the calculation of the section 482 transfer pricing adjustments for purposes of applying the five million dollar or 10% of gross receipts test. Because the net section 482 adjustment is only two million dollars, the taxpayer is not subject to the net adjustment penalty. However, the taxpayer may be subject to the transactional penalty on the underpayment of tax attributable to the two million dollar adjustment.

Example 3. CFC1 and CFC2 are controlled foreign corporations within the meaning of section 957. Applying section 482, the IRS disallows a deduction for 25 million dollars of the interest that CFC1 paid to CFC2, which results in CFC1's U.S. shareholder having a subpart F inclusion in excess of five million dollars. No other adjustments under section 482 are made with respect to the controlled taxpayers. However, the increase has no effect upon the determination of CFC1's or CFC2's income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States. Accordingly, there is no substantial valuation misstatement.

(e) *Special rules in the case of carrybacks and carryovers*. If there is a substantial or gross valuation misstatement for a taxable year that gives rise to a loss, deduction or credit that is carried to another taxable year, the transactional penalty and the net adjustment penalty will be imposed on any resulting underpayment of tax in that other taxable year. In determining whether there is a substantial or gross valuation misstatement for a taxable year, no amount carried from another taxable year shall be included. The following example illustrates the principle of this paragraph (e):

Example. The Internal Revenue Service makes a section 482 adjustment of six million dollars in taxable year 1, no portion of which is excluded under paragraph (d) of this section. The taxpayer's income tax return for year 1 reported a loss of three million dollars, which was carried to taxpayer's year 2 year income tax return and used to reduce income taxes otherwise due with respect to year 2. A determination is made that the six million dollar allocation constitutes a substantial valuation misstatement, and a penalty is imposed on the underpayment of tax in year 1 attributable to the substantial valuation misstatement and on the underpayment of tax in year 2 attributable to the disallowance of the net operating loss in year 2. For purposes of determining whether there is a substantial or gross valuation misstatement for year 2, the three million dollar reduction of the net operating loss will not be added to any section 482 adjustments made with respect to year 2.

(f) *Rules for coordinating between the transactional penalty and the net adjustment penalty*—(1) *Coordination of a net section 482 adjustment subject to the net adjustment penalty and a gross valuation misstatement subject to the transactional penalty*. In determining whether a net section 482 adjustment exceeds five million dollars or 10 percent of gross receipts, an adjustment attributable to a substantial or gross valuation misstatement that is subject to the transactional penalty will be taken into account. If the net section 482 adjustment exceeds five million dollars or ten percent of gross receipts, any portion of such amount that is attributable to a gross valuation misstatement will be subject to the transactional penalty at the forty percent rate, but will not also be subject to net adjustment penalty at a twenty percent rate. The remaining amount is subject to the net adjustment penalty at the twenty percent rate, even if such amount is less than the lesser of five million dollars or ten percent of gross receipts.

(2) *Coordination of net section 482 adjustment subject to the net adjustment penalty and substantial valuation misstatements subject to the transactional penalty*. If the net section 482 adjustment exceeds twenty million dollars or 20 percent of gross receipts, the entire amount of the adjustment is subject to the net adjustment penalty at a forty percent rate. No portion of the adjustment is subject to the transactional penalty at a twenty percent rate.

(3) *Examples*. The following examples illustrate the principles of this paragraph (f):

Example 1. (i) Applying section 482, the Internal Revenue Service makes the following adjustments for the taxable year:

(1) Attributable to an adjustment that is 400 percent or more of the correct section 482 arm's length result	$2,000,000
(2) Not a 200 or 400 percent adjustment	2,500,000
Total	4,500,000

(ii) The taxpayer has gross receipts of 75 million dollars after all section 482 adjustments. None of the adjustments is excluded under paragraph (d) (Amounts excluded from net section 482 adjustments) of this section, in determining the five million dollar or 10% of gross receipts test under section 6662(e)-(1)(B)(ii). The net section 482 adjustment (4.5 million dollars) is less than the lesser of five million dollars or ten percent of gross receipts ($75 million × 10% = $7.5 million). Thus, there is no substantial valuation misstatement. However, the two million dollar adjustment is attributable to a gross valuation misstatement. Accordingly, the taxpayer may be subject to a penalty, under section 6662(h), equal to 40 percent of the underpayment of tax attributable to the gross valuation misstatement of two million dollars. The 2.5 million dollar adjustment is not subject to a penalty under section 6662(b)(3).

