

Internal Revenue bulletin

Bulletin No. 2002-46
November 18, 2002

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.

SPECIAL ANNOUNCEMENT

Announcement 2002-105, page 872.

The Fifteenth Annual Institute on Current Issues in International Taxation, jointly sponsored by the Internal Revenue Service and The George Washington University Law School, will be held on December 12 and 13, 2002, at the J.W. Marriott Hotel in Washington, D.C.

INCOME TAX

Notice 2002-73, page 844.

The Service clarifies the circumstances in which a state or local bond is treated as issued by the New York City Water Finance Authority or the Metropolitan Transportation Authority for purposes of section 1400L(e)(2)(B) of the Code.

EMPLOYMENT TAX

Page 871.

2003 social security contribution and benefit base; domestic employee coverage threshold. The Commissioner of the Social Security Administration has announced (1) the OASDI contribution and benefit base for remuneration paid in 2003 and self-employment income earned in taxable years beginning in 2003, and (2) the domestic employee coverage threshold amount for 2003.

EXCISE TAX

Rev. Rul. 2002-76, page 840.

Biodiesel. Biodiesel is not taxable fuel for purposes of the tax imposed by section 4081(a)(1) of the Code. Subject to the exemptions in section 4082, tax is imposed by section 4081(b)(1) on the removal or sale of blended taxable fuel produced using biodiesel. Subject to the exemption in section 4041, tax is im-

posed by section 4041(a)(1) on biodiesel sold for use or used as a fuel in a diesel-powered highway vehicle or diesel-powered train.

ADMINISTRATIVE

Notice 2002-72, page 843.

Changes in annual accounting period. This notice clarifies and modifies certain provisions in Rev. Procs. 2002-37, 2002-38, and 2002-39, which provide procedures for obtaining approval of an adoption, change, or retention of an annual accounting period.

Rev. Proc. 2002-70, page 845.

Cost-of-living adjustments for 2003. This procedure provides cost-of-living adjustments for the tax rate tables for individuals, estates, and trusts, the standard deduction amounts, the personal exemption, and several other items that use the adjustment method provided for the tax rate tables. The Service also provides the adjustment for eligible long-term care premiums and another item that uses the adjustment method provided for eligible long-term care premiums.

Rev. Proc. 2002-71, page 850.

This procedure updates a list of time-sensitive acts, the performance of which may be postponed under sections 7508 and 7508A of the Code by reason of service in a Presidentially-declared disaster, a terroristic or military action, or a combat zone. Rev. Proc. 2001-53 superseded.

Announcement 2002-106, page 872.

This document contains corrections to final regulations (T.D. 8869, 2000-1 C.B. 498) relating to the treatment of corporate subsidiaries of S corporations.

Finding Lists begin on page ii.



Department of the Treasury
Internal Revenue Service

The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents 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 Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

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

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

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

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

Section 1.—Tax Imposed

The Service provides inflation adjustments to the tax rate tables for individuals, trusts, and estates for taxable years beginning in 2003. In addition, the amounts of certain reductions allowed against the unearned income of minor children in computing the “kiddie tax” are adjusted. Also adjusted are the amounts used to determine whether a parent may elect to report the “kiddie tax” on the parent’s return. See Rev. Proc. 2002–70, page 845.

Section 23.—Adoption Expenses

The Service provides inflation adjustments to the adoption credit allowed for the adoption of a child for taxable years beginning in 2003. The Service also provides inflation adjustments to the value used in calculating the modified adjusted gross income limitations used to determine the amount of adoption credit that is allowed in taxable years beginning in 2003. See Rev. Proc. 2002–70, page 845.

Section 24.—Child Tax Credit

The Service provides inflation adjustments for the value used in determining the amount of the credit that may be refundable beginning in 2003. See Rev. Proc. 2002–70, page 845.

Section 25A.—Hope and Lifetime Learning Credits

The Service provides inflation adjustments for the amount of qualified tuition and related expenses that are taken into account in determining the amount of the Hope Scholarship Credit for taxable years beginning in 2003, and for the amount of a taxpayer’s modified adjusted gross income that is taken into account in determining the reduction in the amount of the Hope Scholarship and Lifetime Learning Credits otherwise available. See Rev. Proc. 2002–70, page 845.

Section 32.—Earned Income

The Service provides inflation adjustments to the limitations on the earned income credit for taxable years beginning in 2003. See Rev. Proc. 2002–70, page 845.

Section 42.—Low-Income Housing Credit

The Service provides inflation adjustments to the amounts used to calculate the State housing credit ceiling used in determining the low-income housing credit for calendar year 2003. See Rev. Proc. 2002–70, page 845.

Section 59.—Other Definitions and Special Rules

The Service provides an inflation adjustment to the exemption amount used in computing the alternative minimum tax for a minor child subject to the “kiddie tax” for taxable years beginning in 2003. See Rev. Proc. 2002–70, page 845.

Section 63.—Taxable Income Defined

The Service provides inflation adjustments to the standard deduction amounts (including the limitation in the case of certain dependents, and the additional standard deduction for the aged or blind) for taxable years beginning in 2003. See Rev. Proc. 2002–70, page 845.

Section 68.—Overall Limitation on Itemized Deductions

The Service provides inflation adjustments to the overall limitation on itemized deductions for taxable years beginning in 2003. See Rev. Proc. 2002–70, page 845.

Section 103.—Interest on State and Local Bonds

The Service clarifies the circumstances in which a state or local bond is treated as issued by the New York City Water Finance Authority or the Metropolitan Transportation Authority for purposes of § 1400L(e)(2)(B). See Notice 2002–73, page 844.

Section 132.—Certain Fringe Benefits

The Service provides inflation adjustments to the limitations on the exclusion of income for a qualified transportation fringe benefit for taxable years beginning in 2003. See Rev. Proc. 2002–70, page 845.

Section 135.—Income From United States Savings Bonds Used to Pay Higher Education Tuition and Fees

The Service provides inflation adjustments to the limitation on the exclusion of income from United States savings bonds for taxpayers who pay qualified higher education expenses for taxable years beginning in 2003. See Rev. Proc. 2002–70, page 845.

Section 137.—Adoption Assistance Programs

The Service provides inflation adjustments to the maximum amount that can be excluded from an employee’s gross income in connection with a qualified adoption assistance program for taxable years beginning in 2003. The Service also provides inflation adjustments to the amount used to calculate the modified adjusted gross income limitations used to determine the amount that can be excluded from an employee’s gross income for taxable years beginning in 2003. See Rev. Proc. 2002–70, page 845.

Section 146.—Volume Cap

The Service provides inflation adjustments to the amounts used to determine the State ceiling for the volume cap of private activity bonds for calendar year 2003. See Rev. Proc. 2002–70, page 845.

Section 151.—Allowance of Deductions for Personal Exemptions

The Service provides inflation adjustments to the personal exemption and to the threshold amounts of adjusted gross income above which the exemption amount phases out for taxable years beginning in 2003. See Rev. Proc. 2002–70, page 845.

Section 170.—Charitable, etc., Contributions and Gifts

The Service provides inflation adjustments to the “insubstantial benefit” guidelines for calendar year 2003. Under the guidelines, a charitable contribution is fully deductible even though the contributor receives “insubstantial benefits” from the charity. See Rev. Proc. 2002–70, page 845.

Section 213.—Medical, Dental, etc., Expenses

The Service provides inflation adjustments to the limitation on the amount of eligible long-term care premiums includible in the term “medical care” for taxable years beginning in 2003. See Rev. Proc. 2002–70, page 845.

Section 220.—Archer MSAs

The Service provides inflation adjustments to the amounts used to determine whether a health plan is a “high deductible health plan” for purposes of determining whether an individual is eligible for a deduction for cash paid to a medical savings account for taxable years beginning in 2003. See Rev. Proc. 2002–70, page 845.

Section 221.—Interest on Education Loans

The Service provides inflation adjustments to the income limitations used to determine the allowable deduction for interest on education loans for taxable years beginning in 2003. See Rev. Proc. 2002–70, page 845.

Section 512.—Unrelated Business Taxable Income

The Service provides an inflation adjustment to the maximum amount of annual dues that can be paid to certain agricultural or horticultural organizations without any portion being treated as unrelated trade or business income by reason of any benefits or privileges available to members for taxable years beginning in 2003. See Rev. Proc. 2002–70, page 845.

Section 513.—Unrelated Trade or Business

The Service provides inflation adjustments to the maximum amount of a “low cost article” for taxable years beginning in 2003. Funds raised through a charity’s distribution of “low cost articles” will not be treated as unrelated business income to the charity. See Rev. Proc. 2002–70, page 845.

Section 685.—Treatment of Funeral Trusts

The Service provides an inflation adjustment to the maximum amount of contributions that may be made to a qualified funeral trust for contracts entered in calendar year 2003. See Rev. Proc. 2002–70, page 845.

Section 877.—Expatriation to Avoid Tax

The Service provides inflation adjustments to amounts used to determine whether an individual’s loss of United States citizenship had the avoidance of United States tax as one of its principal purposes for calendar year 2003. See Rev. Proc. 2002–70, page 845.

Section 1400L.—Tax Benefits for New York Liberty Zone

The Service clarifies the circumstances in which a state or local bond is treated as issued by the New York City Water Finance Authority or the Metropolitan Transportation Authority for purposes of § 1400L(e)(2)(B). See Notice 2002–73, page 844.

Section 2032A.—Valuation of Certain Farm, etc., Real Property

The Service provides an inflation adjustment to the maximum amount by which the value of certain farm and other qualified real property included in a decedent’s gross estate may be decreased for purposes of valuing the estate of a decedent dying in calendar year 2003. See Rev. Proc. 2002–70, page 845.

Section 2503.—Taxable Gifts

The Service provides an inflation adjustment to the amount of gifts that may be made to a person in a calendar year without including the amount in taxable gifts for calendar year 2003. See Rev. Proc. 2002–70, page 845.

Section 2523.—Gift to Spouse

The Service provides an inflation adjustment to the amount of gifts that may be made in a calendar year to a spouse who is not a citizen of the United States without including the amount in taxable gifts for calendar year 2003. See Rev. Proc. 2002–70, page 845.

Section 2631.—GST Exemption

The Service provides an inflation adjustment to the amount of the generation-skipping transfer tax exemption for calendar year 2003. See Rev. Proc. 2002–70, page 845.

Section 4041.—Imposition of Tax

Biodiesel. Rules related to biodiesel are described. See Rev. Rul. 2002–76, on this page.

Section 4081.—Imposition of Tax

26 CFR 48.4081–1: Taxable fuel; definitions. (Also §§ 4041, 4082, 4083.)

Biodiesel. Biodiesel is not taxable fuel for purposes of the tax imposed by section 4081(a)(1). Subject to the exemptions in section 4082, tax is imposed by section 4081(b)(1) on the removal or sale of blended taxable fuel produced using biodiesel. Subject to the exemption in section 4041(a)(1) on biodiesel sold for use or used as a fuel in a diesel-powered highway vehicle or diesel-powered train.

