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

T.D. 8666, page 4.
Final regulations under sections 62, 132, and 274 of the Code relate to payment by employer of expenses for meals and entertainment, club dues, and spousal travel.

T.D. 8671, page 8.
Final regulations under section 6109 of the Code relate to requirements for furnishing a taxpayer identifying number (TIN) on returns, statements, or other documents. These regulations also provide procedures to request a TIN for certain alien individuals who do not have, or are not eligible to receive, a social security number.

PS–29–95, page 15.
Proposed regulations under section 42 of the Code relate to the low-income housing credit. A public hearing will be held on September 17, 1996.

EMPLOYMENT TAX

T.D. 8672, page 7.
Final regulations under section 6011 of the Code relate to the reporting of nonpayment withheld income taxes.

Page 7.
Railroad retirement; rate determination; quarterly. The Railroad Retirement Board has determined that the rate of tax imposed by section 3221(c) of the Code shall be thirty-four cents for the quarters beginning January 1 and April 1, 1996.

ADMINISTRATIVE

Announcement 96–60, page 17.
Publication 947, Practice Before the IRS and Power of Attorney (revised April 1996), is now available.

Rev. Proc. 96–34, page 14.
This procedure provides that the Service will not rule on the results of a state-created plan or arrangement that enables participants to pay for the cost of a post-secondary education for themselves or a designated beneficiary. Rev. Proc. 96–3 amplified.

Finding Lists begin on page 19.

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.

For sale by the Superintendent of Documents U.S. Government Printing Office, Washington, D.C. 20402.

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

Section 61.—Gross Income Defined

26 CFR 1.61–7: Interest.

The Service will not issue rulings or determination letters for state-created prepaid tuition plans, including whether any contract under the plan is a debt instrument and, if so, how interest or original issue discount attributable to the contract is treated for federal tax purposes. See Rev. Proc. 96–34, page 14.

Section 115.—Income of States, Municipalities, etc.

The Service will not issue rulings or determination letters for state-created prepaid tuition plans, including whether the plan is an entity separate from a state and, if so, how the plan is treated for federal tax purposes. See Rev. Proc. 96–34, page 14.

Section 163.—Interest

26 CFR 1.163–7: Deduction for OID on certain debt instruments.

The Service will not issue rulings or determination letters for state-created prepaid tuition plans, including whether any contract under the plan is a debt instrument and, if so, how original issue discount attributable to the contract is treated for federal tax purposes. See Rev. Proc. 96–34, page 14.

Section 274.—Disallowance of Certain Entertainment, Etc., Expenses

26 CFR 1.274–1: Disallowance of certain entertainment, gift and travel expenses.

T.D. 8666

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Part 1

Payment by Employer of Expenses for Meals and Entertainment, Club Dues, and Spousal Travel.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations

SUMMARY: This document contains final regulations relating to reimbursement and other expense allowance arrangements for expenses of business meals and entertainment that are disallowed as a deduction under section 274(n), and working condition fringe benefit treatment for expenses for club dues and spousal travel that are disallowed as a deduction under sections 274(a)(3) and 274(m)(3). The final regulations reflect changes to the law made by the Omnibus Budget Reconciliation Act of 1993. The persons affected by the final regulations are persons who provide or receive the use of business meals and entertainment, club membership dues, or spousal travel expenses.

EFFECTIVE DATE: These regulations are effective May 30, 1996.

FOR FURTHER INFORMATION CONTACT: Concerning regulations under sections 62 and 132, David N. Pardys, (202) 622-6040; concerning regulations under section 274, John T. Sapienza, Jr., (202) 622-4920 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

On December 16, 1994, a notice of proposed rulemaking relating to payment by an employer of expenses for business meals and entertainment, club dues, and spousal travel was published in the **Federal Register** (59 FR 64909 [IA–17–94; EE–36–94, 1995–1 C.B. 942]). A public hearing was held on April 14, 1995.

Written comments responding to the notice were received. After consideration of all the comments, the proposed regulations are adopted as revised by this Treasury decision. The significant comments on the proposed regulations and the principal revisions made in the final regulations are discussed below.

Explanation of Provisions

This Treasury decision contains final regulations to the Income Tax Regulations under sections 62(c), 132(d), and 274 of the Internal Revenue Code (Code) to reflect changes made to section 274 of the Code by sections 13209, 13210, and 13272 of OBRA (107 Stat. 469, 542). The OBRA provisions amended section 274 of the Code by (1) limiting the deductible portion of meal and entertainment expenses to 50 percent; (2) eliminating the deduction for club dues; and (3) restricting the deduction for spousal travel. The amendments to the regulations under sections 62 and 132 of the Code concern the income tax consequences to employees when their employer's (or third party payor's) deduction is disallowed by the amendments to section 274 of the Code.

Comments to the proposed regulations concerned whether payment of expenses for club dues and spousal travel by an employer exempt from taxation under subtitle A of the Internal Revenue Code were eligible for the working condition fringe exclusion. The final regulations provide that any reference in the regulations to an employer's deduction disallowed by sections 274(a)(3) or 274(m)(3) of the Code will be treated as a reference to the amount which would be disallowed as a deduction to the employer if the employer were not exempt from taxation.

Other comments suggested that the final regulation extend the section 274(e)(2) option of an employer to avoid the section 274 disallowance for payment of spousal travel to persons who pay expenses described in section 274(e)(9). To achieve consistent results for payments to independent contractors and employees with respect to spousal travel, the final regulations adopted this suggestion.

A number of comments requested clarification of the term *other individual* in section 274(m)(3). In particular, the comments asked that the term be clarified so as not to preclude the deduction for travel expenses of a business associate accompanying the taxpayer (or an officer or employee of the taxpayer) on business travel. The regulation was amended to reflect these comments.

One comment concerned the person to whom a fringe benefit is taxable. The rules concerning to whom a fringe benefit is taxable are set forth in §1.61–21(a)(4). For rules concerning volunteers, see §1.132–5(r).

Several comments involved the amount of the employer's disallowed deduction when the expenses of a spouse, dependent, or other individual accompanying an employee on a non-

commercial flight qualify as a working condition fringe benefit. This issue is under further consideration. In addition, other comments requested clarification of what constitutes a deductible expenditure for spousal travel under the general rule of section 162(a). The rules for deducting travel expenses of a spouse are in §1.162–2(c).

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 these 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 preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are David N. Pardys, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), and John T. Sapienza, Jr., Office of the Assistant Chief Counsel (Income Tax and Accounting), IRS. Personnel from other offices of the IRS and Treasury Department also participated in their development.

* * * * * *

Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. In §1.62–2, paragraph (h)(1) is amended by adding a second sentence at the end of the paragraph to read as follows:

§1.62–2 Reimbursements and other expense allowance arrangements.

* * * * * *

(h) * * * (1) * * * If an arrangement provides advances, allowances, or reimbursements for meal and entertainment expenses and a portion of the payment is treated as paid under a nonaccountable plan under paragraph (d)(2) of this section due solely to section 274(n), then notwithstanding paragraph (h)(2)-(ii) of this section, these nondeductible amounts are neither treated as gross income nor subject to withholding and payment of employment taxes.

* * * * * *

Par. 3. In §1.132–5, paragraphs (s) and (t) are added to read as follows:

§1.132–5 Working condition fringes.

* * * * * *

(s) *Application of section 274(a)-(3)*—(1) *In general.* If an employer's deduction under section 162(a) for dues paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose is disallowed by section 274(a)(3), the amount, if any, of an employee's working condition fringe benefit relating to an employer-provided membership in the club is determined without regard to the application of section 274(a) to the employee. To be excludible as a working condition fringe benefit, however, the amount must otherwise qualify for deduction by the employee under section 162(a). If an employer treats the amount paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose as compensation under section 274(e)(2), then the expense is deductible by the employer as compensation and no amount may be excluded from the employee's gross income as a working condition fringe benefit. See §1.274–2(f)(2)(iii)(A).