Example 2. The facts are the same as in *Example 1*, except the taxpayer has gross receipts of 40 million dollars. The net section 482 adjustment ($4.5 million) is greater than the lesser of five million dollars or ten percent of gross receipts ($40 million × 10% = $4 million). Thus, the five million dollar or 10% of gross receipts test has been met. The two million dollar adjustment is attributable to a gross valuation misstatement. Accordingly, the taxpayer is subject to a penalty, under section 6662(h), equal to 40 percent of the underpayment of tax attributable to the gross valuation misstatement of two million dollars. The 2.5 million dollar adjustment is subject to a penalty under sections 6662(a) and 6662(b)(3), equal to 20 percent of the underpayment of tax attributable to the substantial valuation misstatement.

Example 3. (i) Applying section 482, the Internal Revenue Service makes the following transfer pricing adjustments for the taxable year:

(1) Attributable to an adjustment that is 400 percent or more of the correct section 482 arm's length result	$6,000,000
(2) Not a 200 or 400 percent adjustment	15,000,000
Total	21,000,000

(ii) None of the adjustments are excluded under paragraph (d) (Amounts excluded from net section 482 adjustments) in determining the twenty million dollar or 20% of gross receipts test under section 6662(h). The net section 482 adjustment (21 million dollars) is greater than twenty million dollars and thus constitutes a gross valuation misstatement. Accordingly, the total adjustment is subject to the net adjustment penalty equal to 40 percent of the underpayment of tax attributable to the 21 million dollar gross valuation misstatement. The six million dollar adjustment will not be separately included for purposes of any additional penalty under section 6662.

(g) *Effective date*. This section is effective February 9, 1996. However, taxpayers may elect to apply this section to all open taxable years beginning after December 31, 1993.

§1.6662-6T [Removed]

Par. 5. Section 1.6662–6T is removed.

Par. 6a. In §1.6664–0, the introductory text is amended by removing the reference ''1.6664–4'' and adding ''1.6664–4T'' in its place.

Par. 6b. Section 1.6664–4T is revised to read as follows:

§1.6664–4T Reasonable cause and good faith exception to section 6662 penalties.

(a) through (e) [Reserved].

(f) *Transactions between persons described in section 482 and net section 482 transfer price adjustments.* For purposes of applying the reasonable cause and good faith exception of section 6664(c) to net section 482 adjustments, the rules of §1.6662–6(d) apply. A taxpayer that does not satisfy the rules of §1.6662–6(d) for a net section 482 adjustment cannot satisfy the reasonable cause and good faith exception under section 6664(c). The rules of this section apply to underpayments subject to the transactional penalty in §1.6662–6(b). If the standards of the net section 482 penalty exclusion provisions under §1.6662–6(d) are met with respect to such underpayments, then the taxpayer will be considered to have acted with reasonable cause and good faith for purposes of this section.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 7. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 8. In §602.101, paragraph (c) is amended by removing the entry for §1.6662–6T from the table and adding an entry in numerical order to the table to read ''1.6662–6.... 1545–1426''.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved January 19, 1996.

Leslie Samuels,
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on February 8, 1996, 8:45 a.m., and published in the issue of the Federal Register for February 9, 1996, 61 F.R. 4876)

Differential Earnings Rate for Mutual Life Insurance Companies

Notice 96–15

This notice publishes a tentative determination under § 809 of the Internal Revenue Code of the ''differential earnings rate'' for 1995 and the rate that is used to calculate the ''recomputed differential earnings amount'' for 1994. (The latter rate is referred to in this notice as the ''recomputed differential earnings rate'' for 1994.) These rates are used by mutual life insurance companies to calculate their federal income tax liability for taxable years beginning in 1995.

BACKGROUND

Section 809(a) provides that, in the case of any mutual life insurance company, the amount of the deduction allowable under § 808 for policyholder dividends is reduced (but not below zero) by the ''differential earnings amount.'' Any excess of the differential earnings amount over the amount of the deduction allowable under § 808 is taken into account as a reduction in the closing balance of reserves under subsections (a) and (b) of § 807. The ''differential earnings amount'' for any taxable year is the amount equal to the product of (a) the life insurance company's average equity base for the taxable year multiplied by (b) the ''differential earnings rate'' for that taxable year. The ''differential earnings rate'' for the taxable year is the excess of (a) the ''imputed earnings rate'' for the taxable year over (b) the ''average mutual earnings rate'' for the second calendar year preceding the calendar year in which the taxable year begins. The ''imputed earnings rate'' for any taxable year is the amount that bears the same ratio to 16.5 percent as the ''current stock earnings rate'' for the taxable year bears to the ''base period stock earnings rate.''

Section 809(f) provides that, in the case of any mutual life insurance company, if the ''recomputed differential earnings amount'' for any taxable year exceeds the differential earnings amount for that taxable year, the excess is included in life insurance gross income for the succeeding taxable year. If the differential earnings amount for any taxable year exceeds the recomputed differential earnings amount for that taxable year, the excess is allowed as a life insurance deduction for the succeeding taxable year. The ''recomputed differential earnings amount'' for any taxable year is an amount calculated in the same manner as the differential earnings amount for that taxable year, except that the average mutual earnings rate for the calendar year in which the taxable year begins is substituted for the average mutual earnings rate for the second calendar year preceding the calendar year in which the taxable year begins.