Rev. Rul. 2002-76

ISSUES

(1) Is biodiesel taxable fuel for purposes of the tax imposed by § 4081(a)(1) of the Internal Revenue Code?

(2) If biodiesel is not taxable fuel, is tax imposed by § 4081(b)(1) on the removal or sale of blended taxable fuel produced using biodiesel?

(3) If biodiesel is not taxable fuel, is tax imposed by § 4041(a)(1) on biodiesel sold for use or used as a fuel in a diesel-powered highway vehicle or a diesel-powered train?

FACTS

Biodiesel is a liquid composed of monoalkyl esters of long chain fatty acids derived from vegetable oils or animal fats that is covered by ASTM specification D 6751. Biodiesel does not contain any paraffins.

Biodiesel is suitable for use as a fuel in a diesel-powered highway vehicle or diesel-powered train and is sometimes delivered directly into the fuel supply tank of a vehicle or train for that use. However, the most common fuel-related use of biodiesel is in the production of a mixture containing 20 percent biodiesel and 80 percent diesel fuel.

LAW

Section 4081(a)(1) imposes tax on certain removals, entries, and sales of taxable fuel. Section 4083 defines taxable fuel as diesel fuel, gasoline, and kerosene. Section 48.4081-1(c)(2)(i) of the Manufacturers and Retailers Excise Tax Regulations defines diesel fuel as any liquid that, without further processing or blending, is suitable for use as a fuel in a diesel-powered highway vehicle or diesel-powered train. However, under § 48.4081-1(c)(2)(ii), diesel fuel does not include “excluded liquid.” The definition of excluded liquid in § 48.4081-1(b) includes any liquid that contains less than four percent normal paraffins.

Section 4081(b)(1) imposes tax on taxable fuel removed or sold by the blender thereof. Section 4082 provides exemptions from this tax. Under § 48.4081-1(c), blended taxable fuel generally means any taxable fuel that is produced outside the bulk transfer/terminal system by mixing tax-

able fuel with respect to which tax has been imposed under § 4081(a) and any other liquid on which tax has not been imposed under § 4081.

Section 4041(a)(1) imposes tax on any liquid other than gasoline sold for use or used as a fuel in a diesel-powered highway vehicle or diesel-powered train unless tax was imposed on the liquid by § 4081 and not credited or refunded. Other subsections of § 4041 provide additional exemptions from this tax.

ANALYSIS

Biodiesel, although suitable for use as a fuel in a diesel-powered highway vehicle or diesel-powered train, contains less than four percent normal paraffins and, therefore, is excluded liquid for purposes of the definition of diesel fuel provided in § 48.4081-1(c)(2). Accordingly, biodiesel is not taxable fuel for purposes of § 4081(a)(1). However, subject to the exemptions in § 4082, if biodiesel is used in the production of blended taxable fuel, tax is imposed by § 4081(b)(1) on the removal or sale of the blended taxable fuel. Further, subject to the exemptions in § 4041, if biodiesel is sold for use or used as a fuel in a diesel-powered highway vehicle or a diesel-powered train, tax is imposed by § 4041(a)(1).

HOLDINGS

(1) Biodiesel is not taxable fuel for purposes of the tax imposed by § 4081(a)(1).

(2) Subject to the exemptions in § 4082, tax is imposed by § 4081(b)(1) on the removal or sale of blended taxable fuel produced using biodiesel.

(3) Subject to the exemptions in § 4041, tax is imposed by § 4041(a)(1) on biodiesel sold for use or used as a fuel in a diesel-powered highway vehicle or a diesel-powered train.

DRAFTING INFORMATION

The principal author of this revenue ruling is Susan Athy of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling, contact Susan Athy at (202) 622-3130 (not a toll-free call).

Section 4082.—Exemptions for Diesel Fuel and Kerosene

Biodiesel. Rules related to biodiesel are described. See Rev. Rul. 2002-76, page 840.

Section 4083.—Definitions; Special Rule; Administrative Authority

Biodiesel. Rules related to biodiesel are described. See Rev. Rul. 2002-76, page 840.

Section 4261.—Imposition of Tax

The Service provides inflation adjustments to the amounts of the excise taxes on passenger air transportation beginning or ending in the United States and for each domestic segment of air transportation for calendar year 2003. See Rev. Proc. 2002-70, page 845.

Section 6033.—Returns by Exempt Organizations

The Service provides an inflation adjustment to the amount of dues certain exempt organizations with non-deductible lobbying expenditures can charge and still be excepted from reporting requirements for taxable years beginning in 2003. See Rev. Proc. 2002-70, page 845.

Section 6039F.—Notice of Large Gifts Received From Foreign Persons

The Service provides an inflation adjustment to the amount of gifts received, in a taxable year from foreign persons, that triggers a reporting requirement for a United States person for taxable years beginning in 2003. See Rev. Proc. 2002-70, page 845.

Section 6323.—Validity and Priority Against Certain Persons

The Service provides inflation adjustments for calendar year 2003 to (1) the maximum amount of a casual sale of personal property below which a federal tax lien will not be valid against a purchaser of the property and (2) the maximum amount of a contract for the repair or improvement of certain residential property at or below which a federal tax lien will not be valid against a mechanic's lienor. See Rev. Proc. 2002-70, page 845.

Section 6334.—Property Exempt From Levy

The Service provides inflation adjustments to the value of certain property exempt from levy (fuel, provisions, furniture, household personal effects, arms for personal use, livestock, poultry, and books and tools of a trade, business, or profession) for calendar year 2003. See Rev. Proc. 2002–70, page 845.

Section 6601.—Interest on Underpayment, Nonpayment, or Extensions of Time for Payment, of Tax

The Service provides an inflation adjustment to the amount used to determine the amount of interest charged on a certain portion of the estate tax payable in installments for the estate of a decedent dying in calendar year 2003. See Rev. Proc. 2002–70, page 845.

Section 7430.—Awarding of Costs and Certain Fees

The Service provides an inflation adjustment to the hourly limit on attorney fees that may be awarded in a judgment or settlement of an administrative or judicial proceeding concerning the determination, collection, or refund of tax, interest, or penalty for calendar year 2003. See Rev. Proc. 2002–70, page 845.

Section 7702B.—Treatment of Qualified Long-Term Care Insurance

The Service provides an inflation adjustment to the same dollar amount of the *per diem* limitation regarding periodic payments received under a qualified long-term care insurance contract or periodic payments received under a life insurance contract that are treated as paid by reason of the death of a chronically ill individual for calendar year 2003. See Rev. Proc. 2002–70, page 845.

Part III. Administrative, Procedural, and Miscellaneous

Changes in Annual Accounting Period

Notice 2002-72

SECTION 1. PURPOSE

This notice clarifies and modifies certain provisions in Rev. Proc. 2002-37, 2002-22 I.R.B. 1030, Rev. Proc. 2002-38, 2002-22 I.R.B. 1037, and Rev. Proc. 2002-39, 2002-22 I.R.B. 1046, which provide procedures for obtaining approval of an adoption, change, or retention of an annual accounting period. Specifically, this notice provides that:

1) certain entities with required taxable years that must concurrently change their annual accounting period as a term and condition for the approval of a related taxpayer's change of annual accounting period must do so under the applicable automatic approval procedures notwithstanding any limitations in those procedures to the contrary or any conflicting testing date provisions;

2) the Internal Revenue Service will not apply the rule in section 5.06 of Rev. Proc. 2002-38, under which less than 100% ownership of an S corporation by a tax-exempt entity is disregarded for purposes of determining the S corporation's ownership taxable year, to require any S corporation to change its annual accounting period in any taxable year beginning before January 1, 2003;

3) a partnership that is allowed, under section 4.01(5) of Rev. Proc. 2002-38, to retain its current taxable year for one year in the case of a minor, temporary percent change in ownership may also apply to retain its current year, or to change to any other taxable year for which it can establish a business purpose, under Rev. Proc. 2002-38 or Rev. Proc. 2002-39, whichever is applicable;

4) an interest in a pass-through entity that does not meet section 4.02(2)(c) of Rev. Proc. 2002-37 may still be disregarded under the *de minimis* test in section 4.02(2)(d) of that revenue procedure;

5) the filing instructions in section 7.02 of Rev. Proc. 2002-37 for a corporate United States shareholder completing and filing a Form 1128, *Application to Adopt, Change, or Retain a Tax Year*, on behalf of a controlled foreign corporation (CFC) or

a foreign personal holding company (FPHC) apply as well to a non-corporate United States shareholder; and

6) the exception to the terms and conditions provided in each of the revenue procedures respecting record keeping and book conformity pertains to books and records kept for financial statement, and not tax, purposes.

SECTION 2. BACKGROUND

Rev. Proc. 2002-37 provides the exclusive procedures for certain corporations within its scope to obtain automatic approval to change their annual accounting periods under § 442 of the Internal Revenue Code and § 1.442-1(b) of the Income Tax Regulations.

Rev. Proc. 2002-38 provides the exclusive procedures for certain partnerships, S corporations, electing S corporations, and PSCs to obtain automatic approval to adopt, change, or retain their annual accounting periods under § 442 and § 1.442-1(b).

Rev. Proc. 2002-39 provides the general procedures for taxpayers not within the scope of either Rev. Proc. 2002-37 or Rev. Proc. 2002-38 to establish a business purpose and obtain the prior approval of the Commissioner to adopt, change, or retain an annual accounting period.

Questions have arisen as to the scope and intent of certain provisions of these revenue procedures. Additionally, the Service and Treasury Department have determined that it is in the best interest of sound tax administration that the application of the ownership tax year rule found in section 5.06 of Rev. Proc. 2002-38 be delayed.

SECTION 3. APPLICATION

A. Concurrent Changes by Related Entities

A change in annual accounting period by an entity that must concurrently change its annual accounting period as a term and condition of another taxpayer's annual accounting period change under either section 6.10 of Rev. Proc. 2002-37 or section 5.04(8) of Rev. Proc. 2002-39, must be made under the applicable automatic revenue procedure notwithstanding any conflicting testing date provisions under §§ 706(b)(4)(A)(ii), 898(c)(1)(C)(ii),

§ 1.921-1T(b)(6), and the special provision in § 706(b)(4)(b). If the entity that is required to change is a corporation, such as a CFC, it is deemed to be within section 4.01 of Rev. Proc. 2002-37, and if it is a pass-through entity, such as a partnership, it is deemed to be within section 4.01(1) of Rev. Proc. 2002-38. The preceding sentence applies notwithstanding any conflicting testing date provision under the Code or regulations or any other limitation under section 4.02 of Rev. Proc. 2002-37 or section 4.02 of Rev. Proc. 2002-38.