(2) *Treatment of tax-exempt employers.* In the case of an employer exempt from taxation under subtitle A of the Internal Revenue Code, any reference in this paragraph (s) to a deduction disallowed by section 274(a)-(3) shall be treated as a reference to the amount which would be disallowed as a deduction by section 274(a)(3) to the employer if the employer were not exempt from taxation under subtitle A of the Internal Revenue Code.

(3) *Examples.* The following examples illustrate this paragraph (s):

Example 1. Assume that Company *X* provides Employee *B* with a country club membership for which it paid $20,000. *B* substantiates, within the meaning of paragraph (c) of this section, that the club was used 40 percent for business purposes. The business use of the club (40 percent) may be considered a working condition fringe benefit, notwithstanding that the employer's deduction for the dues allocable to the business use is disallowed by section 274(a)(3), if *X* does not treat the club membership as compensation under section 274(e)(2). Thus, *B* may exclude from gross income $8,000 (40 percent of the club dues, which reflects *B*'s business use). *X* must report $12,000 as wages subject to withholding and payment of employment taxes (60 percent of the value of the club dues, which reflects *B*'s personal use). *B* must include $12,000 in gross income. *X* may deduct as compensation the amount it paid for the club dues which reflects *B*'s personal use provided the amount satisfies the other requirements for a salary or compensation deduction under section 162.

Example 2. Assume the same facts as *Example 1* except that Company *X* treats the $20,000 as compensation to *B* under section 274(e)(2). No portion of the $20,000 will be considered a working condition fringe benefit because the section 274(a)(3) disallowance will apply to *B*. Therefore, *B* must include $20,000 in gross income.

(t) *Application of section 274(m)-(3)*—(1) *In general.* If an employer's deduction under section 162(a) for amounts paid or incurred for the travel expenses of a spouse, dependent, or other individual accompanying an employee is disallowed by section 274(m)(3), the amount, if any, of the employee's working condition fringe benefit relating to the employer-provided travel is determined without regard to the application of section 274(m)(3). To be excludible as a working condition fringe benefit, however, the amount must otherwise qualify for deduction by the employee under section 162(a). The amount will qualify for deduction and for exclusion as a working condition fringe benefit if it can be adequately shown that the spouse's, dependent's, or other accompanying individual's presence on the employee's business trip has a bona fide business purpose and if the employee substantiates the travel within the meaning of paragraph (c) of this section. If the travel does not qualify as a working condition fringe benefit, the employee must include in gross income as a fringe benefit the value of the employer's payment of travel expenses with respect to a spouse, dependent, or other individual accompanying the

employee on business travel. See §§1.61–21(a)(4) and 1.162–2(c). If an employer treats as compensation under section 274(e)(2) the amount paid or incurred for the travel expenses of a spouse, dependent, or other individual accompanying an employee, then the expense is deductible by the employer as compensation and no amount may be excluded from the employee's gross income as a working condition fringe benefit. See §1.274–2(f)(2)(iii)(A).

(2) *Treatment of tax-exempt employers*. In the case of an employer exempt from taxation under subtitle A of the Internal Revenue Code, any reference in this paragraph (t) to a deduction disallowed by section 274(m)(3) shall be treated as a reference to the amount which would be disallowed as a deduction by section 274(m)(3) to the employer if the employer were not exempt from taxation under subtitle A of the Internal Revenue Code.

Par. 4. The last sentence of §1.274–1 is revised to read as follows:

§1.274–1 Disallowance of certain entertainment, gift and travel expenses.

* * * For specific provisions with respect to the deductibility of expenditures: for an activity of a type generally considered to constitute entertainment, amusement, or recreation, and for a facility used in connection with such an activity, as well as certain travel expenses of a spouse, etc., see §1.274–2; for expenses for gifts, see §1.274–3; for expenses for foreign travel, see §1.274–4; for expenditures deductible without regard to business activity, see §1.274–6; and for treatment of personal portion of entertainment facility, see §1.274–7.

Par. 5. Section 1.274–2 is amended as follows:

1. The section heading for §1.274–2 is revised.

2. In paragraph (c)(6), a second sentence is added at the end of the paragraph.

3. The paragraph heading for paragraph (f)(2)(i) is revised.

4. Paragraph (f)(2)(iii) is revised.

5. Paragraph (g) is added.

The revised and added provisions read as follows:

§1.274–2 Disallowance of deductions for certain expenses for entertainment, amusement, recreation, or travel.

* * * * * *

(c) * * *

(6) * * * This paragraph (c)(6) applies to club dues paid or incurred before January 1, 1987.

* * * * * *

(f) * * *

(2) * * *

(i) *Business meals and similar expenditures paid or incurred before January 1, 1987*— * * *

* * * * * *

(iii) *Certain entertainment and travel expenses treated as compensation*—(A) *In general*. Any expenditure by a taxpayer for entertainment (or for use of a facility in connection therewith) or for travel described in section 274(m)(3), if an employee is the recipient of the entertainment or travel, is not subject to the limitations on allowability of deductions provided for in paragraphs (a) through (e) of this section to the extent that the expenditure is treated by the taxpayer—

(*1*) On the taxpayer's income tax return as originally filed, as compensation paid to the employee; and

(*2*) As wages to the employee for purposes of withholding under chapter 24 (relating to collection of income tax at source on wages).

(B) *Expenses includible in income of persons who are not employees*. Any expenditure by a taxpayer for entertainment (or for use of a facility in connection therewith), or for travel described in section 274(m)(3), is not subject to the limitations on allowability of deductions provided for in paragraphs (a) through (e) of this section to the extent the expenditure is includible in gross income as compensation for services rendered, or as a prize or award under section 74, by a recipient of the expenditure who is not an employee of the taxpayer. The preceding sentence shall not apply to any amount paid or incurred by the taxpayer if such amount is required to be included (or would be so required except that the amount is less that $600) in any information return filed by such taxpayer under part III of subchapter A of chapter 61 and is not so included. See section 274(e)(9).

(C) *Example*. The following example illustrates the provisions this paragraph (f):

Example. If an employer rewards the employee (and the employee's spouse) with an expense paid vacation trip, the expense is deductible by the employer (if otherwise allowable under section 162 and the regulations thereunder) to the extent the employer treats the expenses as compensation and as wages. On the other hand, if a taxpayer owns a yacht which the taxpayer uses for the entertainment of business customers, the portion of salary paid to employee members of the crew which is allocable to use of the yacht for entertainment purposes (even though treated on the taxpayer's tax return as compensation and treated as wages for withholding tax purposes) would not come within this exception since the members of the crew were not recipients of the entertainment. If an expenditure of a type described in this subdivision properly constitutes a dividend paid to a shareholder or if it constitutes unreasonable compensation paid to an employee, nothing in this exception prevents disallowance of the expenditure to the taxpayer under other provisions of the Internal Revenue Code.

* * * * * *

(g) *Additional provisions of section 274—travel of spouse, dependent or others*. Section 274(m)(3) provides that no deduction shall be allowed under this chapter (except section 217) for travel expenses paid or incurred with respect to a spouse, dependent, or other individual accompanying the taxpayer (or an officer or employee of the taxpayer) on business travel, unless certain conditions are met. As provided in section 274(m)(3), the term *other individual* does not include a business associate (as defined in paragraph (b)(2)(iii) of this section) who otherwise meets the requirements of sections 274(m)(3)(B) and (C).

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved March 26, 1996.

Leslie Samuels,
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on May 29, 1996, 8:45 a.m., and published in the issue of the Federal Register for May 30, 1996, 61 F.R. 27005)

Section 1275.—Other Definitions and Special Rules

26 CFR 1.1275–4: Contingent payment debt instruments.

The Service will not issue rulings or determination letters for state-created prepaid tuition

plans, including whether any contract under the plan is a debt instrument and, if so, how original issue discount attributable to the contract is treated for federal tax purposes. See Rev. Proc. 96–34, page 14.

Section 2501.—Imposition of tax

26 CFR 25.2501: Imposition of tax.

The Service will not issue rulings or determination letters for state-created prepaid tuition plans, including whether any contract under the plan is a debt instrument and, if so, how original issue discount attributable to the contract is treated for federal tax purposes. See Rev. Proc. 96–34, page 14.