The stock earnings rates and mutual earnings rates taken into account under § 809 generally are determined by dividing statement gain from operations by the average equity base. For this purpose, the term ''statement gain from operations'' means ''the net gain or loss from operations required to be set forth in the annual statement, determined without regard to Federal income taxes, and ... properly adjusted for realized capital gains and losses....'' *See* § 809(g)(1). The term ''equity base'' is defined as an amount determined in the manner prescribed by regulations equal to surplus and capital increased by the amount of nonadmitted financial assets, the excess of statutory reserves over the amount of tax reserves, the sum of certain other reserves, and 50 percent of any policyholder dividends (or other similar liability) payable in the following taxable year. *See* § 809(b)(2), (3), (4), (5) and (6). Section 1.809–10 of the Income Tax Regulations provides that the equity base includes both the asset valuation reserve and the interest maintenance reserve for taxable years ending after December 31, 1991.

Section 1.809–9(a) of the regulations provides that neither the differential earnings rate under § 809(c) nor the recomputed differential earnings rate that is used in computing the recomputed differential earnings amount under § 809(f)(3) may be less than zero.

As described above, the differential earnings rate for 1995 and the recomputed differential earnings rate for 1994 affect the income and deductions reported by mutual life insurance companies on their federal income tax returns for the 1995 taxable year.

Data necessary to determine the tentative differential earnings rate for 1995 and the tentative recomputed differential earnings rate for 1994 have been compiled from returns filed by mutual life insurance companies and certain stock life insurance companies. The Internal Revenue Service is currently examining these returns. This examination will not be completed before the March 15, 1996, due date for filing 1995 calendar year returns.

NOTICE OF TENTATIVE RATES

This notice publishes a tentative determination of the differential earnings rate for 1995 and of the recomputed differential earnings rate for 1994. This notice also publishes a tentative determination of the rates on which the calculation of the differential earnings rate for 1995 and the recomputed differential earnings rate for 1994 are based. The final determination of these rates is expected to be published before September 1, 1996.

The tentative determination of the differential earnings rate for 1995 and the tentative determination of the recomputed differential earnings rate for 1994 that are published in this notice should be used by mutual life insurance companies to calculate the amount of tax liability for taxable years beginning in 1995 (in the case of companies that file returns before publication of the final determination of these rates) or to calculate the amount of estimated unpaid tax liability for taxable years beginning in 1995 (in the case of companies that are allowed an extension of time to file returns). Companies that file returns before publication of the final determination of these rates should file amended returns after the final determination of these rates is published. If there is a failure to pay tax for a taxable year beginning in 1995 and the failure is attributable to a difference between (a) the tentative determination of the differential earnings rate for 1995 and recomputed differential earnings rate for 1994 and (b) the final determination of these rates, then any such failure through September 16, 1996, will be treated as due to reasonable cause and will not give rise to any addition to tax under § 6651.

The tentative determination of the rates is set forth in Table 1.

Notice 96–15 Table 1

Tentative Determination of Rates To Be Used For Taxable Years Beginning in 1995

Differential earnings rate for 1995	0
Recomputed differential earnings rate for 1994	5.887
Imputed earnings rate for 1994	15.109
Imputed earnings rate for 1995	12.589
Base period stock earnings rate	18.221
Current stock earnings rate for 1995	13.902
Stock earnings rate for 1992	7.004
Stock earnings rate for 1993	23.385
Stock earnings rate for 1994	11.317
Average mutual earnings rate for 1993	18.406
Average mutual earnings rate for 1994	9.222

Weighted Average Interest Rate Update

Notice 96–16

Notice 88–73 provides guidelines for determining the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the full funding limitation of § 412(c)(7) of the Internal Revenue Code as amended by the Omnibus Budget Reconciliation Act of 1987 and as further amended by the Uruguay Round Agreements Act, Pub. L. 103–465 (GATT).

The average yield on the 30-year Treasury Constant Maturities for February 1996 is 6.24 percent.

The following rates were determined for the plan years beginning in the month shown below.

Month	Year	Weighted Average	90% to 108% Permissible Range	90% to 110% Permissible Range
March	1996	6.98	6.28 to 7.53	6.28 to 7.67

Drafting Information

The principal author of this notice is Donna Prestia of the Employee Plans Division. For further information regarding this notice, call (202) 622-6076 between 2:30 and 4:00 p.m. Eastern time (not a toll-free number). Ms. Prestia's number is (202) 622-7377 (also not a toll-free number).