B. Ownership Taxable Year of Certain S Corporations

Section 5.06 of Rev. Proc. 2002-38 (relating to the definition of an "ownership taxable year") provides that, under principles similar to the principles set forth in § 1.706-3T for determining the taxable year of a partnership, a shareholder that is tax-exempt under § 501(a) is disregarded if such shareholder is not subject to tax on any income attributable to the S corporation. The Service will not apply this rule to require an S corporation to change its taxable year for any taxable year beginning before January 1, 2003.

C. Certain changes in ownership of partnerships

Section 4.01(5)(B) of Rev. Proc. 2002-38 is modified to read as follows:

* * *

"(B) it is reasonably foreseeable that, at the end of one taxable year, the change in ownership will be reversed. If, at the end of one taxable year, the partnership's current taxable year does not meet section 4.01(1) of this revenue procedure, then the partnership must change to its required taxable year under section 4.01(1), or apply to either retain its current taxable year or change to any other taxable year for which it can establish a business purpose, under this revenue procedure or Rev. Proc. 2002-39, whichever is applicable."

D. De minimis Test for Interest in Pass-through Entities

Section 4.02(2)(d) of Rev. Proc. 2002-37 is modified to read as follows:

* * *

"for pass-through entities not qualifying for the exceptions in section 4.02(a), 4.02(b), or 4.02(c) of this revenue procedure, the pass-through entity in which the corporation has an interest has been in existence for at least 3 taxable years and the

interest is *de minimis*. For this purpose, an interest in a pass-through entity is *de minimis* only if:"

* * *

E. Filing Requirements for Period Changes by CFCs and FPHCs

Any United States shareholder (including a non-corporate United States shareholder) completing and filing a Form 1128 on behalf of a CFC or FPHC must file the Form 1128 where the United States shareholder files the shareholder's federal income tax return.

F. Record Keeping/Book Conformity

The common term and condition in Rev. Proc. 2002-37 (section 6.04), Rev. Proc. 2002-38 (section 6.04), and Rev. Proc. 2002-39 (section 5.04(3)) relating to record keeping and book conformity is clarified to remove any implication or inference that books and records maintained for tax purposes need not be kept on the basis of the requested taxable year. Taxpayers are reminded that their books and records for United States federal income tax purposes must in all circumstances be kept on the basis of their approved annual accounting period, regardless of whether the taxpayer comes within one of the two exceptions to the term and condition pertaining to financial books and records.

SECTION 4. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2002-37, Rev. Proc. 2002-38, and Rev. Proc. 2002-39 are clarified and modified.

SECTION 5. EFFECTIVE DATE

The provisions of this notice are effective as if originally included in Rev. Proc. 2002-37, Rev. Proc. 2002-38, and Rev. Proc. 2002-39.

DRAFTING INFORMATION

The principal authors of this notice are Michael F. Schmit and Roy A. Hirschhorn of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Mr. Schmit or Mr. Hirschhorn at (202) 622-4960 (not a toll-free call).

Liberty Zone Advance Refunding Notice

Notice 2002-73

PURPOSE

This notice clarifies the circumstances in which a state or local bond is treated as issued by the New York City Municipal Water Finance Authority (NYCMWFA) or the Metropolitan Transportation Authority of the State of New York (MTA) for purposes of § 1400L(e)(2)(B) of the Internal Revenue Code.

BACKGROUND

Section 103(a) provides that, with certain exceptions, gross income does not include interest on any state or local bond.

Section 149(d)(1) provides, in part, that nothing in § 103(a) or in any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond issued as part of an issue described in § 149(d)(3). An issue is described in § 149(d)(3) if any bond (the refunding bond) issued as part of the issue is issued to advance refund a bond unless the refunding bond is only (1) the first advance refunding of the original bond if the original bond is issued after 1985, or (2) the first or second advance refunding of the original bond if the original bond was issued before 1986. Section 149(d)(5) provides that a bond is treated as issued to advance refund another bond if it is issued more than 90 days before the redemption of the refunded bond.

Section 1400L(e) authorizes one additional advance refunding of certain bonds after March 9, 2002, and before January 1, 2005, notwithstanding the requirements of § 149(d). A bond is eligible for an additional advance refunding under § 1400L(e) only if, among other things, it is described in § 1400L(e)(2). The bonds described in § 1400L(e)(2) include, among others, a state or local bond (other than a private activity bond, as defined in § 141(a)) that was outstanding on September 11, 2001, and that was issued by the NYCMWFA or the MTA.

Section 1.150-1(d)(1) of the Income Tax Regulations provides, in general, that a refunding issue is an issue of obligations (including one or more bonds) the proceeds of which are used to pay principal, interest or redemption price on another issue.

Section 1.150-1(d)(2)(ii)(A) provides, however, that an issue is not a refunding issue to the extent that the obligor of one issue is neither the obligor of the other issue nor a related party with respect to the obligor of the other issue.

Section 1.150-1(d)(2)(ii)(B) provides that the obligor of an issue means the actual issuer of the issue, except that the obligor of the portion of an issue properly allocable to an investment in a purpose investment means the conduit borrower under that purpose investment. Section 1.148-1(b) defines purpose investment as an investment that is acquired to carry out the governmental purpose of an issue. Section 1.150-1(b) provides that a conduit borrower is the obligor on a purpose investment. For example, if an issuer invests proceeds in a purpose investment in the form of a loan, lease, installment sale obligation, or similar obligation to another entity and the obligor uses the proceeds to carry out the governmental purpose of the issue, the obligor is a conduit borrower.

DISCUSSION

Questions have arisen regarding whether a bond that is issued by a state or political subdivision thereof, other than the NYCMWFA (or the MTA), is treated as issued by the NYCMWFA (or the MTA) for purposes of § 1400L(e)(2)(B) if the NYCMWFA (or the MTA) is the obligor of the bond. This notice clarifies that, solely for purposes of § 1400L(e)(2)(B), a state or local bond that is not actually issued by the NYCMWFA (or the MTA) is treated as issued by the NYCMWFA (or the MTA) to the extent that the NYCMWFA (or the MTA) is the obligor of the bond within the meaning of § 1.150-1(d)(2)(ii)(B). For example, if a bond was issued by a state or political subdivision thereof on or before September 11, 2001, and the proceeds of the bond were loaned to the NYCMWFA such that the NYCMWFA is the obligor of the bond within the meaning of § 1.150-1(d)(2)(ii)(B), then the bond is treated as issued by the NYCMWFA solely for purposes of § 1400L(e)(2)(B).

FURTHER INFORMATION

For further information regarding this notice, contact Michael P. Brewer at (202) 622-3980 (not a toll-free call).

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SECTION 4. EFFECTIVE DATE

SECTION 5. DRAFTING INFORMATION

SECTION 1. PURPOSE

This revenue procedure sets forth inflation adjusted items for 2003.

SECTION 2. CHANGES

.01 The amount in § 23(a)(3) used to determine the maximum credit allowed in the case of an adoption of a child with special needs, the amount in § 23(b)(1) used to determine the amount of qualified adoption expenses which may be taken into account in determining the maximum credit allowed for other adoptions, and the income phase-out amounts in § 23(b)(2)(A), are adjusted for inflation. (Section 3.03).

.02 The amounts in § 42(h)(3)(C)(ii) used to calculate the State housing credit ceiling for the low-income housing credit are adjusted for inflation. (Section 3.07).

.03 The amount in § 137(a)(2) used to determine the maximum amount that an employer can exclude from an employee's gross income in connection with the employee's adoption of a child with special needs, the amount in § 137(b)(1) used to determine the maximum amount that can be excluded from an employee's gross income for amounts paid or expenses incurred by the employer for qualified adoption expenses furnished pursuant to an adoption assistance program in connection with other adoptions, and the income phase-out amounts in § 137(b)(2)(A), are adjusted for inflation. (Section 3.13).

.04 The amounts in § 146(d)(1) used to calculate the State ceiling for the volume cap for private activity bonds are adjusted for inflation. (Section 3.14).

.05 The amounts in § 221(b)(2)(B) used to determine the availability of a deduction for interest paid on qualified education loans are adjusted for inflation. (Section 3.18).

.06 The tax on domestic segments of taxable air transportation in § 4261(b) is adjusted for inflation. (Section 3.26).

.07 The excise tax on luxury automobiles imposed by §§ 4001 and 4003 terminates effective December 31, 2002, in accordance with § 4001(g) and is no longer included in this revenue procedure.

SECTION 3. 2003 ADJUSTED ITEMS

.01 *Tax Rate Tables.* For taxable years beginning in 2003, the tax rate tables under § 1 are as follows:

TABLE 1 — Section 1(a).— MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES

If Taxable Income Is:

Not Over \$12,000
Over \$12,000 but not over \$47,450
Over \$47,450 but not over \$114,650
Over \$114,650 but not over \$174,700
Over \$174,700 but not over \$311,950
Over \$311,950

The Tax Is:

10% of the taxable income
\$1,200 plus 15% of excess over \$12,000
\$6,517.50 plus 27% of excess over \$47,450
\$24,661.50 plus 30% of excess over \$114,650
\$42,676.50 plus 35% of excess over \$174,700
\$90,714 plus 38.6% of excess over \$311,950

TABLE 2 — Section 1(b). — HEADS OF HOUSEHOLDS

If Taxable Income Is:

Not Over \$10,000
Over \$10,000 but not over \$38,050
Over \$38,050 but not over \$98,250
Over \$98,250 but not over \$159,100
Over \$159,100 but not over \$311,950
Over \$311,950

The Tax Is:

10% of the taxable income
\$1,000 plus 15% of excess over \$10,000
\$5,207.50 plus 27% of the excess over \$38,050
\$21,461.50 plus 30% of the excess over \$98,250
\$39,716.50 plus 35% of the excess over \$159,100
\$93,214 plus 38.6% of the excess over \$311,950

TABLE 3 — Section 1(c). — UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS)

If Taxable Income Is:

Not over \$6,000
Over \$6,000 but not over \$28,400
Over \$28,400 but not over \$68,800
Over \$68,800 but not over \$143,500
Over \$143,500 but not over \$311,950
Over \$311,950

The Tax Is:

10% of the taxable income
\$600 plus 15% of the excess over \$6,000
\$3,960 plus 27% of the excess over \$28,400
\$14,868 plus 30% of the excess over \$68,800
\$37,278 plus 35% of the excess over \$143,500
\$96,235.50 plus 38.6% of the excess over \$311,950

TABLE 4 — Section 1(d). — MARRIED INDIVIDUALS FILING SEPARATE RETURNS

<i>If Taxable Income Is:</i>	<i>The Tax Is:</i>
Not Over \$6,000	10% of the taxable income
Over \$6,000 but not over \$23,725	\$600 plus 15% of the excess over \$6,000
Over \$23,725 but not over \$57,325	\$3,258.75 plus 27% of the excess over \$23,725
Over \$57,325 but not over \$87,350	\$12,330.75 plus 30% of the excess over \$57,325
Over \$87,350 but not over \$155,975	\$21,338.25 plus 35% of the excess over \$87,350
Over \$155,975	\$45,357 plus 38.6% of the excess over \$155,975

TABLE 5 — Section 1(e). — ESTATES AND TRUSTS

<i>If Taxable Income Is:</i>	<i>The Tax Is:</i>
Not Over \$1,900	15% of the taxable income
Over \$1,900 but not over \$4,500	\$285 plus 27% of the excess over \$1,900
Over \$4,500 but not over \$6,850	\$987 plus 30% of the excess over \$4,500
Over \$6,850 but not over \$9,350	\$1,692 plus 35% of the excess over \$6,850
Over \$9,350	\$2,567 plus 38.6% of the excess over \$9,350

.02 *Unearned Income of Minor Children Taxed as if Parent's Income (the "Kiddie Tax").* For taxable years beginning in 2003, the amount in § 1(g)(4)(A)(ii)(I), which is used to reduce the net unearned income reported on the child's return that is subject to the "kiddie tax," is \$750. (This amount is the same as the \$750 standard deduction amount provided in section 3.09(2) of this revenue procedure.) The same \$750 amount is used for purposes of § 1(g)(7) (that is, in determining whether a parent may elect to include a child's gross income in the parent's gross income and for calculating the "kiddie tax"). For example, one of the requirements for the parental election is that a child's gross income is more than the amount referenced in § 1(g)(4)(A)(ii)(I) but less than 10 times such amount; thus, a child's gross income for 2003 must be more than \$750 but less than \$7,500 to satisfy that requirement.