Section 3221.—Rate of Tax

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. Section 3221(c)), the Railroad Retirement board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning January 1, 1996, shall be at the rate of 34 cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning January 1, 1996, 34.6 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 65.4 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated December 14, 1995.

Beatrice Ezerski,
Secretary to the Board.

(Filed by the Office of the Federal Register on December 19, 1995, 8:45 a.m., and published in the issue of the Federal Register for December 20, 1995, 60 F.R. 65695)

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., Section 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning April 1, 1996, shall be at the rate of 34 cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning April 1, 1996, 34.2 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 65.8 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated March 1, 1996.

Beatrice Ezerski,
Secretary to the Board.

(Filed by the Office of the Federal Register on March 3, 1996, 8:45 a.m., and published in the issue of the Federal Register for March 11, 1996, 61 F.R. 9737)

Section 6011.—General Requirement of Return, Statement, or List

26 CFR 31.6011(a)–4: Returns of income tax withheld.

T.D. 8672

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Parts 31 and 602

Reporting of Nonpayroll Withheld Tax Liabilities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the reporting of nonpayroll withheld income taxes under section 6011 of the Internal Revenue Code. The final regulations require a person to file Form 945, Annual Return of Withheld Federal Income Tax, only for a calendar year in which the person is required to withhold Federal income tax from nonpayroll payments.

EFFECTIVE DATE: These regulations are effective May 30, 1996.

FOR FURTHER INFORMATION CONTACT: Vincent G. Surabian, 202-622-6232 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has 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 1545–1413. Responses to this collection of information are required by the IRS to monitor compliance with the Federal tax rules related to the reporting and deposit of nonpayroll withheld income taxes.

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.

Estimates of the reporting burden in these final regulations are reflected in the burden of Form 945.

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 or 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

On October 16, 1995, final and temporary regulations (TD 8624 [1995–

2 C.B. 258]) relating to the reporting of nonpayroll withheld income taxes under section 6011 were published in the **Federal Register** (60 FR 53509). A notice of proposed rulemaking (IA–30–95 [1995–2 C.B. 479]) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (60 FR 53561).

The IRS received no written comments responding to the notice. Accordingly, the regulations proposed by IA–30–95 are adopted as proposed with a minor editorial change.

Explanation of Provisions

These final regulations remove the requirement that, once a person files a Form 945 for a calendar year, the person must file a Form 945 every subsequent year until the person files a final return. Under these final regulations, a person must file a Form 945 only for a calendar year in which the person is required to withhold Federal income tax from nonpayroll payments.

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 also has 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 these 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 preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Vincent G. Surabian, Office of the Assistant Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 31 and 602 are amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Paragraph 1. The authority citation for part 31 is amended by removing the citation for ''Section 31.6011(a)–4T'' as follows:

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

Par 2. Section 31.6011(a)–4 is amended by revising paragraph (b) to read as follows:

§31.6011(a)–4 Returns of income tax withheld.

* * * * * *

(b) *Withheld from nonpayroll payments.* Every person required to withhold tax from nonpayroll payments for calendar year 1994 must make a return for calendar year 1994 and for any subsequent calendar year in which the person is required to withhold such tax until the person makes a final return in accordance with §31.6011(a)–6. Every person not required to withhold tax from nonpayroll payments for calendar year 1994 must make a return for the first calendar year after 1994 in which the person is required to withhold such tax and for any subsequent calendar year in which the person is required to withhold such tax until the person makes a final return in accordance with §31.6011(a)–6. Form 945, Annual Return of Withheld Federal Income Tax, is the form prescribed for making the return required under this paragraph (b). Nonpayroll payments are—

(1) Certain gambling winnings subject to withholding under section 3402(q);

(2) Retirement pay for services in the Armed Forces of the United States subject to withholding under section 3402;

(3) Certain annuities as described in section 3402(o)(1)(B);

(4) Pensions, annuities, IRAs, and certain other deferred income subject to withholding under section 3405; and

(5) Reportable payments subject to backup withholding under section 3406.

* * * * *

§31.6011(a)–4T [Removed]

Par. 3. Section 31.6011(a)–4T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§602.101 [Amended]

Par. 5. Section 602.101, paragraph (c) is amended in the table by removing the entry ''31.6011(a)–4T … 1545–1413''.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved April 5, 1996.

Leslie Samuels,
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on May 29, 1996, 8:45 a.m., and published in the issue of the Federal Register for May 30, 1996, 61 F.R. 27007)

Section 6109.—Identifying Numbers

26 CFR 301.6109–1: Identifying numbers.

T.D. 8671

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Parts 301 and 602

Taxpayer Identifying Numbers (TINs)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to requirements for furnishing a taxpayer identifying number on returns, statements, or other documents. These regulations set forth procedures for requesting a taxpayer identifying number for certain alien individuals for whom a social security number is not available. These numbers are called ''IRS individual taxpayer identification numbers.''

These regulations also require foreign persons to furnish a taxpayer identifying number on their tax returns.

DATES: These regulations are effective May 29, 1996.

For dates of applicability of these regulations, see §301.6109–1(h).

FOR FURTHER INFORMATION CONTACT: Lilo A. Hester, (202) 874-1490 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has 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 1545–1461.

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 annual burden for the collection of information contained in §301.6109–1(d) is reflected in the burden of Form W–7.

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, PC: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 or 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

On June 8, 1995, the IRS published in the **Federal Register** (60 FR 30211) the withdrawal of the notice of proposed rulemaking published in the **Federal Register** on September 27, 1990 at 55 FR 39427, a notice of proposed rulemaking, and a notice of public hearing relating to taxpayer identifying numbers as contained in the Income Tax Regulations (26 CFR part 301) under section 6109 of the Internal Revenue Code (Code).

Written comments responding to the notice of proposed rulemaking were received, and a public hearing was held on September 28, 1995. After consideration of all the comments, the proposed regulations under 6109 of the Code are adopted as revised by this Treasury decision. The comments and revisions are discussed below.

Explanation of Provisions and Revisions

A. Principal changes

Section 6109 of the Code generally provides that, when required by regulations, a person must furnish a taxpayer identifying number (TIN) for securing proper identification of that person on any return, statement, or other document made under the Code. The notice of proposed rulemaking contains two principal changes to the existing regulations. The first change is the introduction of a new IRS-issued TIN, called an IRS individual taxpayer identification number (ITIN), for use by alien individuals, whether resident or nonresident, who currently do not have, and are not eligible to obtain, social security numbers. The Social Security Administration generally limits its assignment of social security numbers to individuals who are U.S. citizens and alien individuals legally admitted to the United States for permanent residence or under other immigration categories which authorize U.S. employment. Therefore, this change is designed to help taxpayers (who need a TIN but cannot qualify for a social security number) maintain compliance with TIN requirements under the Code and regulations.

The second change is to modify the existing rule set forth in §301.6109–1(g) that currently excludes from the general requirement of providing a TIN, foreign persons that do not have either (1) income effectively connected with the conduct of a U.S. trade or business or (2) a U.S. office or place of business or a U.S. fiscal or paying agent. Under these regulations, the exclusion is modified to require that any foreign person who makes a return of tax (*i.e.*, income, gift, and estate tax returns, amended returns, or refund claims, but excluding information returns) furnish its TIN on that return. This change is intended to address the IRS' and Treasury's concern that, without TINs, taxpayers cannot be identified efficiently and tax returns cannot be processed effectively.