Recognition of Gain or Loss by Contributing Partner on Distribution of Contributed Property or Other Property; Correction

Notice 96–17

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations (TD 8642), which were published in the Federal Register on Tuesday, December 26, 1995, (60 FR 66727) relating to the recognition of gain or loss on certain distributions of contributed property by a partnership, and to the recognition of gain on certain distributions to a contributing partner.

EFFECTIVE DATE: January 9, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen J. Coleman at (202) 622-3060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections are under sections 704 and 737 of the Internal Revenue Code.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 8642), which are the subject of FR Doc. 95–30870, is corrected as follows:

§ 1.737–3 [Corrected]

1. On page 66737, column 2, § 1.737–3 (e), second paragraph from the bottom of the column, the paragraph designated ''(e) *Example 1.*'' is correctly designated ''*Example 1.*''

2. On page 66737, column 3, § 1.737–3 (e), paragraph (i) of *Example 2*, line 4, the language ''nondepreciable real property to the'' is corrected to read ''nondepreciable real property located in the United States to the''.

3. On page 66737, column 3, § 1.737–3 (e), paragraph (ii) of *Example 2*, line 2, the language ''Property B, nondepreciable real property,'' is corrected to read ''Property B, nondepreciable real property located outside the United States,''.

Cynthia E. Grigsby,
Chief, Regulations Unit,
Assistant Chief Counsel (Corporate).

(Filed by the Office of the Federal Register on February 26, 1996, 8:45 a.m., and published in the issue of the Federal Register for February 27, 1996, 61 F.R. 7213)

Nonenforcement Policy—Proposed Class Exemption

Announcement 96–15

The Department of Labor (''DOL'') today announced a Pension Payback Program (''Program''). As part of the Program, DOL also today published a notice of proposed class exemption (Application No. D–10218) for prohibited transactions that may have arisen under section 4975 of the Internal Revenue Code (the ''Code'') as a result of an employer's failure to transfer certain employee benefit contributions to its employee benefit plan within the time frames mandated by section 2510.3–102 of DOL's regulations.

The proposed class exemption will exempt from the Code section 4975 excise taxes corrective payments restored to the plan between the date of DOL's announcement and September 7, 1996. Accordingly, the Internal Revenue Service will not seek to impose the Code section 4975(a) and (b) sanctions with respect to any prohibited transaction that is covered by the proposed class exemption, notwithstanding any subsequent changes to the proposed class exemption when it is finalized, provided that all requirements specified in the proposed class exemption with respect to the prohibited transaction have been met. For example, DOL must receive, in accordance with condition (6) of the Program, the required certification of compliance with all terms and conditions of the Program not later than September 7, 1996.

A corrective payment made to restore a delinquent contribution to which the Program applies will not be considered an annual addition with respect to the limitation year in which the corrective payment is made. To the extent the corrective payment restores a delinquent contribution, the payment will be considered an annual addition for the limitation year in which the contribution was required to have been transferred to the plan.

The principal author of this announcement is Cathy Vohs of the Employee Plans Division. For further information regarding this announcement, please contact the Employee Plans Division's taxpayer assistance telephone service between the hours of 1:30 and 4:00 p.m. Eastern time, Monday through Thursday, on (202) 622-6074/6075 or Cathy Vohs on (202) 622-6214 (These telephone numbers are not toll-free numbers).

Transfer Pricing Penalty Oversight Committee

Announcement 96–16

Following issuance on February 9, 1996 of final regulations under section 6662(e) of the Internal Revenue Code dealing with the imposition of penalties in the case of certain reallocations of income under section 482 of the Code (''transfer pricing penalties''), taxpayers have requested clarification of the purposes and functions of the Transfer Pricing Penalty Oversight Committee (the ''Committee''). This announcement clarifies the purposes and functions of the Committee.

Background

Congress enacted the transfer pricing penalties of section 6662(e) as part of the Omnibus Budget Reconciliation Act of 1990. The transfer pricing penalties are generally applicable to taxable years ending after November 5, 1990. Proposed regulations interpreting section 6662(e) were issued in January 1993, and temporary regulations were issued in February 1994. The temporary regulations were amended in July 1994 and are effective for taxable years ending after December 31, 1993. Revenue Procedure 94–33, issued on April 18, 1994, provided that contemporaneous documentation would be required for taxable years beginning after April 21, 1993 and before January 1, 1994. Final regulations issued on February 9, 1996 are effective as of that date. Taxpayers may elect to apply the final regulations to all open taxable years beginning after December 31, 1993.