.03 *Adoption Credit.* For taxable years beginning in 2003, under § 23(a)(3) the maximum credit allowed in the case of an adoption of a child with special needs is

\$10,160. For taxable years beginning in 2003, under § 23(b)(1) the maximum credit allowed with regard to other adoptions is the amount of qualified adoption expenses up to \$10,160. The available adoption credit begins to phase out under § 23(b)(2)(A) for taxpayers with modified adjusted gross income in excess of \$152,390 and is completely phased out for taxpayers with modified adjusted gross income of \$192,390.

.04 *Child Tax Credit.* For taxable years beginning in 2003, the value used in § 24(d)(1)(B)(i) in determining the amount of credit under § 24 that may be refundable is \$10,500.

.05 *Hope and Lifetime Learning Credits.*

(1) For taxable years beginning in 2003, 100 percent of qualified tuition and related expenses not in excess of \$1,000 and 50 percent of such expenses in excess of \$1,000 are taken into account in determining the amount of the Hope Scholarship Credit under § 25A(b)(1).

(2) For taxable years beginning in 2003, a taxpayer's modified adjusted gross income in excess of \$41,000 (\$83,000 in the case of a joint return) is taken into account in determining the reduction under § 25A(d)(2)(A)(ii) in the amount of the Hope Scholarship and Lifetime Learning Credits otherwise allowable under § 25A(a).

.06 *Earned Income Credit.*

(1) *In general.* For taxable years beginning in 2003, the following amounts are used to determine the earned income credit under § 32(b). The "earned income amount" is the amount of earned income at or above which the maximum amount of the earned income credit is allowed. The "threshold phaseout amount" is the amount of adjusted gross income (or, if greater, earned income) above which the maximum amount of the credit begins to phase out. The "completed phaseout amount" is the amount of adjusted gross income (or if greater, earned income) at or above which no credit is allowed.

<i>Item</i>	<i>Number of Qualifying Children</i>		
	<i>One</i>	<i>Two or More</i>	<i>None</i>
Earned Income Amount	\$ 7,490	\$10,510	\$ 4,990
Maximum Amount of Credit	\$ 2,547	\$ 4,204	\$ 382
Threshold Phaseout Amount	\$13,730	\$13,730	\$ 6,240

Item	Number of Qualifying Children		
	One	Two or More	None
Completed Phaseout Amount	\$29,666	\$33,692	\$11,230
Threshold Phaseout Amount (Married Filing Jointly)	\$14,730	\$14,730	\$ 7,240
Completed Phaseout Amount (Married Filing Jointly)	\$30,666	\$34,692	\$12,230

The instructions for the Form 1040 series provide tables showing the amount of the earned income credit for each type of taxpayer.

(2) *Excessive investment income.* For taxable years beginning in 2003, the earned income tax credit is denied under § 32(i) if the aggregate amount of certain investment income exceeds \$2,600.

.07 *Low-Income Housing Credit.* For calendar years beginning in 2003, the amounts

used under § 42(h)(3)(C)(ii) to calculate the State housing credit ceiling for the low-income housing credit is the greater of \$1.75 multiplied by the State population or \$2,030,000.

.08 *Alternative Minimum Tax Exemption for a Child Subject to the "Kiddie Tax."* For taxable years beginning in 2003, in the case of a child to whom the § 1(g) "kiddie tax" applies, the exemption amount under §§ 55 and 59(j) for purposes of the

alternative minimum tax under § 55 may not exceed the sum of (A) such child's earned income for the taxable year, plus (B) \$5,600.

.09 *Standard Deduction.*

(1) *In general.* For taxable years beginning in 2003, the standard deduction amounts under § 63(c)(2) are as follows:

Filing Status

Standard Deduction

MARRIED INDIVIDUALS FILING JOINT RETURNS AND

SURVIVING SPOUSES (§ 1(a))

\$7,950

HEADS OF HOUSEHOLDS (§ 1(b))

\$7,000

UNMARRIED INDIVIDUALS (OTHER THAN

SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS) (§ 1(c))

\$4,750

MARRIED INDIVIDUALS FILING SEPARATE RETURNS

(§ 1(d))

\$3,975

(2) *Dependent.* For taxable years beginning in 2003, the standard deduction amount under § 63(c)(5) for an individual who may be claimed as a dependent by another taxpayer may not exceed the greater of \$750 or the sum of \$250 and the individual's earned income.

(3) *Aged and blind.* For taxable years beginning in 2003, the additional standard deduction amounts under § 63(f) for the aged and for the blind are \$950 for each. These amounts are increased to \$1,150 if the individual is also unmarried and not a surviving spouse.

.10 *Overall Limitation on Itemized Deductions.* For taxable years beginning in 2003, the "applicable amount" of adjusted gross income under § 68(b), above which the amount of otherwise allowable itemized deductions is reduced under § 68, is \$139,500 (or \$69,750 for a separate return filed by a married individual).

.11 *Qualified Transportation Fringe.* For taxable years beginning in 2003, the monthly limitation under § 132(f)(2)(A), re-

garding the aggregate fringe benefit exclusion amount for transportation in a commuter highway vehicle and any transit pass, is \$100. The monthly limitation under § 132(f)(2)(B) regarding the fringe benefit exclusion amount for qualified parking is \$190.

.12 *Income from United States Savings Bonds for Taxpayers Who Pay Qualified Higher Education Expenses.* For taxable years beginning in 2003, the exclusion under § 135, regarding income from United States savings bonds for taxpayers who pay qualified higher education expenses, begins to phase out for modified adjusted gross income above \$87,750 for joint returns and \$58,500 for other returns. This exclusion completely phases out for modified adjusted gross income of \$117,750 or more for joint returns and \$73,500 or more for other returns.

.13 *Adoption Assistance Programs.* For taxable years beginning in 2003, under § 137(a)(2) the maximum amount that an employer can exclude from an employ-

ee's gross income in connection with the adoption by the employee of a child with special needs is \$10,160. For taxable years beginning in 2003, under § 137(b)(1) the maximum amount that can be excluded from an employee's gross income for the amounts paid or expenses incurred by the employer for qualified adoption expenses furnished pursuant to an adoption assistance program in connection with other adoptions by the employee is \$10,160. The amount excludable from an employee's gross income begins to phase out under § 137(b)(2)(A) for taxpayers with modified adjusted gross income in excess of \$152,390 and is completely phased out for taxpayers with modified adjusted gross income of \$192,390.

.14 *Private Activity Bonds Volume Cap.* For calendar years beginning in 2003, the amounts used under § 146(d)(1) to calculate the State ceiling for the volume cap for private activity bonds is the greater of \$75 multiplied by the State population or \$228,580,000.

.15 Personal Exemption.

(1) *Exemption amount.* For taxable years beginning in 2003, the personal exemption amount under § 151(d) is \$3,050.

(2) *Phase out.* For taxable years beginning in 2003, the personal exemption amount begins to phase out at, and is com-

pletely phased out after, the following adjusted gross income amounts:

<i>Filing Status</i>	<i>AGI — Beginning of Phaseout</i>	<i>AGI Above Which Exemption Fully Phased Out</i>
Code § 1(a)	\$209,250	\$331,750
Code § 1(b)	\$174,400	\$296,900
Code § 1(c)	\$139,500	\$262,000
Code § 1(d)	\$104,625	\$165,875

.16 Eligible Long-Term Care Premiums. For taxable years beginning in 2003, the limitations under § 213(d)(10), regarding eligible long-term care premiums includible in the term “medical care,” are as follows:

<i>Attained age before the close of the taxable year</i>	<i>Limitation on premiums</i>
40 or less	\$ 250
More than 40 but not more than 50	\$ 470
More than 50 but not more than 60	\$ 940
More than 60 but not more than 70	\$2,510
More than 70	\$3,130

.17 Medical Savings Accounts.

(1) *Self-only coverage.* For taxable years beginning in 2003, the term “high deductible health plan” as defined in § 220(c)(2)(A) means, in the case of self-only coverage, a health plan that has an annual deductible that is not less than \$1,700 and not more than \$2,500, and under which the annual out-of-pocket expenses required to be paid (other than for premiums) for covered benefits does not exceed \$3,350.

(2) *Family coverage.* For taxable years beginning in 2003, the term “high deductible health plan” means, in the case of family coverage, a health plan that has an annual deductible that is not less than \$3,350 and not more than \$5,050, and under which the annual out-of-pocket expenses required to be paid (other than for premiums) for covered benefits does not exceed \$6,150.

.18 Interest on Education Loans. For taxable years beginning in 2003, the \$2,500 maximum deduction for interest paid on qualified education loans under § 221 is reduced under § 221(b)(2)(B) when modified adjusted gross income exceeds \$50,000 (\$100,000 for joint returns), and is completely eliminated when modified adjusted gross income is \$65,000 (\$130,000 for joint returns).

.19 Treatment of Dues Paid to Agricultural or Horticultural Organizations. For taxable years beginning in 2003, the limitation under § 512(d)(1), regarding the exemption of annual dues required to be paid by a member to an agricultural or horticultural organization, is \$122.

.20 Insubstantial Benefit Limitations for Contributions Associated with Charitable Fund-Raising Campaigns.

(1) *Low cost article.* For taxable years beginning in 2003, the unrelated business income of certain exempt organizations under § 513(h)(2) does not include a “low cost article” of \$8 or less.

(2) *Other insubstantial benefits.* For taxable years beginning in 2003, the \$5, \$25, and \$50 guidelines in section 3 of Rev. Proc. 90-12, 1990-1 C.B. 471 (as amplified and modified), for disregarding the value of insubstantial benefits received by a donor in return for a fully deductible charitable contribution under § 170, are \$8, \$40, and \$80, respectively.