B. Comments

Regarding the assignment of ITINs under §301.6109–1(d)(3)(iii) of the proposed regulations, commentators suggested that the IRS develop a process whereby either (1) the Social Security Administration (SSA) issues the ITIN when the individual is not eligible for a social security number, or (2) the Immigration and Naturalization Service (INS) (within the Department of Justice) and the U.S. consulate offices (within the Department of State) issue the ITIN when issuing a U.S. visa. These suggestions were not adopted. The IRS is the most appropriate federal agency to assign the ITIN because the number is intended for tax use only. Having the IRS as the sole issuer of ITINs will facilitate the general public's acceptance of the fact that the assignment of an ITIN creates no inference regarding the immigration status of an alien individual or the right of that individual to be legally employed in the United States. Over the past few years, the IRS has had extensive discussions with the SSA, the INS, and the State Department regarding the IRS' development of a new numbering system. These agencies concur that the IRS is the appropriate initiator of a numbering system dedicated solely for tax purposes, and have expressed a willingness to support the IRS' efforts to develop the system, to disseminate information about obtaining an ITIN, and to otherwise facilitate IRS' assignment of the ITINs.

Regarding the IRS' solicitation of comments and suggestions regarding the type of documents that could be accepted to verify reliably a taxpayer's identity and foreign status, the commentators suggested passports and immigration documentation. This suggestion is already included partially in the proposed regulations which state that examples of acceptable documentary evidence may include items such as ''passport, driver's license, birth certificate, identity card or U.S. visa.'' However, the proposed regulations use the term *U.S. visa* rather than the term

immigration documentation. The term *immigration documentation* is broader in scope than the term *U.S. visa*, and encompasses various identifying documents (including a U.S. visa) required by U.S. immigration laws to support an alien's request for entry, and entry, into the United States. As such, §301.6109–1(d)(3)(iii) of the final regulations has been revised to substitute the term *immigration documentation* for the term *U.S. visa*.

Regarding the role of acceptance agents under §301.6109–1(d)(3)(iv) of proposed regulations, some commentators suggested that acceptance agents should only be required to provide the necessary forms to the ITIN applicant and to forward the completed forms, together with copies of required documentation, to the IRS in order to avoid being held responsible for applicant's errors or being considered as the applicant's tax advisor. The adoption of this suggestion was not necessary because, under the proposed regulations, the precise role of an acceptance agent is a matter to be decided by written agreement between the particular person and the IRS. Under an agreement with the IRS, an acceptance agent could act as a conduit of information between the IRS and the applicant as suggested by the commentators or could take a more active role in the process by assuming responsibility for reviewing the required documentation and providing the necessary representations to the IRS for the issuance of a number. In the latter case, the acceptance agent would generally not be required to furnish any underlying documentation to the IRS, except as part of a verification process by which the IRS may periodically verify the agent's compliance with the agreement. Even in that case, the acceptance agent would not be considered a tax return preparer for purposes of section 7216 if it acted within the terms of the agreement with the IRS. In addition, under this agreement, an acceptance agent would not be responsible for an ITIN applicant's errors as long as the acceptance agent exercises due diligence under the agreement. The IRS is preparing further guidance on acceptance agent agreements.

The rule proposed in §301.6109–1(b)(2)(iv) that would require foreign persons to furnish a TIN when making a return of tax has been restated to clarify that making a return of tax includes filing an amended return or a claim for refund. In addition, regarding this rule, commentators asked whether Form SS–4, Application for Employer Identification Number, is a return of tax for this purpose. For purposes of this rule, a return of tax includes income, estate, and gift tax returns, amended returns, or refund claims but excludes information returns, statements or other documents. Form SS–4 is a statement or document but not a return of tax; therefore, the foreign persons described in §301.6109–1(b)(2)(iv) of the proposed regulations are not required to obtain an ITIN in order to sign a Form SS–4. For example, a foreign individual signing Form SS–4 as a principal officer of a corporation need not obtain an ITIN for the sole purpose of signing the form. See for comparison, however, §301.6109–1(d)(4)(ii) regarding the requirement to furnish a previously-issued ITIN on Form SS–4 when a foreign individual is required to obtain an employer identification number for such individual's own business purposes. No further clarification is needed in these regulations.

Regarding the proposed regulations becoming effective for any return, statement, or other document filed after December 31, 1995, commentators suggested that the effective date be delayed. This suggestion was adopted. Accordingly, the final regulations are generally effective after May 29, 1996, of publication in the **Federal Register**, except that the requirement for an estate to obtain an employer identification number applies on and after January 1, 1984, and the requirement for a foreign person as described in §301.6109–1(b)(2)(iv) to furnish a TIN on a tax return is effective for tax returns filed after December 31, 1996. The IRS will begin accepting applications for ITINs (Form W–7) on or after July 1, 1996.

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 also has 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 these 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 preceding these final regulations has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Lilo A. Hester of the Office of 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 301 and 602 are amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended by adding an entry in numerical order to read in part as follows:

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

Section 301.6109–1 also issued under 26 U.S.C. 6109(a), (c), and (d). * * *

Par. 2. Section §301.6109–1 is amended as follows:

1. Paragraphs (a)(1), (b), (c), and (d)(2) are revised.

2. Paragraphs (d)(3) and (4) are added.

3. Paragraphs (f), (g), and (h) are revised.

The revisions and additions read as follows:

§301.6109–1 Identifying numbers.

(a) *In general*—(1) *Taxpayer identifying numbers*—(i) *Types*. There are generally three types of taxpayer identifying numbers: social security numbers, Internal Revenue Service (IRS) individual taxpayer identification numbers, and employer identification numbers. Social security numbers take the form 000-00-0000, IRS individual taxpayer identification numbers take the form 000-00-0000 but begin with a specific number designated by the IRS, and employer identification numbers take

the form 00-0000000. Both social security numbers and IRS individual taxpayer identification numbers identify individual persons. For the definition of social security number and employer identification number, see §§301.7701–11 and 301.7701–12, respectively. For the definition of IRS individual taxpayer identification number, see paragraph (d)(3) of this section.

(ii) *Uses*. Except as otherwise provided in applicable regulations under this title or on a return, statement, or other document, and related instructions, taxpayer identifying numbers must be used as follows:

(A) Except as otherwise provided in paragraphs (a)(1)(ii)(B) and (D) of this section, an individual required to furnish a taxpayer identifying number must use a social security number.

(B) Except as otherwise provided in paragraph (a)(1)(ii)(D) of this section, an individual required to furnish a taxpayer identifying number but who is not eligible to obtain a social security number, must use an IRS individual taxpayer identification number.

(C) Any person other than an individual (such as corporations, partnerships, nonprofit associations, trusts, estates, and similar nonindividual persons) that is required to furnish a taxpayer identifying number must use an employer identification number.

(D) An individual, whether U.S. or foreign, who is an employer or who is engaged in a trade or business as a sole proprietor should use an employer identification number as required by returns, statements, or other documents and their related instructions.

* * * * * *

(b) *Requirement to furnish one's own number*—(1) *U.S. persons*. Every U.S. person who makes under this title a return, statement, or other document must furnish its own taxpayer identifying number as required by the forms and the accompanying instructions. A U.S. person whose number must be included on a document filed by another person must give the taxpayer identifying number so required to the other person on request. For penalties for failure to supply taxpayer identifying numbers, see sections 6721 through 6724. For provisions dealing specifically with the duty of employees with respect to their social security numbers, see §31.6011(b)–2(a) and (b) of this chapter (Employment Tax Regulations). For provisions dealing specifically with the duty of employers with respect to employer identification numbers, see §31.6011(b)–1 of this chapter (Employment Tax Regulations).

(2) *Foreign persons*. The provisions of paragraph (b)(1) of this section regarding the furnishing of one's own number shall apply to the following foreign persons—

(i) A foreign person that has income effectively connected with the conduct of a U.S. trade or business at any time during the taxable year;

(ii) A foreign person that has a U.S. office or place of business or a U.S. fiscal or paying agent at any time during the taxable year;

(iii) A nonresident alien treated as a resident under section 6013(g) or (h); and

(iv) Any other foreign person who, with respect to taxes imposed under this title (including income, estate, and gift taxes), makes a return of tax, an amended return, or a refund claim, but excluding information returns, statements, or documents.