Penalty Oversight Committee

Several months ago, the Internal Revenue Service established the Committee to monitor and gather information on the application of the transfer pricing penalty. The Committee consists of personnel from International, Examination, Appeals and Chief Counsel. The goal of the Committee is to ensure uniform application of the reasonableness standard and the documentation requirements on a nationwide basis. For that purpose, the Committee will review all cases in which a district director is considering the assertion of the penalty. The Committee also will collect data from district offices relating to cases in which the statutory thresholds for imposition of the penalty were met but the penalty was not recommended. This monitoring function will enable the Committee to evaluate the application of transfer pricing penalties by the districts and to share information within the Service regarding the administration of section 6662(e).

The Committee will not provide an administrative forum for taxpayers to appeal a preliminary recommendation by the field that the transfer pricing penalty should be imposed. Rather, the review function performed by the Committee is an internal procedure related to the uniform administration of section 6662(e) by the Service. If transfer pricing penalties are asserted, the taxpayer may use regular administrative and judicial procedures for appeal.

The principal authors of this announcement are Joy DeGrosky of the International Field Assistance Specialization Program of the Office of the Assistant Commissioner (International) and Carolyn Fanaroff of the Office of Associate Chief Counsel (International). For further information regarding this announcement, contact Ms. DeGrosky at (202) 874-1894 (not a toll-free call) or Ms. Fanaroff at (202) 622-3880 (not a toll-free call).

Deletions from Cumulative List of Organizations, Contributions to Which Are Deductible Under Section 170 of the Code

Announcement 96–17

The names of organizations that no longer qualify as organizations described in section 170(c)(2) of the Internal Revenue Code of 1986 are listed below.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on March 25, 1996, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors, the maximum deduction protected is $1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual who was responsible, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

America's Missing Children, Inc.
Jacksonville, FL

White Harvest Mission, Inc.
Chandler, AZ

Announcement of the Disbarment, Suspension, or Consent to Voluntary Suspension of Attorneys, Certified Public Accountants, Enrolled Agents and Enrolled Actuaries From Practice Before the Internal Revenue Service

Under 31 Code of Federal Regulations, Part 10, an attorney, certified public accountant, enrolled agent or enrolled actuary, in order to avoid the institution or conclusion of a proceeding for his disbarment or suspension from practice before the Internal Revenue Service, may offer his consent to suspension from such practice. The Director of Practice, in his discretion, may suspend an attorney, certified public accountant, enrolled agent or enrolled actuary in accordance with the consent offered.

Attorneys, certified public accountants, enrolled agents and enrolled actuaries are prohibited in any Internal Revenue Service matter from directly or indirectly employing, accepting assistance from, being employed by, or sharing fees with, any practitioner disbarred or suspended from practice before the Internal Revenue Service.

To enable attorneys, certified public accountants, enrolled agents and enrolled actuaries to identify practitioners under consent suspension from practice before the Internal Revenue Service, the Director of Practice will announce in the Internal Revenue Bulletin the names and addresses of practitioners who have been suspended from such practice, their designation as attorney, certified public accountant, enrolled agent or enrolled actuary and date or period of suspension. This announcement will appear in the weekly Bulletin at the earliest practicable date after such action and will continue to appear in the weekly Bulletins for five successive weeks or for as many weeks as is practicable for each attorney, certified public accountant, enrolled agent or enrolled actuary so suspended and will be consolidated and published in the Cumulative Bulletin.

The following individuals have been placed under consent suspension from practice before the Internal Revenue Service:

Name	Address	Designation	Date of Suspension
Miller, Gorden A.	Mineral Wells, WV	CPA	February 1, 1996 to April 30, 1996
Barnes, Charles E.	Louisville, KY	Enrolled Agent	Indefinite from February 1, 1996
Polizzi, Angelo J.	Grosse Point, MI	Attorney	Indefinite from February 6, 1996
Pegler, Charles R.	Islandia, NY	CPA	Indefinite from February 7, 1996
Foster, David M.	Birmingham, MI	Attorney	Indefinite from February 9, 1996
Smith, Jerry A.	Evansville, IN	CPA	February 9, 1996 to November 8, 1996
Penn, Michael J.	Dearborn, MI	CPA	February 9, 1996 to February 8, 1997
Mueller, E. Laird	Seal Beach, CA	CPA	February 12, 1996 to June 11, 1996
Zezima, Paul P.	Norwalk, CT	CPA	April 1, 1996 to May 31, 1996
Van Houten, Robert R.	Danbury, CT	CPA	May 1, 1996 to April 30, 1997

Under Section 330, Title 31 of the United States Code, the Secretary of the Treasury, after due notice and opportunity for hearing, is authorized to suspend or disbar from practice before the Internal Revenue Service any person who has violated the rules and regulations governing the recognition of attorneys, certified public accountants, enrolled agents or enrolled actuaries to practice before the Internal Revenue Service.