.21 Funeral Trusts. For a contract entered into during calendar year 2003 for a “qualified funeral trust,” as defined in § 685, the trust may not accept aggregate contributions by or for the benefit of an individual in excess of \$7,800.

.22 Expatriation to Avoid Tax. For calendar year 2003, the amounts used under § 877(a)(2), regarding whether an individual’s loss of United States citizenship had the avoidance of United States taxes as one of its principal purposes, are more than \$122,000 for “average annual net income tax” and \$608,000 or more for “net worth.”

.23 Valuation of Qualified Real Property in Decedent’s Gross Estate. For an estate of a decedent dying in calendar year 2003, if the executor elects to use the special use valuation method under § 2032A for qualified real property, the aggregate decrease in the value of qualified real property resulting from electing to use § 2032A that is taken into account for purposes of the estate tax may not exceed \$840,000.

.24 Annual Exclusion for Gifts.

(1) For calendar year 2003, the first \$11,000 of gifts to any person (other than gifts of future interests in property) are not included in the total amount of taxable gifts under § 2503 made during that year.

(2) For calendar year 2003, the first \$112,000 of gifts to a spouse who is not a citizen of the United States (other than gifts of future interests in property) are not included in the total amount of taxable gifts under §§ 2503 and 2523(i)(2) made during that year.

.25 *Generation-Skipping Transfer Tax Exemption.* For calendar year 2003, the generation-skipping transfer tax exemption under § 2631, which is allowed in determining the “inclusion ratio” defined in § 2642, is \$1,120,000.

.26 *Passenger Air Transportation Excise Tax.* For calendar year 2003, the tax under § 4261(b) on the amount paid for each domestic segment of taxable transportation by air is \$3. For calendar year 2003, the tax under § 4261(c) on any amount paid (whether within or without the United States) for any transportation of any person by air, if such transportation begins or ends in the United States, generally is \$13.40. However, in the case of a domestic segment beginning or ending in Alaska or Hawaii as described in § 4261(c)(3), the tax only applies to departures and is at the rate of \$6.70.

.27 *Reporting Exception for Certain Exempt Organizations with Nondeductible Lobbying Expenditures.* For taxable years beginning in 2003, the annual per person, family, or entity dues limitation to qualify for the reporting exception under § 6033(e)(3) (and section 5.05 of Rev. Proc. 98-19, 1998-1 C.B. 547), regarding certain exempt organizations with nondeductible lobbying expenditures, is \$85 or less.

.28 *Notice of Large Gifts Received from Foreign Persons.* For taxable years beginning in 2003, recipients of gifts from certain foreign persons may be required to report these gifts under § 6039F if the aggregate value of gifts received in a taxable year exceeds \$11,827.

.29 *Persons Against Which a Federal Tax Lien Is Not Valid.* For calendar year 2003, a federal tax lien is not valid against (1) certain purchasers under § 6323(b)(4) that purchased personal property in a casual sale for less than \$1,150 or (2) a mechanic’s lienor under § 6323(b)(7) that repaired or improved certain residential property if the contract price with the owner is not more than \$5,750.

.30 *Property Exempt from Levy.* For calendar year 2003, the value of property exempt from levy under § 6334(a)(2) (fuel, provisions, furniture, and other household personal effects, as well as arms for personal use, livestock, and poultry) may not exceed \$6,890. The value of property exempt from levy under § 6334(a)(3) (books

and tools necessary for the trade, business, or profession of the taxpayer) may not exceed \$3,440.

.31 *Interest on a Certain Portion of the Estate Tax Payable in Installments.* For an estate of a decedent dying in calendar year 2003, the dollar amount used to determine the “2-percent portion” (for purposes of calculating interest under § 6601(j)) of the estate tax extended as provided in § 6166 is \$1,120,000.

.32 *Attorney Fee Awards.* For fees incurred in calendar year 2003, the attorney fee award limitation under § 7430(c)(1)(B)(iii) is \$150 per hour.

.33 *Periodic Payments Received under Qualified Long-Term Care Insurance Contracts or under Certain Life Insurance Contracts.* For calendar year 2003, the stated dollar amount of the *per diem* limitation under § 7702B(d)(4), regarding periodic payments received under a qualified long-term care insurance contract or periodic payments received under a life insurance contract that are treated as paid by reason of the death of a chronically ill individual, is \$220.

SECTION 4. EFFECTIVE DATE

.01 *General Rule.* Except as provided in section 4.02, this revenue procedure applies to taxable years beginning in 2003.

.02 *Calendar Year Rule.* This revenue procedure applies to transactions or events occurring in calendar year 2003 for purposes of sections 3.07 (low-income housing credit), 3.14 (private activity bond volume cap), 3.21 (funeral trusts), 3.22 (expatriation to avoid tax), 3.23 (valuation of qualified real property in decedent’s gross estate), 3.24 (annual exclusion for gifts), 3.25 (generation-skipping transfer tax exemption), 3.26 (passenger air transportation excise tax), 3.29 (persons against which a federal tax lien is not valid), 3.30 (property exempt from levy), 3.31 (interest on a certain portion of the estate tax payable in installments), 3.32 (attorney fee awards), and 3.33 (periodic payments received under qualified long-term care insurance contracts or under certain life insurance contracts).

SECTION 5. DRAFTING INFORMATION

The principal author of this revenue procedure is Marnette Myers of the Office of

Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Ms. Myers at (202) 622-4920 (not a toll-free call).

26 CFR 301.7508-1: Time for performing certain acts postponed by reason of service in a combat zone or a Presidentially declared disaster.

(Also Part I, § 7508A; § 301.7508A-1.)

Rev. Proc. 2002-71

SECTION 1. PURPOSE

.01 This revenue procedure provides an updated list of time-sensitive acts, the performance of which may be postponed under sections 7508 and 7508A of the Internal Revenue Code (Code). Section 7508 of the Code postpones specified acts for individuals serving in the Armed Forces of the United States or serving in support of such Armed Forces in a combat zone. Section 7508A of the Code permits a postponement of specified acts for taxpayers affected by a Presidentially declared disaster or a terroristic or military action. The list of acts in this revenue procedure supplements the list of postponed acts in section 7508(a)(1) of the Code and section 301.7508A-1(b) of the Regulations on Procedure and Administration.

.02 This revenue procedure does not, by itself, provide any postponements under sections 7508 or 7508A. In order for taxpayers to be entitled to a postponement of any act listed in this revenue procedure, the IRS generally will publish a Notice or issue other guidance (including an IRS News Release) providing relief with respect to a specific combat zone, Presidentially declared disaster, or a terroristic or military action.

.03 This revenue procedure will be updated as needed when the IRS determines that additional acts should be included in the list of postponed acts or that certain acts should be removed from the list. Also, taxpayers may recommend that additional acts be considered for postponement under sections 7508 and 7508A. See section 17 of this revenue procedure.

SECTION 2. BACKGROUND

.01 Section 7508(a)(1) of the Internal Revenue Code permits a postponement of certain time-sensitive acts for individuals serving in the Armed Forces or in support of such Armed Forces in an area designated by the President as a combat zone under section 112. Among these acts are the filing of returns, the payment of tax, the filing of a Tax Court petition, and the filing of a refund claim. In the event of service in a combat zone, the acts specified in section 7508(a)(1) of the Code are *automatically postponed*. In addition, if the Service publishes a Notice or other guidance providing additional relief under section 7508, some or all of the acts listed in this revenue procedure may be postponed. Likewise, acts not listed in this revenue procedure may be included in published guidance.

.02 Section 7508A of the Code provides that certain acts performed by taxpayers and the government may be postponed if the taxpayer is affected by a Presidentially declared disaster or a terroristic or military action. A “Presidentially declared disaster” is defined in section 1033(h)(3) of the Code. A “terroristic or military action” is defined in section 692(c)(2) of the Code. Section 301.7508A-1(d)(1) of the regulations defines seven types of affected taxpayers, including any individual whose principal residence (for

purposes of section 1033(h)(4)) is located in a “covered disaster area” and any business entity or sole proprietor whose principal place of business is located in a “covered disaster area.” Postponements under section 7508A are not available simply because a disaster or a terroristic or military action has occurred. Generally, the IRS will publish a Notice or issue other guidance (including an IRS News Release) authorizing the postponement. Such guidance will describe the *acts* postponed, the *duration* of the postponement, and the *location* of the covered disaster area. See, for example, Notice 2001-68, 2001-2 C.B. 504, *supplementing* Notice 2001-61, 2001-2 C.B. 305. When a Notice or other guidance for a particular disaster is published, or issued, the guidance generally will refer to this revenue procedure and may provide for a postponement of all the acts listed in the regulations and this revenue procedure. Alternatively, the guidance may provide that only certain acts listed in this revenue procedure are postponed based on the time when the disaster occurred, its severity, and other factors.

SECTION 3. SCOPE

This revenue procedure applies to individuals serving in the Armed Forces in a combat zone, or in support of such Armed Forces, to affected taxpayers within the meaning of section 301.7508A-1(d)(1) of the regulations, and to taxpayers whom the

IRS determines are affected by a terroristic or military action.

SECTION 4. APPLICATION

.01 The tables below list sections of the Internal Revenue Code and Treasury Regulations requiring the timely performance of specified acts that may be postponed under sections 7508 and 7508A.

.02 In order to avoid unnecessary duplication, the following tables do not include acts specified in sections 7508 or 7508A or the regulations thereunder. Thus, for example, no mention is made in the following tables of the filing of tax returns or the payment of taxes (or an installment thereof) because these acts are already covered by sections 7508 and 7508A and the regulations thereunder. Also, the following tables do not refer to the making of accounting method elections or any other elections required to be made on tax returns or attachments thereto. Reference to these elections is not necessary because postponement of the filing of a tax return automatically postpones the making of any election required to be made on the return or an attachment thereto.

.03 The following tables refer only to postponement of acts performed by taxpayers. Additional guidance will be published in the Internal Revenue Bulletin if a decision is made that acts performed by the government may be postponed under section 7508 or section 7508A.

SECTION 5. ACCOUNTING METHODS AND PERIODS

	Statute or Regulation	Act Postponed
1.	Chapter 1, Subchapter E of the Code	Any act relating to the adoption, election, retention, or change of any accounting method or accounting period, or to the use of an accounting method or accounting period, that is required to be performed on or before the due date of a tax return (including extensions). Examples of such acts include (a) the requirements in Rev. Proc. 2002-37, 2002-38, and 2002-39 that Form 1128, <i>Application to Adopt, Change, or Retain a Tax Year</i> , be filed with the Director, Internal Revenue Service Center, on or before the due date (or the due date including extensions) of the tax return for the short period required to effect the change in accounting period; and (b) the requirement in Rev. Proc. 2002-9, 2002-3 I.R.B. 327, section 6.02 (3) that a copy of Form 3115 must be filed with the national office no later than when the original Form 3115 is filed with the timely filed tax return for the year of the accounting method change.