(c) *Requirement to furnish another's number*. Every person required under this title to make a return, statement, or other document must furnish such taxpayer identifying numbers of other U.S. persons and foreign persons that are described in paragraph (b)(2)(i), (ii), or (iii) of this section as required by the forms and the accompanying instructions. If the person making the return, statement, or other document does not know the taxpayer identifying number of the other person, such person must request the other person's number. A request should state that the identifying number is required to be furnished under authority of law. When the person making the return, statement, or other document does not know the number of the other person, and has complied with the request provision of this paragraph, such person must sign an affidavit on the transmittal document forwarding such returns, statements, or other documents to the Internal Revenue Service, so stating. A person required to file a taxpayer identifying number shall correct any errors in such filing when such person's attention has been drawn to them.

(d) * * *

(2) *Employer identification number*. Any person required to furnish an employer identification number must apply for one, if not done so previously, on Form SS–4. A Form SS–4 may be obtained from any office of the Internal Revenue Service, U.S. consular office abroad, or from an acceptance agent described in paragraph (d)(3)(iv) of this section. The person must make such application far enough in advance of the first required use of the employer identification number to permit issuance of the number in time for compliance with such requirement. The form, together with any supplementary statement, must be prepared and filed in accordance with the form, accompanying instructions, and relevant regulations, and must set forth fully and clearly the requested data.

(3) *IRS individual taxpayer identification number*—(i) *Definition*. The term *IRS individual taxpayer identification number* means a taxpayer identifying number issued to an alien individual by the Internal Revenue Service, upon application, for use in connection with filing requirements under this title. The term *IRS individual taxpayer identification number* does not refer to a social security number or an account number for use in employment for wages. For purposes of this section, the term *alien individual* means an individual who is not a citizen or national of the United States.

(ii) *General rule for obtaining number*. Any individual who is not eligible to obtain a social security number and is required to furnish a taxpayer identifying number must apply for an IRS individual taxpayer identification number on Form W–7, Application for IRS Individual Taxpayer Identification Number, or such other form as may be prescribed by the Internal Revenue Service. Form W–7 may be obtained from any office of the Internal Revenue Service, U.S. consular office abroad, or any acceptance agent described in paragraph (d)(3)(iv) of this section. The individual shall furnish the information required by the form and accompanying instructions, including the individual's name, address, foreign tax identification number (if any), and specific reason for obtaining an IRS individual taxpayer identification number. The individual must make such application far enough in advance of the first required use of the IRS individual taxpayer identification number to permit issuance of the number in time for compliance with such requirement. The application form, together with any supplementary statement and documentation, must be prepared and filed in

accordance with the form, accompanying instructions, and relevant regulations, and must set forth fully and clearly the requested data.

(iii) *General rule for assigning number*. Under procedures issued by the Internal Revenue Service, an IRS individual taxpayer identification number will be assigned to an individual upon the basis of information reported on Form W–7 (or such other form as may be prescribed by the Internal Revenue Service) and any such accompanying documentation that may be required by the Internal Revenue Service. An applicant for an IRS individual taxpayer identification number must submit such documentary evidence as the Internal Revenue Service may prescribe in order to establish alien status and identity. Examples of acceptable documentary evidence for this purpose may include items such as an original (or a certified copy of the original) passport, driver's license, birth certificate, identity card, or immigration documentation.

(iv) *Acceptance agents*—(A) *Agreements with acceptance agents*. A person described in paragraph (d)(3)(iv)-(B) of this section will be accepted by the Internal Revenue Service to act as an acceptance agent for purposes of the regulations under this section upon entering into an agreement with the Internal Revenue Service, under which the acceptance agent will be authorized to act on behalf of taxpayers seeking to obtain a taxpayer identifying number from the Internal Revenue Service. The agreement must contain such terms and conditions as are necessary to insure proper administration of the process by which the Internal Revenue Service issues taxpayer identifying numbers to foreign persons, including proof of their identity and foreign status. In particular, the agreement may contain—

(*1*) Procedures for providing Form SS–4 and Form W–7, or such other necessary form to applicants for obtaining a taxpayer identifying number; application form together with a certification that the acceptance agent has reviewed the required documentation and that it has no actual knowledge or reason to know that the documentation is not complete or accurate;

(*2*) Procedures for providing assistance to applicants in completing the application form or completing it for them;

(*3*) Procedures for collecting, reviewing, and maintaining, in the normal course of business, a record of the required documentation for assignment of a taxpayer identifying number;

(*4*) Procedures for submitting the application form and required documentation to the Internal Revenue Service, or if permitted under the agreement, submitting the application form together with a certification that the acceptance agent has reviewed the required documentation and that it has no actual knowledge or reason to know that the documentation is not complete or accurate;

(*5*) Procedures for assisting taxpayers with notification procedures described in paragraph (g)(2) of this section in the event of change of foreign status;

(*6*) Procedures for making all documentation or other records furnished by persons applying for a taxpayer identifying number promptly available for review by the Internal Revenue Service, upon request; and

(*7*) Provisions that the agreement may be terminated in the event of a material failure to comply with the agreement, including failure to exercise due diligence under the agreement.

(B) *Persons who may be acceptance agents*. An acceptance agent may include any financial institution as defined in section 265(b)(5) or §1.165–12(c)(1)(v) of this chapter, any college or university that is an educational organization as defined in §1.501(c)-(3)–1(d)(3)(i) of this chapter, any federal agency as defined in section 6402(f) or any other person or categories of persons that may be authorized by regulations or Internal Revenue Service procedures. A person described in this paragraph (d)(3)(iv)(B) that seeks to qualify as an acceptance agent must have an employer identification number for use in any communication with the Internal Revenue Service. In addition, it must establish to the satisfaction of the Internal Revenue Service that it has adequate resources and procedures in place to comply with the terms of the agreement described in paragraph (d)(3)(iv)(A) of this section.

(4) *Coordination of taxpayer identifying numbers*—(i) *Social security number*. Any individual who is duly assigned a social security number or who is entitled to a social security number will not be issued an IRS individual taxpayer identification number. The individual can use the social security number for all tax purposes under this title, even though the individual is, or later becomes, a nonresident alien individual. Further, any individual who has an application pending with the Social Security Administration will be issued an IRS individual taxpayer identification number only after the Social Security Administration has notified the individual that a social security number cannot be issued. Any alien individual duly issued an IRS individual taxpayer identification number who later becomes a U.S. citizen, or an alien lawfully permitted to enter the United States either for permanent residence or under authority of law permitting U.S. employment, will be required to obtain a social security number. Any individual who has an IRS individual taxpayer identification number and a social security number, due to the circumstances described in the preceding sentence, must notify the Internal Revenue Service of the acquisition of the social security number and must use the newly-issued social security number as the taxpayer identifying number on all future returns, statements, or other documents filed under this title.

(ii) *Employer identification number*. Any individual with both a social security number (or an IRS individual taxpayer identification number) and an employer identification number may use the social security number (or the IRS individual taxpayer identification number) for individual taxes, and the employer identification number for business taxes as required by returns, statements, and other documents and their related instructions. Any alien individual duly assigned an IRS individual taxpayer identification number who also is required to obtain an employer identification number must furnish the previously-assigned IRS individual taxpayer identification number to the Internal Revenue Service on Form SS–4 at the time of application for the employer identification number. Similarly, where an alien individual has an employer identification number and is required to obtain an IRS individual taxpayer identification number, the individual must furnish the previously-assigned employer identification number to the Internal Revenue Service on Form W–7, or such other form as may be prescribed by the Internal Revenue Service, at the time of application for the IRS individual taxpayer identification number.

* * * * * *

(f) *Penalty*. For penalties for failure to supply taxpayer identifying numbers, see sections 6721 through 6724.

(g) *Special rules for taxpayer identifying numbers issued to foreign persons*—(1) *General rule*—(i) *Social security number*. A social security number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a U.S. citizen or resident alien individual. A person may establish a different status for the number by providing proof of foreign status with the Internal Revenue Service under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify. Upon accepting an individual as a nonresident alien individual, the Internal Revenue Service will assign this status to the individual's social security number.

(ii) *Employer identification number*. An employer identification number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a U.S. person. However, the Internal Revenue Service may establish a separate class of employer identification numbers solely dedicated to foreign persons which will be identified as such in the records and database of the Internal Revenue Service. A person may establish a different status for the number either at the time of application or subsequently by providing proof of U.S. or foreign status with the Internal Revenue Service under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify. The Internal Revenue Service may require a person to apply for the type of employer identification number that reflects the status of that person as a U.S. or foreign person.