Attorneys, certified public accountants, enrolled agents, and enrolled actuaries are prohibited in any Internal Revenue Service matter from directly or indirectly employing, accepting assistance from, being employed by or sharing fees with, any practitioner disbarred or under suspension from practice before the Internal Revenue Service.

To enable attorneys, certified public accountants, enrolled agents and enrolled actuaries to identify such disbarred or suspended practitioners, the Director of Practice will announce in the Internal Revenue Bulletin the names and addresses of practitioners who have been suspended from such practice, their designation as attorney, certified public accountant, enrolled agent or enrolled actuary, and the date of disbarment or period of suspension. This announcement will appear in the weekly Bulletin for five successive weeks or as long as it is practicable for each attorney, certified public accountant, enrolled agent or enrolled actuary so suspended or disbarred and will be consolidated and published in the Cumulative Bulletin.

After due notice and opportunity for hearing before an administrative law judge, the following individuals have been disbarred from further practice before the Internal Revenue Service:

Name	Address	Designation	Effective Date
Gimbel, Stephen	Columbia, SC	CPA	January 20, 1996
Tropsa, Donna C.	Stamford, CT	Attorney	January 20, 1996
Seifert, Frank J.	Birmingham, AL	CPA	January 20, 1996
Hansen, Joe B.	Lubbock, TX	CPA	March 2, 1996

Announcement of the Expedited Suspension of Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries From Practice Before the Internal Revenue Service

Under title 31 of the Code of Federal Regulations, section 10.76, the Director of Practice is authorized to immediately suspend from practice before the Internal Revenue Service any practitioner who, within five years, from the date the expedited proceeding is instituted, (1) has had a license to practice as an attorney, certified public accountant, or actuary suspended or revoked for cause; or (2) has been convicted of any crime under title 26 of the United States Code or, of a felony under title 18 of the United States Code involving dishonesty or breach of trust.

Attorneys, certified public accountants, enrolled agents, and enrolled actuaries are prohibited in any Internal Revenue Service matter from directly or indirectly employing, accepting assistance from, being employed by, or sharing fees with, any practitioner disbarred or suspended from practice before the Internal Revenue Service.

To enable attorneys, certified public accountants, enrolled agents, and enrolled actuaries to identify practitioners under expedited suspension from practice before the Internal Revenue Service, the Director of Practice will announce in the Internal Revenue Bulletin the names and addresses of practitioners who have been suspended from such practice, their designation as attorney, certified public accountant, enrolled agent, or enrolled actuary, and date or period of suspension. This announcement will appear in the weekly Bulletin at the earliest practicable date after such action and will continue to appear in the weekly Bulletins for five successive weeks or for as many weeks as is practicable for each attorney, certified public accountant, enrolled agent, or enrolled actuary so suspended and will be consolidated and published in the Cumulative Bulletin.

The following individuals have been placed under suspension from practice before the Internal Revenue Service by virtue of the expedited proceeding provisions of the applicable regulations:

Name	Address	Designation	Date of Suspension
Ginsberg, Melvin R.	Univ. Heights, OH	Attorney	Indefinite from January 24, 1996
Lahey, Charles W.	South Bend, IN	Attorney	Indefinite from January 24, 1996
DePiano, Robert	Venice, CA	Attorney	Indefinite from January 24, 1996
Kraig, Jerry B.	Shaker Hgts, OH	Attorney	Indefinite from January 29, 1996
Brown, David M.	Los Angeles, CA	Attorney	Indefinite from January 29, 1996
Hanke Jr., Dale L.	Duluth, MN	Attorney	Indefinite from February 1, 1996
Guillory, Patrick R.	San Francisco, CA	Attorney	Indefinite from February 1, 1996
Miller, Brian R.	Grove, OK	CPA	Indefinite from February 23, 1996
McLeod, Timothy R.	Saginaw, MI	Attorney	Indefinite from February 26, 1996
Simone, Robert F.	Philadelphia, PA	Attorney	Indefinite from February 26, 1996
Bowen, David Lee	Frisco City, AL	CPA	Indefinite from February 27, 1996
Lindley, Clarkson	Wayazata, MN	Attorney	Indefinite from February 27, 1996

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as ''rulings'') that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified, below*).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified,* above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in law or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in the new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C.—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contribution Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign Corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statements of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

Numerical Finding List[1]

Bulletins 1996–1 through 1996–12

Announcements:

96–1, 1996–2 I.R.B. *57*
96–2, 1996–2 I.R.B. *57*
96–3, 1996–2 I.R.B. *57*
96–4, 1996–3 I.R.B. *50*
96–5, 1996–4 I.R.B. *99*
96–6, 1996–5 I.R.B. *43*
96–7, 1996–5 I.R.B. *44*
96–8, 1996–7 I.R.B. *56*
96–9, 1996–8 I.R.B. *30*
96–10, 1996–8 I.R.B. *30*
96–11, 1996–9 I.R.B. *11*
96–12, 1996–11 I.R.B. *30*
96–13, 1996–12 I.R.B. *33*
96–14, 1996–12 I.R.B. *35*