SECTION 5. ACCOUNTING METHODS AND PERIODS—CONTINUED

	Statute or Regulation	Act Postponed
2.	Treas. Reg. § 1.381(c)(4)–1(d)(2)	If the acquiring corporation is not permitted to use the method of accounting used by the acquiring corporation, the method of accounting used by the distributor/transferor corporation, or the principal method of accounting; or if the corporation wishes to use a new method of accounting, then the acquiring corporation must apply to the Commissioner to use another method. Treas. Reg. § 1.381(c)(4)–1(d)(2) requires applications to be filed not later than 90 days after the date of distribution or transfer. Rev. Proc. 83–77, 1983–2 C.B. 594, provides an automatic 90-day extension.
3.	Treas. Reg. § 1.381(c)(5)–1(d)(2)	If the acquiring corporation is not permitted to use the inventory method used by the acquiring corporation, the inventory method used by the distributor/transferor corporation, or the principal method of accounting, or wishes to use a new method of accounting, then the acquiring corporation must apply to the Commissioner to use another method. Treas. Reg. § 1.381(c)(5)–1(d)(2) requires applications to be filed not later than 90 days after the date of distribution or transfer. Rev. Proc. 83–77 provides an automatic 90-day extension.
4.	Treas. Reg. § 1.442–1(b)(1)	In order to secure prior approval of an adoption, change or retention of a taxpayer’s annual accounting period, the taxpayer generally must file an application on Form 1128, <i>Application to Adopt, Change, or Retain a Tax Year</i> , with the Commissioner within such time as is provided in administrative procedures published by the Commissioner from time to time. See, for example, Rev. Procs. 66–50, 1966–2 C.B. 1260, 2002–37, 2002–22 I.R.B. 1030, 2002–38, 2002–22 I.R.B. 1037, and 2002–39, 2002–22 I.R.B. 1046.
5.	Treas. Reg. § 1.444–3T(b)(1)	A section 444 election must be made by filing Form 8716, <i>Election to Have a Tax Year Other Than a Required Tax Year</i> , with the Service Center. Generally, Form 8716 must be filed by the earlier of (a) the 15th day of the fifth month following the month that includes the first day of the taxable year for which the election will first be effective, or (b) the due date (without regard to extensions) of the income tax return resulting from the section 444 election.
6.	Treas. Reg. § 1.446–1(e)(2)(i)	Section 6 of Rev. Proc. 2002–9, 2002–3 I.R.B. 327, 341, allows a taxpayer to change a method of accounting within the terms of the revenue procedure by attaching the application form to the timely filed return for the year of change. Section 6.02(3)(b) grants an automatic extension of 6 months within which to file an amended return with the application for the change following a timely filed original return for the year of change.
7.	Treas. Reg. § 1.446–1(e)(3)(i)	To secure the Commissioner’s consent to a change in method of accounting, the taxpayer must file an application on Form 3115, <i>Application for Change in Accounting Method</i> , with the Commissioner during the taxable year in which the taxpayer desires to make the change in method of accounting (<i>i.e.</i> , must be filed by the last day of such taxable year). This filing requirement is also in Rev. Proc. 97–27, 1997–1 C.B. 680. (But see Rev. Proc. 2002–9 for automatic changes in method of accounting that can be made with the return.)
8.	Treas. Reg. § 1.461–1(c)(3)(ii)	A taxpayer may elect, with the consent of the Commissioner, to accrue real property taxes ratably in accordance with section 461(c). A written request for permission to make such an election must be submitted within 90 days after the beginning of the taxable year to which the election is first applicable. Rev. Proc. 83–77 provides an automatic 90-day extension.
9.	Treas. Reg. § 1.7519–2T(a)(2), (3) and (4)	A partnership or S corporation must file the Form 8752, <i>Required Payment or Refund Under Section 7519</i> , if the taxpayer has made an election under section 444 to use a taxable year other than its required taxable year and the election is still in effect. The Form 8752 must be filed and any required payment must be made by the date stated in the instructions to Form 8752.

SECTION 5. ACCOUNTING METHODS AND PERIODS—CONTINUED

	Statute or Regulation	Act Postponed
10.	Rev. Proc. 92-29, section 6.02	A developer of real estate requesting the Commissioner's consent to use the alternative cost method must file a private letter ruling request within 30 days after the close of the taxable year in which the first benefitted property in the project is sold. The request must include a consent extending the period of limitation on the assessment of income tax with respect to the use of the alternative cost method.

SECTION 6. BUSINESS AND INDIVIDUAL TAX ISSUES

	Statute or Regulation	Act Postponed
1.	Treas. Reg. § 1.71-1T(b), Q&A-7	A payer spouse may send cash to a third party on behalf of a spouse that qualifies for alimony or separate maintenance payments if the payments are made to the third party at the written request or consent of the payee spouse. The request or consent must state that the parties intend the payment to be treated as an alimony payment to the payee spouse subject to the rules of section 71. The payer spouse must receive the request or consent prior to the date of filing of the payer spouse's first return of tax for the taxable year in which the payment was made.
2.	Treas. Reg. § 1.77-1	A taxpayer who receives a loan from the Commodity Credit Corporation may elect to include the amount of the loan in his gross income for the taxable year in which the loan is received. The taxpayer in subsequent taxable years must include in his gross income all amounts received during those years as loans from the Commodity Credit Corporation, unless he secures the permission of the Commissioner to change to a different method of accounting. Treas. Reg. § 1.77-1 requires such requests to be filed within 90 days after the beginning of the taxable year of change. Rev. Proc. 83-77 provides an automatic 90-day extension.
3.	Treas. Reg. § 1.110-1(b)(4)(ii)(A)	The lessee must expend its construction allowance on the qualified long-term real property within eight and one-half months after the close of the taxable year in which the construction allowance was received.
4.	Sec. 118(c)(2)	A contribution in aid of construction received by a regulated public utility that provides water or sewerage disposal services must be expended by the utility on qualifying property before the end of the second taxable year after the year in which it was received by the utility.
5.	Treas. Reg. § 1.170A-5(a)(2)	A contribution of an undivided present interest in tangible personal property shall be treated as made upon receipt by the donee of a formally executed and acknowledged deed of gift. However, the period of initial possession by the donee may not be deferred for more than one year.
6.	Sec. 172(b)(1)(H)	Certain taxpayers desiring to take advantage of the new 5-year carryback period, and/or desiring to apply for a tentative carryback adjustment, must act on or before a specified date. (See Rev. Proc. 2002-40, 2002-23 I.R.B. 1096).
7.	Sec. 468A(g)	A taxpayer that makes payments to a nuclear decommissioning fund with respect to a taxable year must make the payments within 2½ months after the close of such taxable year (the deemed payment date).
8.	Sec. 530(h)	A trustee of a Coverdell education savings account must provide certain information concerning the account to the beneficiary by January 31 following the calendar year to which the information relates. In addition, Form 5498 must be filed with the IRS by May 31 following the calendar year to which the information relates.

SECTION 6. BUSINESS AND INDIVIDUAL TAX ISSUES—CONTINUED

	Statute or Regulation	Act Postponed
9.	Sec. 563(a)	In the determination of the dividends paid deduction for purposes of the accumulated earnings tax imposed by section 531, a dividend paid after the close of any taxable year and on or before the 15 th day of the third month following the close of such taxable year shall be considered as paid during such taxable year. The close of the taxable year is not affected by this revenue procedure; the 3½-month period within which the dividend is paid is the period extended.
10.	Sec. 563(b)	In the determination of the dividends paid deduction for purposes of the personal holding company tax imposed by section 541, a dividend paid after the close of any taxable year and on or before the 15 th day of the third month following the close of such taxable year shall, to the extent the taxpayer elects on its return for the taxable year, be considered as paid during such taxable year. The close of the taxable year is not affected by this revenue procedure; the 3½-month period within which the dividend is paid is the period extended.
11.	Sec. 563(c)	In the determination of the dividends paid deduction for purposes of part III, a dividend paid after the close of any taxable year and on or before the 15 th day of the third month following the close of such taxable year shall, to the extent the company designates such dividend as being taken into account, be considered as paid during such taxable year. The close of the taxable year is not affected by this revenue procedure; the 3½-month period within which the dividend is paid is the period extended.
12.	Sec. 563(d)	For the purpose of applying section 562(a), with respect to distributions under subsection (a), (b), or (c) of section 562, a distribution made after the close of the taxable year and on or before the 15 th day of the third month following the close of the taxable year shall be considered as made on the last day of such taxable year. The close of the taxable year is not affected by this revenue procedure; the 3½-month period within which the dividend is paid is the period extended.
13.	Treas. Reg. § 1.468A-3(h)(1)(v)	A taxpayer must file a request for a schedule of ruling amounts for a nuclear decommissioning fund by the deemed payment date (2½-months after the close of the taxable year for which the schedule of ruling amounts is sought).
14.	Treas. Reg. § 1.468A-3(h)(1)(vii)	A taxpayer has 30 days to provide additional requested information with respect to a request for a schedule of ruling amounts. If the information is not provided within the 30 days, the request will not be considered filed until the date the information is provided.
15.	Sec. 529 (c)(3)(C)(i)	A rollover contribution to another qualified tuition program must be made no later than the 60th day after the date of a distribution from a qualified tuition program.
16.	Sec. 530(d)(4)(C)(i)	Excess contributions to a Coverdell education savings account must be distributed before a specified time in the taxable year following the taxable year in which the contribution is made.
17.	Sec. 530(d)(5)	A rollover contribution to another Coverdell education savings account must be made no later than the 60th day after the date of a payment or distribution from a Coverdell education savings account.
18.	Sec. 1031(a)	Any property received by the taxpayer shall be treated as property which is not like-kind property if — (A) such property is not identified as property to be received in the exchange on or before the day which is 45 days after the date on which the taxpayer transfers the property relinquished in the exchange, or (B) such property is received after the earlier of (i) the day which is 180 days after the date on which the taxpayer transfers the property relinquished in the exchange, or (ii) the due date (determined with regard to extension) for the transferor's return of the tax imposed by this chapter for the taxable year in which the transfer of the relinquished property occurs.