(iii) *IRS individual taxpayer identification number*. An IRS individual taxpayer identification number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a nonresident alien individual. If the Internal Revenue Service determines at the time of application or subsequently, that an individual is not a nonresident alien individual, the Internal Revenue Service may require that the individual apply for a social security number. If a social security number is not available, the Internal Revenue Service may accept that the individual use an IRS individual taxpayer identification number, which the Internal Revenue Service will identify as a number belonging to a U.S. resident alien.

(2) *Change of foreign status*. Once a taxpayer identifying number is identified in the records and database of the Internal Revenue Service as a number belonging to a U.S. or foreign person, the status of the number is permanent until the circumstances of the taxpayer change. A taxpayer whose status changes (for example, a nonresident alien individual with a social security number becomes a U.S. resident alien) must notify the Internal Revenue Service of the change of status under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify.

(3) *Waiver of prohibition to disclose taxpayer information when acceptance agent acts*. As part of its request for an IRS individual taxpayer identification number or submission of proof of foreign status with respect to any taxpayer identifying number, where the foreign person acts through an acceptance agent, the foreign person will agree to waive the limitations in section 6103 regarding the disclosure of certain taxpayer information. However, the waiver will apply only for purposes of permitting the Internal Revenue Service and the acceptance agent to communicate with each other regarding matters related to the assignment of a taxpayer identifying number and change of foreign status.

(h) *Effective date*—(1) *General rule*. Except as otherwise provided in this paragraph (h), the provisions of this section are generally effective for information that must be furnished after April 15, 1974. However, the provisions relating to IRS individual taxpayer identification numbers apply after May 29, 1996. An application for an IRS individual taxpayer identification number (Form W–7) may be filed at any time on or after July 1, 1996.

(2) *Special rules*—(i) *Employer identification number of an estate*. The requirement under paragraph (a)(1)(ii)-(C) of this section that an estate obtain an employer identification number applies on and after January 1, 1984.

(ii) *Taxpayer identifying numbers of certain foreign persons*. The requirement under paragraph (b)(2)(iv) of this section that certain foreign persons furnish a TIN on a return of tax is effective for tax returns filed after December 31, 1996.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. In §602.101, the table in paragraph (c) is amended by revising the entry for 301.6109–1 to read as follows:

301.6109–1	1545–0003
	1545–0295
	1545–0367
	1545–0387
	1545–0957
	1545–1461

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved May 20, 1996.

Leslie Samuels,
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on May 23, 1996, 12:23 p.m., and published in the issue of the Federal Register for May 29, 1996, 61 F.R. 26788)

Section 7701.—Definitions

26 CFR 301.7701–2: Associations.

The Service will not issue rulings or determination letters for state-created prepaid tuition plans, including whether the plan is an entity separate from a state and, if so, how the plan is treated for federal tax purposes. See Rev. Proc. 96–34, page 14.

26 CFR 601.201: Rulings and determination letters
(Also Part I, §§ 61, 115, 163, 1275, 2501, 7701; 1.61–7, 1.163–7, 1.1275–4, 25.2501–1, 301.7701–2)

Rev. Proc. 96–34

SECTION 1. PURPOSE

This revenue procedure amplifies Rev. Proc. 96–3, 1996–1 I.R.B. 82, which sets forth areas of the Internal Revenue Code under the jurisdiction of the Associate Chief Counsel (Domestic) in which the Internal Revenue Service will not issue advance rulings or determination letters.

SECTION 2. BACKGROUND

Rev. Proc 96–3, section 5, lists specific areas in which rulings or determination letters will not be issued because the areas are under extensive study. This revenue procedure adds a subparagraph for state-created prepaid tuition plans.

SECTION 3. PROCEDURE

Rev. Proc. 96–3 is amplified by adding to section 5 the following: Section 115.—Income of states, municipalities, etc.—The results of transactions pursuant to a plan or arrangement created by state statute a primary objective of which is to enable participants to pay for the costs of a post-secondary education for themselves or a designated beneficiary, including: (i) whether the plan or arrangement, itself, is an entity separate from a state and, if so, how the plan or arrangement is treated for federal tax purposes; and (ii) whether any contract under the plan or arrangement is a debt instrument and, if so, how interest or original issue discount attributable to the contract is treated for federal tax purposes. (Also §§ 61, 163, 1275, 2501 and 7701)

SECTION 4. EFFECTIVE DATE

This revenue procedure applies to all ruling requests, including any pending in the National Office on June 11, 1996.

SECTION 5. EFFECT ON OTHER REVENUE PROCEDURES

Rev. Proc. 96–3 is amplified.

DRAFTING INFORMATION

The principal author of this revenue procedure is Craig Wojay of the Office of Assistant Chief Counsel (Financial Institutions and Products). For further information regarding this revenue procedure, contact Mr. Wojay at (202) 622-3920 (not a toll-free number).

Part IV. Items of General Interest

Notice of Proposed Rulemaking and Notice of Public Hearing

Available Unit Rule

PS–29–95

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations concerning the low-income housing credit. The proposed regulations provide rules for determining the treatment of low-income housing units in a building that are occupied by individuals whose incomes increase above 140 percent of the income limitation applicable under section 42(g)(1). The proposed regulations affect owners of those buildings. This document also provides notice of public hearing on these proposed regulations.

DATES: Written comments and outlines of topics to be discussed at the public hearing scheduled for September 17, 1996, must be received by August 27, 1996.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (PS–29–95), Room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (PS–29–95), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. The public hearing will be held in the NYU Classroom, room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, David Selig, (202) 622-3040; concerning submissions and the hearing, Christina Vasquez, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 42. These amendments are proposed to provide guidance under section 42(g)(2)(D), as amended by section 7108(e)(1) of the Omnibus Budget and Reconciliation Act of 1989, and section 11701(a)(3)(A) and (a)(4) of the Omnibus Budget and Reconciliation Act of 1990. Section 42(g)(2)(D) provides rules for determining the treatment of low-income housing units that are occupied by individuals whose incomes rise above the income limitation applicable under section 42(g)(1).

The general rule in section 42(g)(2)-(D)(i) provides that if the income of an occupant of a low-income unit increases above the income limitation applicable under section 42(g)(1), the unit continues to be treated as a low-income unit. This general rule only applies if the occupant's income initially met the income limitation and the unit continues to be rent-restricted. Section 42(g)(2)(D)(ii), however, provides an exception to the general rule in section 42(g)(2)(D)(i). The unit ceases being treated as a low-income unit when two conditions occur. The first condition is that the occupant's income increases above 140 percent of the income limitation applicable under section 42(g)(1), or above 170 percent for a deep rent-skewed project described in section 142(d)(4)(B) (applicable income limitation). When this occurs, the unit becomes an over-income unit. The second condition is that a new resident, whose income exceeds the applicable income limitation (nonqualified resident), occupies any residential unit in the building of a comparable or smaller size (comparable unit).

Explanation of Provisions

All available units must be rented to qualified residents

The heading of section 42(g)(2)-(D)(ii) indicates that the next available unit must be rented to a low-income tenant to maintain the low-income status of an over-income unit. Although the heading of section 42(g)(2)(D)(ii) refers to the next available unit, the body of section 42(g)(2)(D)(ii) clarifies that if any available comparable unit is occupied by a nonqualified resident, the over-income unit ceases to be treated as a low-income unit. Therefore, all available comparable units in the building, not only the next available unit, must be rented to qualified residents to maintain the low-income status of the over-income unit.

A current resident may move within the same low-income building

The proposed regulations define a qualified resident under the available unit rule as any person whose income does not exceed the applicable income limitation or any current resident, regardless of the income level of the current resident. Thus, a current resident may move to a different unit in the same low-income building without causing a violation of the available unit rule even if the current resident's income exceeds the applicable income limitation. When a current resident moves to a different unit within the same low-income building, the new unit adopts the status of the vacated unit.