Delegations Orders:

232 (Rev. 2), 1996–7 I.R.B. *49*
239 (Rev. 1), 1996–7 I.R.B. *49*

Notices:

96–2, 1996–2 I.R.B. *15*
96–1, 1996–3 I.R.B. *30*
96–4, 1996–4 I.R.B. *69*
96–5, 1996–6 I.R.B. *22*
96–6, 1996–5 I.R.B. *27*
96–7, 1996–6 I.R.B. *22*
96–8, 1996–6 I.R.B. *23*
96–9, 1996–6 I.R.B. *26*
96–10, 1996–7 I.R.B. *47*
96–11, 1996–8 I.R.B. *19*
96–12, 1996–10 I.R.B. *29*
96–13, 1996–10 I.R.B. *29*
96–14, 1996–12 I.R.B. *11*

Proposed Regulations:

DL–1–95, 1996–6 I.R.B. *28*
EE–20–95, 1996–5 I.R.B. *15*
EE–34–95, 1996–3 I.R.B. *49*
EE–35–95, 1996–5 I.R.B. *19*
EE–53–95, 1996–5 I.R.B. *23*
EE–55–95, 1996–12 I.R.B. *12*
EE–106–82, 1996–10 I.R.B. *31*
EE–142–87, 1996–12 I.R.B. *13*
EE–148–81, 1996–11 I.R.B. *29*
IA–41–93, 1996–11 I.R.B. *29*
IA–33–95, 1996–4 I.R.B. *99*
INTL–3–95, 1996–6 I.R.B. *29*
INTL–9–95, 1996–5 I.R.B. *25*
PS–2–95, 1996–7 I.R.B. *50*

Revenue Procedures:

96–1, 1996–1 I.R.B. *8*

Revenue Procedures—Continued

96–2, 1996–1 I.R.B. *60*
96–3, 1996–1 I.R.B. *82*
96–4, 1996–1 I.R.B. *94*
96–5, 1996–1 I.R.B. *129*
96–6, 1996–1 I.R.B. *151*
96–7, 1996–1 I.R.B. *185*
96–8, 1996–1 I.R.B. *187*
96–8A, 1996–9 I.R.B. *10*
96–9, 1996–2 I.R.B. *15*
96–10, 1996–2 I.R.B. *17*
96–11, 1996–2 I.R.B. *18*
96–12, 1996–3 I.R.B. *30*
96–13, 1996–3 I.R.B. *31*
96–14, 1996–3 I.R.B. *41*
96–15, 1996–3 I.R.B. *41*
96–16, 1996–3 I.R.B. *45*
96–17, 1996–4 I.R.B. *69*
96–18, 1996–4 I.R.B. *73*
96–19, 1996–4 I.R.B. *80*
96–20, 1996–4 I.R.B. *88*
96–21, 1996–4 I.R.B. *96*
96–22, 1996–5 I.R.B. *27*
96–23, 1996–5 I.R.B. *27*
96–24, 1996–5 I.R.B. *28*
96–25, 1996–8 I.R.B. *19*
96–26, 1996–8 I.R.B. *22*
96–27, 1996–11 I.R.B. *27*

Revenue Rulings:

96–1, 1996–1 I.R.B. *7*
96–2, 1996–2 I.R.B. *5*
96–3, 1996–2 I.R.B. *14*
96–6, 1996–2 I.R.B. *8*
96–4, 1996–3 I.R.B. *16*
96–5, 1996–3 I.R.B. *29*
96–7, 1996–3 I.R.B. *12*
96–8, 1996–4 I.R.B. *62*
96–9, 1996–4 I.R.B. *5*
96–10, 1996–4 I.R.B. *27*
96–11, 1996–4 I.R.B. *28*
96–12, 1996–9 I.R.B. *4*
96–13, 1996–10 I.R.B. *19*
96–14, 1996–6 I.R.B. *20*
96–15, 1996–11 I.R.B. *9*
96–16, 1996–11 I.R.B. *4*

Treasury Decisions:

8630, 1996–3 I.R.B. *19*
8631, 1996–3 I.R.B. *7*
8632, 1996–4 I.R.B. *6*
8633, 1996–4 I.R.B. *20*
8634, 1996–3 I.R.B. *17*
8635, 1996–3 I.R.B. *5*
8636, 1996–4 I.R.B. *64*
8637, 1996–4 I.R.B. *29*
8638, 1996–5 I.R.B. *5*