SECTION 6. BUSINESS AND INDIVIDUAL TAX ISSUES—CONTINUED

	Statute or Regulation	Act Postponed
19.	Treas. Reg. § 1.1033(c)(3)	Certain elections respecting the non recognition of gain on the involuntary conversion of property (Treas. Reg. §§ 1.1033(c)(1) and (2)) are required to be made within the time periods specified in Treas. Reg. § 1.1033(c)(3).
20.	Sec. 1043(a)	If an eligible person (as defined under section 1043(b)) sells any property pursuant to a certificate of divestiture, then at the election of the taxpayer, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds the cost of any permitted property purchased by the taxpayer during the 60-day period beginning on the date of such sale.
21.	Sec. 1045(a)	A taxpayer other than a corporation may elect to roll over gain from the sale of qualified small business stock held for more than six months if other qualified small business stock is purchased by the taxpayer during the 60-day period beginning on the date of sale.
22.	Sec. 1382(d)	An organization, to which section 1382(d) applies, is required to pay a patronage dividend within 8½ months after the close of the year.
23.	Sec. 1388(j)(3)(A)	Any cooperative organization that exercises its option to net patronage gains and losses, is required to give notice to its patrons of the netting by the 15 th day of the 9 th month following the close of the taxable year.
24.	Treas. Reg. § 301.7701-3(c)	The effective date of an entity classification election (Form 8832) cannot be more than 75 days prior to the date on which the election is filed.
25.	Treas. Reg. § 301.9100-2(a)(1)	An automatic extension of 12 months from the due date for making a regulatory election is granted to make certain elections, including the election to use other than the required taxable year under section 444, and the election to use LIFO under section 472.
26.	Treas. Reg. §§ 301.9100-2(b)-(d)	An automatic extension of 6 months from the due date of a return, excluding extensions, is granted to make the regulatory or statutory elections whose due dates are the due date of the return or the due date of the return including extensions (for example, a taxpayer has an automatic 6 month extension to file an application to change a method of accounting under Rev. Proc. 2002-9), provided the taxpayer (a) timely filed its return for the year of election, (b) within that 6-month extension period, takes the required corrective action to file the election in accordance with the statute, regulations, revenue procedure, revenue ruling, notice or announcement permitting the election, and (c) writes at the top of the return, statement of election or other form "FILED PURSUANT TO § 301.9100-2."
27.	Notice 2002-25	Notice 2002-25, 2002-15 I.R.B. 743, relaxes the contemporaneous written acknowledgment requirement for charitable contributions of \$250 or more made after September 10, 2001, and before January 1, 2002, if taxpayers obtain the written acknowledgment or have evidence of a good-faith attempt to obtain it by October 15, 2002.

SECTION 7. CORPORATE ISSUES

	Statute or Regulation	Act Postponed
1.	Sec. 302(e)(1)	A corporation must complete a distribution in pursuance of a plan of partial liquidation of a corporation within the specified period.
2.	Sec. 303 and Treas. Reg. § 1.303-2	A corporation must complete the distribution of property to a shareholder in redemption of all or part of the stock of the corporation which (for Federal estate tax purposes) is included in determining the estate of a decedent. Section 303 and Treas. Reg. § 1.303-2 require, among other things, that the distribution occur within the specified period.

SECTION 7. CORPORATE ISSUES—CONTINUED

	Statute or Regulation	Act Postponed
3.	Sec. 304(b)(3)(C)	If certain requirements are met, section 304(a) does not apply to a transaction involving the formation of a bank holding company. One requirement is that within a specified period (generally 2 years) after control of a bank is acquired, stock constituting control of the bank is transferred to a bank holding company in connection with the bank holding company's formation.
4.	Sec. 332(b) and Treas. Reg. §§ 1.332-3 and 1.332-4	A corporation must completely liquidate a corporate subsidiary within the specified period.
5.	Sec. 338(d)(3) and (h), and Treas. Reg. § 1.338-2	An acquiring corporation must complete a "qualified stock purchase" of a target corporation's stock within the specified acquisition period.
6.	Sec. 338(g) and Treas. Reg. § 1.338-2	An acquiring corporation may elect to treat certain stock purchases as asset acquisitions. The election must be made within the specified period.
7.	Sec. 338(h)(10) and Treas. Reg. § 1.338(h)(10)-1(c)	An acquiring corporation and selling group of corporations may elect to treat certain stock purchases as asset purchases, and to avoid gain or loss upon the stock sale. The election must be made within the specified period.
8.	Sec. 341 and Treas. Reg. § 1.341-7	A shareholder of a collapsible corporation must sell its stock in the corporation within the specified period.
9.	Treas. Reg. § 1.381(c)(17)-1(c)	An acquiring corporation files a Form 976, <i>Claim for Deficiency Dividends Deduction by a Personal Holding Company, Regulated Investment Company, or Real Estate Investment Trust</i> , within 120 days after the date of the determination under section 547(c) to claim a deduction of a deficiency dividend.
10.	Treas. Reg. § 1.441-3(b)	A personal service corporation may obtain the approval of the Commissioner to adopt, change, or retain an annual accounting period by filing Form 1128, <i>Application to Adopt, Change or Retain a Tax Year</i> , within such time as is provided in the administrative procedures published by the Commissioner. See Rev. Procs. 2002-38 and 2002-39.
11.	Sec. 562(b)(1)(B)	In the case of a complete liquidation (except in the case of a complete liquidation of a personal holding company or foreign personal holding company) occurring within 24 months after the adoption of a plan of liquidation, any distribution within such period pursuant to such plan shall, to the extent of the earnings and profits (computed without regard to capital losses) of the corporation for the taxable year in which such distribution is made, be treated as a dividend for purposes of computing the dividends paid deduction.
12.	Sec. 562(b)(2)	In the case of a complete liquidation of a personal holding company occurring within 24 months after the adoption of a plan of liquidation, the amount of any distribution within such period pursuant to such plan shall be treated as a dividend for purposes of computing the dividends paid deduction to the extent that such is distributed to corporate distributees and represents such corporate distributees' allocable share of the undistributed personal holding company income for the taxable year of such distribution.
13.	Sec. 1502 and Treas. Reg. § 1.1502-75(c)(1)(i)	A common parent must apply for permission to discontinue filing consolidated returns within a specified period after the date of enactment of a law affecting the computation of tax liability.
14.	Sec. 6425 and Treas. Reg. § 1.6425-1	Corporations applying for an adjustment of an overpayment of estimated income tax must file Form 4466, <i>Corporation Application for Quick Refund of Overpayment of Estimated Tax</i> , on or before the 15 th day of the third month after the taxable year, or before the date the corporation first files its income tax return for such year, whichever is earlier.

SECTION 8. EMPLOYEE BENEFIT ISSUES

	Statute or Regulation	Act Postponed
1.	Sec. 72(p)(2)(B) and (C), and Treas. Reg. § 1.72(p)-1, Q&A-10	A loan from a qualified employer plan to a participant in, or a beneficiary of, such plan must be repaid according to certain time schedules specified in section 72(p)(2)(B) and (C) (including, if applicable, any grace period granted pursuant to Treas. Reg. § 1.72(p)-1, Q&A-10).
2.	Sec. 72(t)(2)(A)(iv)	Under section 72(t)(2)(A)(iv), to avoid the imposition of a 10-percent additional tax on a distribution from a qualified retirement plan, the distribution must be part of a series of substantially equal periodic payments, made at least annually.
3.	Sec. 72(t)(2)(F)	To avoid the imposition of a 10-percent additional tax on a distribution from an individual retirement arrangement (IRA) for a first-time home purchase, such distribution must be used within 120 days of the distribution to pay qualified acquisition costs or rolled into an IRA.
4.	Sec. 83(b) and Treas. Reg. § 1.83-2(b)	Any person who performs services in connection with which property is transferred to any person may elect not later than 30 days after the date of the transfer of the property to include in his gross income, for the taxable year in which such property is transferred, the excess of the fair market value of the property over the amount (if any) paid for the property.
5.	Proposed Treas. Reg. § 1.125-1, Q&A-15	Cafeteria plan participants will avoid constructive receipt of the taxable amounts if they elect the benefits they will receive before the beginning of the period during which the benefits will be provided.
6.	Proposed Treas. Reg. § 1.125-1, Q&A-14 and Proposed Treas. Reg. § 1.125-2, Q&A-7	Cafeteria plan participants will not be in constructive receipt if, at the end of the plan year, they forfeit amounts elected but not used during the plan year.
7.	Proposed Treas. Reg. § 1.125-2, Q&A-5	Cafeteria plan participants may receive in cash the value of unused vacation days on or before the earlier of the last day of the cafeteria plan year or the last day of the employee's taxable year to which the unused days relate.
8.	Treas. Reg. § 1.162-27(e)(2)	A performance goal is considered preestablished if it is established in writing by the corporation's compensation committee not later than 90 days after the commencement of the period of service to which the performance goal relates if the outcome is substantially uncertain at the time the compensation committee actually establishes the goal. In no event, however, will the performance goal be considered pre-established if it is established after 25 percent of the period of service has elapsed.
9.	Sec. 220(f)(5)	A rollover contribution to an Archer MSA must be made no later than the 60th day after the day on which the holder receives a payment or distribution from an Archer MSA.
10.	Sec. 220(h)	A trustee or custodian of an MSA (Archer MSA or Medicare+Choice MSA) must provide certain information concerning the MSA to the account holder by January 31 following the calendar year to which the information relates. In addition, MSA contribution information must be furnished to the account holder, and Form 5498, IRA Contribution Information, filed with the IRS, by May 31 following the calendar year to which the information relates.
11.	Secs. 401(a)(9), 403(a)(1), 403(b)(10), 408(a)(6), 408(b)(3) and 457(d)(2)	The first required minimum distribution from plans subject to the rules in section 401(a)(9) must be made no later than the required beginning date. Subsequent required minimum distributions must be made by the end of each distribution calendar year.
12.	Sec. 401(a)(28)(B)(i)	A qualified participant in an ESOP (as defined in section 401(a)(28)(B)(iii)) may elect within 90 days after the close of each plan year in the qualified election period (as defined in section 401(a)(28)(B)(iv)) to direct the plan as to the investment of at least 25 percent of the participant's account in the plan (50 percent in the case of the last election).