Rule applies to each building separately

The rules of section 42 generally apply on a building-by-building basis. For example, the amount of credit allowable under section 42(a) is determined for each building in a qualified low-income housing project. The recapture of credit under section 42(j) is determined by examining the qualified basis of each building. In addition, section 42(g)(2)(D)(ii) uses the phrase ''any residential rental unit in the building'' to identify residential rental units that must be rented to qualified residents to preserve the low-income status of an over-income unit. The proposed regulations provide, therefore, that in a project containing more than one low-income building, the available unit rule applies separately to each building.

Effect of violation of available unit rule

The proposed regulations further provide that all over-income units in the building lose their status as low-income units if an owner violates the available unit rule. A violation of the rule occurs when a building has one or more over-income units and the owner of the building rents an available comparable unit in the building to a nonqualified resident.

Over-income unit counts toward minimum set-aside requirement

The proposed regulations also clarify whether an over-income unit counts towards satisfying the applicable minimum set-aside requirement of section 42(g)(1). The available unit rule provides that an over-income unit maintains its status as a low-income unit as long as the owner does not rent an available comparable unit to a nonqualified resident. Section 42(i)(3), which defines a low-income unit, and section 42(g)(2)(D), which contains rules for increases in the income of existing low-income tenants, work together to treat an over-income unit as a low-income unit when determining whether a project satisfies the applicable minimum set-aside requirement. This treatment helps diminish any incentive a project owner may have to evict from a rent-restricted unit those tenants who originally qualified as low-income tenants. See 2 H.R. Conf. Rep. No. 841, 99th Cong., 2d Sess. II–97 (1986), 1986–3 (Vol. 4) C.B. 97. Therefore, the proposed regulations provide that an over-income unit may continue to be included in the numerator and the denominator of the ratio used to determine whether a project satisfies the applicable minimum set-aside requirement of section 42(g)(1).

Relationship to tax-exempt bond provisions

Financing arrangements using obligations that purport to be exempt facility bonds under section 142 must meet the requirements of sections 103 and 141 through 150 for interest on the obligations to be excluded from gross income under section 103(a). The requirements under section 142(d) may differ from those under section 42. For example, section 142(d)(1) is applied on a project rather than on a building-by-building basis. The rules set forth in these proposed regulations are not intended as an interpretation of the applicable rules under section 142.

The rules contained in the proposed regulations are proposed to be effective on the date final regulations are published in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has 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 these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for September 17, 1996, at 10 a.m. in the NYU Classroom, Room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments and outlines of topics to be discussed and the time devoted to each topic (signed original and eight (8) copies by August 27, 1996.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is David Selig, Office of the Assistant Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

* * * * * *

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding a new citation in numerical order to read as follows:

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

Section 1.42–15 is also issued under 26 U.S.C. 42(n). * * *

Par. 2. Section 1.42–15 is added to read as follows:

§1.42–15 Available unit rule.

(a) *Definitions*. The following definitions apply to this section:

Applicable income limitation means the limitation applicable under section 42(g)(1) or, for deep rent-skewed projects described in section 142(d)(4)(B), 40 percent of area median gross income.

Available unit rule means the rule in section 42(g)(2)(D)(ii).

Comparable unit means a residential unit in a low-income building that is comparably sized or smaller than an over-income unit or, for deep rent-skewed projects described in section 142(d)(4)(B), any low-income unit.

Low-income resident means a person whose income does not exceed the applicable income limitation.

Low-income unit is defined by section 42(i)(3)(A).

New resident means a person who currently is not living in the low-income building.

Nonqualified resident means a new resident whose income exceeds the applicable income limitation.

Over-income unit means a low-income unit in which the income of the occupants of the unit increases above 140 percent of the applicable income limitation under section 42(g)(1), or above 170 percent of the applicable income limitation for deep rent-skewed projects described in section 142(d)(4)(B).

Qualified resident means a low-income resident or a current resident.

(b) *General section 42(g)(2)(D)(i) rule*. Except as provided in paragraph (c) of this section, notwithstanding an increase in the income of the occupants of a low-income unit above the applicable income limitation, if the income of the occupants initially met the applicable income limitation, and the unit continues to be rent-restricted—

(1) The unit continues to be treated as a low-income unit; and

(2) The unit continues to be included in the numerator and the denominator of the ratio used to determine whether a project satisfies the applicable minimum set-aside requirement of section 42(g)(1).

(c) *Exception*. A unit ceases to be treated as a low-income unit if it becomes an over-income unit and a nonqualified resident occupies any comparable unit that is available or that subsequently becomes available in the same low-income building. Thus, to continue treating the over-income unit as a low-income unit, the owner of a low-income building must rent to qualified residents all comparable units that are available or that subsequently become available in the same building.

(d) *Effect of current resident moving within building*. When a current resident moves to a different unit within the building, the newly occupied unit adopts the status of the vacated unit. Thus, if a current resident, whose income exceeds the applicable income limitation, moves from an over-income unit to a vacant unit in the same building, the newly occupied unit is treated as an over-income unit.

(e) *Buildings accounted for separately*. In a project containing more than one low-income building, the available unit rule applies separately to each building.

(f) *Result of violation of available unit rule*. If any comparable unit that subsequently becomes available is rented to a nonqualified resident, all over-income units within the same building lose their status as low-income units.

(g) *Examples*. The following examples illustrate this section.

Example 1. This example illustrates a violation of the available unit rule in a low-income building containing three over-income units. On January 1, 1997, a qualified low-income housing project, consisting of one building containing ten identically sized residential units, received a housing credit dollar amount allocation from a state housing credit agency for five low-income units. To avoid recapture of credit, the Project owner must maintain five of the units as low-income units. The project satisfied the minimum set-aside requirement of section 42(g)(1)(B). Units 1, 2, 3, 4, and 5 were occupied by individuals whose incomes did not exceed the income limitation applicable under section 42(g)(1) (low-income residents). Units 6, 7, 8, and 9 were occupied by market-rate tenants. Unit 10 was vacant. On November 21, 1997, the annual incomes of the individuals in Units 1, 2, and 3 increased above 140 percent of the income limitation applicable under section 42(g)(1), causing those units to become over-income units. On November 30, 1997, Units 8 and 9 became vacant. On December 1, 1997, the project owner rented Units 8 and 9 to qualified residents at rates meeting the rent restriction requirements of section 42(g)(2). On December 31, 1997, the Project owner rented Unit 10 to a market-rate tenant. Because Unit 10, an available comparable unit, was leased to a market-rate tenant, Units 1, 2, and 3 ceased to be treated as low-income units. On that date, Units 4, 5, 8, and 9 were the only remaining low-income units. Because the Project owner did not maintain five of the residential units as low-income units, the qualified basis in the building is reduced, and credit must be recaptured. If the project owner had rented Unit 10 to a qualified resident, eight of the units would be low-income units. Units 1, 2, and 3, the over-income units, could then be rented to market-rate tenants because the building would still contain five low-income units.

Example 2. This example illustrates the provisions of paragraph (d) of this section. A low-income project consists of one six-floor building. The residential units in the building are identically sized. The building contains two over-income units on the sixth floor and two vacant units on the first floor. The project owner, desiring to maintain the over-income units as low-income units, wants to rent the available units to qualified residents. J, a resident of one of the over-income units, wishes to occupy a unit on the first floor. J's income has recently increased above the applicable income limitation. The project owner permits J to move into one of the units on the first floor. Despite the increase in J's income, J is a qualified resident under the available unit rule because J is a current resident of the building. The unit occupied by J becomes an over-income unit under the available unit rule. The over-income units in the building continue to be treated as low-income units.

(h) *Effective date*. This section is effective on the date final regulations are published in the **Federal Register**.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

(Filed by the Office of the Federal Register on May 29, 1996, and published in the issue of the Federal Register for May 30, 1996, 61 F.R. 27036)

Availability of Publication 947, *Practice Before the IRS and Power of Attorney* (Revised April 1996)

Announcement 96–60

The recently updated Publication 947 is now available from the Internal Revenue Service.