Treasury Decisions—Continued

8639, 1996–5 I.R.B. *12*
8640, 1996–2 I.R.B. *10*
8641, 1996–6 I.R.B. *4*
8642, 1996–7 I.R.B. *4*
8643, 1996–11 I.R.B. *4*
8644, 1996–7 I.R.B. *16*
8645, 1996–8 I.R.B. *4*
8646, 1996–8 I.R.B. *10*
8647, 1996–9 I.R.B. *7*
8648, 1996–10 I.R.B. *23*
8649, 1996–9 I.R.B. *5*
8650, 1996–10 I.R.B. *5*
8651, 1996–11 I.R.B. *24*
8652, 1996–11 I.R.B. *11*
8653, 1996–12 I.R.B. *4*
8654, 1996–11 I.R.B. *14*
8655, 1996–12 I.R.B. *9*

[1]A cumulative list of all Revenue Rulings, Revenue Procedures, Treasury Decisions, etc., published in Internal Revenue Bulletins 1995–27 through 1995–52 will be found in Internal Revenue Bulletin 1996–1, dated January 2, 1996.

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

Bulletins 1996–1 through 1996–12

*Denotes entry since last publication

Delegation Orders:

232 (Rev. 1)
Superseded by
232 (Rev. 2), 1996–7 I.R.B. *49*

239
Amended by
239 (Rev. 1), 1996–7 I.R.B. *49*

Revenue Procedures:

65–17
Modified by
96–14, 1996–3 I.R.B. *41*

66–49
Modified by
96–15, 1996–3 I.R.B. *41*

88–32
Obsoleted by
96–15, 1996–3 I.R.B. *41*

88–33
Obsoleted by
96–15, 1996–3 I.R.B. *41*

89–19
Superseded by
96–17, 1996–4 I.R.B. *69*

89–48
Superseded in part by
96–17, 1996–4 I.R.B. *69*

91–22
Modified by
96–1, 1996–1 I.R.B. *8*

91–22
Amplified by
96–13, 1996–3 I.R.B. *31*

91–23
Superseded by
96–13, 1996–3 I.R.B. *31*

91–24
Superseded by
96–14, 1996–3 I.R.B. *41*

91–26
Superseded by
96–13, 1996–3 I.R.B. *31*

92–20
Modified by
96–1, 1996–1 I.R.B. *8*

Revenue Procedures—Continued

92–85
Modified by
96–1, 1996–1 I.R.B. *8*

93–16
Superseded by
96–11, 1996–2 I.R.B. *18*

93–46
Superseded in part by
96–17, 1996–4 I.R.B. *69*

Superseded by
96–18, 1996–4 I.R.B. *73*

94–18
Superseded in part by
96–17, 1996–4 I.R.B. *69*

Superseded by
96–18, 1996–4 I.R.B. *73*

94–59
Superseded in part by
96–17, 1996–4 I.R.B. *69*

Superseded by
96–18, 1996–4 I.R.B. *73*

95–1
Superseded by
96–1, 1996–1 I.R.B. *8*

95–2
Superseded by
96–2, 1996–1 I.R.B. *60*

95–3
Superseded by
96–3, 1996–1 I.R.B. *82*

95–4
Superseded by
96–4, 1996–1 I.R.B. *94*

95–5
Superseded by
96–5, 1996–1 I.R.B. *129*

95–6
Superseded by
96–6, 1996–1 I.R.B. *151*

95–7
Superseded by
96–7, 1996–1 I.R.B. *185*

95–8
Superseded by
96–8, 1996–1 I.R.B. *187*

95–13
Superseded by
96–20, 1996–4 I.R.B. *88*

Revenue Procedures—Continued

95–20
Superseded by
96–24, 1996–5 I.R.B. *28*

95–50
Superseded by
96–3, 1996–1 I.R.B. *82*

96–3
Amplified by
96–12, 1996–3 I.R.B. *30*

Revenue Rulings:

66–307
Obsoleted by
96–3, 1996–2 I.R.B. *14*

72–437
Modified by
96–13, 1996–3 I.R.B. *31*

80–80
Obsoleted by
96–3, 1996–2 I.R.B. *14*

82–80
Modified by
96–14, 1996–3 I.R.B. *41*

92–19
Supplemented in part
96–2, 1996–2 I.R.B. *5*

92–75
Clarified by
96–13, 1996–3 I.R.B. *31*

95–10
Supplemented and superseded by
96–4, 1996–3 I.R.B. *16*

95–11
Supplemented and superseded by
96–5, 1996–3 I.R.B. *29*

[1]A cumulative finding list for previously published items mentioned in Internal Revenue Bulletins 1995–27 through 1995–52 will be found in Internal Revenue Bulletin 1996–1, dated January 2, 1996.