The publication discusses who can represent a taxpayer before the IRS and what forms or documents are used to authorize a person to represent a taxpayer.

You can get a copy of this publication by calling 1-800-829-3776. You can also write to the IRS Forms Distribution Center nearest you. Check your income tax package for the address. Your local library or post office also may have a copy.

If you have access to a personal computer and modem, you also can get the publication electronically. Check your income tax package for details.

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 1996–25

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*
96–15, 1996–11 I.R.B. *9*
96–16, 1996–13 I.R.B. *22*
96–17, 1996–13 I.R.B. *22*
96–18, 1996–15 I.R.B. *15*
96–19, 1996–15 I.R.B. *15*
96–20, 1996–15 I.R.B. *15*
96–21, 1996–15 I.R.B. *15*
96–22, 1996–15 I.R.B. *16*
96–23, 1996–18 I.R.B. *7*
96–24, 1996–16 I.R.B. *35*
96–25, 1996–17 I.R.B. *13*
96–26, 1996–17 I.R.B. *13*
96–27, 1996–17 I.R.B. *16*
96–28, 1996–17 I.R.B. *16*
96–29, 1996–17 I.R.B. *17*
96–30, 1996–17 I.R.B. *17*
96–31, 1996–17 I.R.B. *18*
96–32, 1996–17 I.R.B. *18*
96–33, 1996–18 I.R.B. *12*
96–34, 1996–18 I.R.B. *13*
96–35, 1996–18 I.R.B. *13*
96–36, 1996–18 I.R.B. *13*
96–37, 1996–18 I.R.B. *14*
96–38, 1996–19 I.R.B. *84*
96–39, 1996–19 I.R.B. *84*
96–40, 1996–19 I.R.B. *85*
96–41, 1996–20 I.R.B. *18*
96–42, 1996–20 I.R.B. *18*
96–43, 1996–20 I.R.B. *18*
96–44, 1996–21 I.R.B. *10*
96–45, 1996–21 I.R.B. *10*
96–46, 1996–21 I.R.B. *10*
96–47, 1996–22 I.R.B. *10*
96–48, 1996–22 I.R.B. *10*
96–49, 1996–22 I.R.B. *10*
96–50, 1996–22 I.R.B. *11*
96–51, 1996–22 I.R.B. *11*
96–52, 1996–22 I.R.B. *12*
96–53, 1996–23 I.R.B. *12*
96–54, 1996–23 I.R.B. *12*
96–55, 1996–23 I.R.B. *12*
96–56, 1996–24 I.R.B. *29*

Announcements—Continued

96–57, 1996–25 I.R.B. *20*
96–58, 1996–25 I.R.B. *21*
96–59, 1996–25 I.R.B. *22*

Delegations Orders:

232 (Rev. 2), 1996–7 I.R.B. *49*
236 (Rev. 2), 1996–21 I.R.B. *7*
239 (Rev. 1), 1996–7 I.R.B. *49*
247, 1996–21 I.R.B. *7*

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*
96–15, 1996–13 I.R.B. *19*
96–16, 1996–13 I.R.B. *20*
96–17, 1996–13 I.R.B. *20*
96–18, 1996–14 I.R.B. *27*
96–19, 1996–14 I.R.B. *28*
96–20, 1996–14 I.R.B. *30*
96–21, 1996–14 I.R.B. *30*
96–22, 1996–14 I.R.B. *30*
96–23, 1996–16 I.R.B. *23*
96–24, 1996–16 I.R.B. *23*
96–25, 1996–17 I.R.B. *11*
96–26, 1996–18 I.R.B. *4*
96–27, 1996–18 I.R.B. *4*
96–28, 1996–19 I.R.B. *7*
96–29, 1996–19 I.R.B. *7*
96–30, 1996–20 I.R.B. *11*
96–31, 1996–22 I.R.B. *7*
96–32, 1996–22 I.R.B. *7*
96–33, 1996–22 I.R.B. *8*
96–34, 1996–24 I.R.B. *15*
96–35, 1996–25 I.R.B. *8*

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*
GL–1–96, 1996–21 I.R.B. *7*
IA–3–94, 1996–17 I.R.B. *12*
IA–33–95, 1996–4 I.R.B. *99*

Proposed Regulations—Continued

IA–41–93, 1996–11 I.R.B. *29*
INTL–52–86, 1996–19 I.R.B. *26*
INTL–62–90, 1996–19 I.R.B. *26*
INTL–32–93, 1996–19 I.R.B. *26*
INTL–52–94, 1996–19 I.R.B. *26*
INTL–3–95, 1996–6 I.R.B. *29*
INTL–9–95, 1996–5 I.R.B. *25*
INTL–54–95, 1996–14 I.R.B. *39*
PS–2–95, 1996–7 I.R.B. *50*
PS–6–95, 1996–16 I.R.B. *27*
PS–43–95, 1996–24 I.R.B. *20*
PS–4–96, 1996–18 I.R.B. *5*
PS–5–96, 1996–25 I.R.B. *17*

Revenue Procedures:

96–1, 1996–1 I.R.B. *8*
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*
96–24A, 1996–15 I.R.B. *12*
96–25, 1996–8 I.R.B. *19*
96–26, 1996–8 I.R.B. *22*
96–27, 1996–11 I.R.B. *27*
96–28, 1996–14 I.R.B. *31*
96–29, 1996–16 I.R.B. *24*
96–30, 1996–19 I.R.B. *8*
96–31, 1996–20 I.R.B. *11*
96–32, 1996–20 I.R.B. *14*
96–33, 1996–22 I.R.B. *8*
96–35, 1996–25 I.R.B. *8*

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*

See footnote at the end of list.

Numerical Finding List[1]—Continued

Bulletins 1996–1 through 1996–25

Revenue Rulings—Continued

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*
96–17, 1996–13 I.R.B. *5*
96–18, 1996–13 I.R.B. *4*
96–19, 1996–14 I.R.B. *24*
96–20, 1996–15 I.R.B. *5*
96–21, 1996–15 I.R.B. *7*
96–22, 1996–15 I.R.B. *9*
96–23, 1996–15 I.R.B. *11*
96–24, 1996–19 I.R.B. *5*
96–25, 1996–19 I.R.B. *4*
96–26, 1996–21 I.R.B. *9*
96–27, 1996–24 I.R.B. *9*
96–28, 1996–24 I.R.B. *11*
96–29, 1996–24 I.R.B. *5*
96–30, 1996–24 I.R.B. *4*
96–31, 1996–25 I.R.B. *4*
96–32, 1996–25 I.R.B. *5*

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*
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*

Treasury Decisions—Continued

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*
8656, 1996–13 I.R.B. *9*
8657, 1996–14 I.R.B. *4*
8658, 1996–14 I.R.B. *13*
8659, 1996–16 I.R.B. *4*
8660, 1996–17 I.R.B. *4*
8661, 1996–17 I.R.B. *7*
8662, 1996–23 I.R.B. *5*
8663, 1996–23 I.R.B. *4*
8664, 1996–20 I.R.B. *7*
8665, 1996–21 I.R.B. *4*
8667, 1996–20 I.R.B. *4*
8668, 1996–22 I.R.B. *4*
8669, 1996–23 I.R.B. *6*
8670, 1996–24 I.R.B. *6*

[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 1996–25

*Denotes entry since last publication

Delegation Orders:

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

236 (Rev. 1)
Superseded by
236 (Rev. 2), 1996–21 I.R.B. *7**

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

96–31, 1996–20 I.R.B. *11*

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*

94–16
Modified by
96–29, 1996–16 I.R.B. *24*

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*

94–62
Modified by
96–29, 1996–16 I.R.B. *24*

94–77
Superseded by
96–28, 1996–14 I.R.B. *31*

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*

Revenue Procedures—Continued

95–66
Modified by
96–25, 1996–19 I.R.B. *4*

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*

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*

78–294
Obsoleted by
8665, 1996–21 I.R.B. *4*

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*

96–24
Modified and amplified by
96–24A, 1996–15 I.R.B. *12*

[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.