SECTION 8. EMPLOYEE BENEFIT ISSUES—CONTINUED

	Statute or Regulation	Act Postponed
13.	Sec. 401(a)(28)(B)(ii)	A plan must distribute the portion of the participant's account covered by an election under section 401(a)(28)(B)(i) within 90 days after the period during which an election can be made; or the plan must offer at least 3 investment options (not inconsistent with regulations prescribed by the Secretary) to each participant making the election under section 401(a)(28)(B)(i) and within 90 days after the period during which the election may be made, the plan must invest the portion of the participant's account in accordance with the participant's election.
14.	Sec. 401(a)(30) and Treas. Reg. § 1.401(a)-30 and § 1.402(g)-1	Excess deferrals for a calendar year, plus income attributable to the excess, must be distributed no later than the first April 15 following the calendar year.
15.	Sec. 401(b) and Treas. Reg. § 1.401(b)-1	A retirement plan that fails to satisfy the requirements of section 401(a) or section 403(a) on any day because of a disqualifying provision will be treated as satisfying such requirements on such day if, prior to the expiration of the applicable remedial amendment period, all plan provisions necessary to satisfy the requirements of section 401(a) or 403(a) are in effect and have been made effective for the whole of such period.
16.	Sec. 401(k)(8)	A cash or deferred arrangement must distribute excess contributions for a plan year, plus income attributable to the excess, pursuant to the terms of the arrangement no later than the close of the following plan year.
17.	Sec. 401(m)(6)	A plan subject to section 401(m) must distribute excess aggregate contributions for a plan year, plus income attributable to the excess, pursuant to the terms of the plan no later than the close of the following plan year.
18.	Sec. 402(g)(2)(A) and Treas. Reg. § 1.402(g)-1	An individual with excess deferrals for a taxable year must notify a plan, not later than a specified date following the taxable year, that excess deferrals have been contributed to that plan for the taxable year. A distribution of excess deferrals identified by the individual, plus income attributable to the excess, must be accomplished no later than the first April 15 following the taxable year of the excess.
19.	Sec. 404(k)(2)(A)(ii)	An ESOP receiving dividends on stock of the C corporation maintaining the plan must distribute the dividend in cash to participants or beneficiaries not later than 90 days after the close of the plan year in which the dividend was paid.
20.	Secs. 408(i) and 6047(c)	A trustee or issuer of an individual retirement arrangement (IRA) must provide certain information concerning the IRA to the IRA owner by January 31 following the calendar year to which the information relates. In addition, IRA contribution information must be furnished to the owner, and Form 5498, <i>Individual Retirement Arrangement Information</i> , filed with the IRS, by May 31 following the calendar year to which the information relates.
21.	Sec. 409(h)(4)	An employer required to repurchase employer securities under section 409(h)(1)(B) must provide a put option for a period of at least 60 days following the date of distribution of employer securities to a participant, and if the put option is not exercised, for an additional 60-day period in the following plan year. A participant who receives a distribution of employer securities under section 409(h)(1)(B) must exercise the put option provided by that section within a period of at least 60 days following the date of distribution, or if the put option is not exercised within that period, for an additional 60-day period in the following plan year.
22.	Sec. 409(h)(5)	An employer required to repurchase employer securities distributed as part of a total distribution must pay for the securities in substantially equal periodic payments (at least annually) over a period beginning not later than 30 days after the exercise of the put option and not exceeding 5 years.

SECTION 8. EMPLOYEE BENEFIT ISSUES—CONTINUED

	Statute or Regulation	Act Postponed
23.	Sec. 409(h)(6)	An employer required to repurchase employer securities distributed as part of an installment distribution must pay for the securities not later than 30 days after the exercise of the put option under section 409(h)(4).
24.	Sec. 409(o)	An ESOP must commence the distribution of a participant's account balance, if the participant elects, not later than 1 year after the close of the plan year — i) in which the participant separates from service by reason of attaining normal retirement age under the plan, death or disability; or ii) which is the 5 th plan year following the plan year in which the participant otherwise separates from service (except if the participant is reemployed before distribution is required to begin).
25.	Sec. 457(e)(16)(B)	An eligible rollover distribution from a section 457 eligible governmental plan may be rolled over to an eligible retirement plan no later than the 60 th day following the day the distributee received the distributed property.
26.	Sec. 1042(a)(2)	A taxpayer must purchase qualified replacement property (defined in section 1042(c)(4)) within the replacement period, defined in section 1042(c)(3) as the period which begins 3 months before the date of the sale of qualified securities to an ESOP and ends 12 months after the date of such sale.
27.	Treas. Reg. § 1.1042-1T, Q&A-3	A taxpayer must notarize any statement of purchase with respect to qualified replacement property required under Treas. Reg. § 1.1042-1T, Q&A-3 no later than 30 days after a purchase of qualified replacement property.
28.	Sec. 4972(c)(3)	Nondeductible plan contributions must be distributed prior to a certain date to avoid a 10 percent tax.
29.	Sec. 4979 and Treas. Reg. § 54.4979-1	A 10 percent tax on the amount of excess contributions and excess aggregate contributions under a plan for a plan year will be imposed unless the excess, plus income attributable to the excess is distributed (or, if forfeitable, forfeited) no later than 2½-months after the close of the plan year. In the case of an employer maintaining a SARSEP, employees must be notified of the excess by the employer within the 2½-month period to avoid the tax.

SECTION 8. EMPLOYEE BENEFIT ISSUES—CONTINUED

	Statute or Regulation	Act Postponed
30.	Secs. 6033, 6039D, 6047, 6057, 6058, and 6059	<p>Form 5500 and Form 5500-EZ, which are used to report annual information concerning employee benefit plans and fringe benefit plans, must be filed by a specified time.</p> <p><i>General Advice</i></p> <p>Affected filers are advised to follow the instructions accompanying the Form 5500 series (or other guidance published on the postponement) regarding how to file the forms when postponements are granted pursuant to section 7508 or section 7508A.</p> <p><i>Combat Zone Postponements under Section 7508</i></p> <p>In the case of taxpayers who are individuals, the IRS may permit a postponement of the filing of the Form 5500 or Form 5500-EZ under section 7508. Whatever postponement of the Form 5500 series filing due date is permitted by the IRS under section 7508 will also be permitted by the Department of Labor and the Pension Benefit Guaranty Corporation (PBGC) for similarly situated individuals who are plan administrators.</p> <p><i>Postponements for Presidentially Declared Disasters and Terroristic or Military Actions under Section 7508A</i></p> <p>In the case of “affected taxpayers,” as defined in Treas. Reg. § 301.7508A-1(d), the IRS may permit a postponement of the filing of the Form 5500 or Form 5500-EZ. Taxpayers who are unable to obtain on a timely basis information necessary for completing the forms from a bank, insurance company, or any other service provider because such service providers’ operations are located in a covered disaster area will be treated as “affected taxpayers.” Whatever postponement of the Form 5500 series filing due date is permitted by the IRS under section 7508A will also be permitted by the Department of Labor and PBGC for similarly situated plan administrators and direct filing entities.</p>
31.	Rev. Proc. 2002-47, Sections 9.02 (1) and (2)	The correction period for self-correction of operational failures is the last day of the second plan year following the plan year for which the failure occurred. The correction period for self-correction of operational failures for transferred assets does not end until the last day of the first plan year that begins after the corporate merger, acquisition, or other similar employer transaction.
32.	Rev. Proc. 2002-47, Section 12.08	If the submission involves a plan with transferred assets and no new incidents of the failures in the submission occurred after the end of the second plan year that begins after the corporate merger, acquisition, or other similar employer transaction, the plan sponsor may calculate the amount of plan assets and number of plan participants based on the Form 5500 information that would have been filed by the plan sponsor for the plan year that includes the employer transaction if the transferred assets were maintained as a separate plan.
33.	Rev. Proc. 2002-47, Section 14.03	If an examination involves a plan with transferred assets and the IRS determines that no new incidents of the failures that relate to the transferred assets occurred after the end of the second plan year that begins after the corporate merger, acquisition, or other similar employer transaction, the sanction under Audit CAP will not exceed the sanction that would apply if the transferred assets were maintained as a separate plan.

SECTION 9. ESTATE, GIFT AND TRUST ISSUES

	Statute or Regulation	Act Postponed
1.	Sec. 643(g)	The trustee may elect to treat certain payments of estimated tax as paid by the beneficiary. The election shall be made on or before the 65 th day after the close of the taxable year of the trust.
2.	Sec. 2011(c)	The executor of a decedent's estate must file a claim for a credit for state estate, inheritance, legacy or succession taxes by filing a claim within 4 years of filing Form 706, <i>United States Estate (and Generation Skipping Transfer) Tax Return</i> .
3.	Sec. 2014(e)	The executor of a decedent's estate must file a claim for foreign death taxes within 4 years of filing Form 706, <i>United States Estate (and Generation Skipping Transfer) Tax Return</i> .
4.	Sec. 2016 and Treas. Reg. § 20.2016-1	If an executor of a decedent's estate (or any other person) receives a refund of any state or foreign death taxes claimed as a credit on Form 706, the IRS must be notified within 30 days of receipt.
5.	Sec. 2031(c)	If an executor of a decedent's estate elects on Form 706 to exclude a portion of the value of land that is subject to a qualified conservation easement, agreements relating to development rights must be implemented within 2 years after the date of the decedent's death.
6.	Sec. 2032(d)	The executor of a decedent's estate may elect an alternate valuation on a late filed Form 706 if the Form 706 is not filed later than 1 year after the due date.
7.	Sec. 2032A(c)(7)	A qualified heir, with respect to specially valued property, is provided a two-year grace period immediately following the date of the decedent's death in which the failure by the qualified heir to begin using the property in a qualified use will not be considered a cessation of qualified use and therefore will not trigger additional estate tax.
8.	Sec. 2032A(d)(3)	The executor of a decedent's estate has 90 days after notification of incomplete information/signatures to provide the information/signatures to the IRS regarding an election on Form 706 with respect to specially valued property.
9.	Sec. 2046	A taxpayer may make a qualified disclaimer no later than 9 months after the date on which the transfer creating the interest is made, or the date the person attains age 21.
10.	Sec. 2053(d) and Treas. Reg. §§ 20.2053-9(c) and 10(c)	If the executor of a decedent's estate elects to take a deduction for state and foreign death tax imposed upon a transfer for charitable or other uses, the executor must file a written notification to that effect with the IRS before expiration of the period of limitations on assessments (generally 3 years).
11.	Sec. 2055(e)(3)	A party in interest must commence a judicial proceeding to change an interest into a qualified interest no later than the 90th day after the estate tax return (Form 706) is required to be filed or, if no return is required, the last date for filing the income tax return for the first taxable year of the trust.
12.	Sec. 2056(d)	A qualified domestic trust (QDOT) election must be made on Form 706, Schedule M, and the property must be transferred to the trust before the date on which the return is made. Any reformation to determine if a trust is a QDOT requires that the judicial proceeding be commenced on or before the due date for filing the return.
13.	Sec. 2056A(b)(2)	The trustee of a QDOT must file a claim for refund of excess tax no later than 1 year after the date of final determination of the decedent's estate tax liability.
14.	Sec. 2057(i)(3)(G)	A qualified heir, with respect to qualified family owned business, has a two-year grace period immediately following the date of the decedent's death in which the failure by the qualified heir to begin using the property in a qualified use will not be considered a cessation of qualified use and therefore will not trigger additional estate tax.
15.	Sec. 2057(i)(3)(H)	The executor of a decedent's estate has 90 days after notification of incomplete information/signatures to provide the information/signatures to the IRS regarding an election on Form 706 with respect to specially valued property.

SECTION 9. ESTATE, GIFT AND TRUST ISSUES—CONTINUED

	Statute or Regulation	Act Postponed
16.	Sec. 2516	The IRS will treat certain transfers as made for full and adequate consideration in money or money's worth where husband and wife enter into a written agreement relative to their marital and property rights and divorce actually occurs within the 3-year period beginning on the date 1 year before such agreement is entered into.
17.	Sec. 2518(b)	A taxpayer may make a qualified disclaimer no later than 9 months after the date on which the transfer creating the interest is made, or the date the person attains age 21.

SECTION 10. EXEMPT ORGANIZATION ISSUES

	Statute or Regulation	Act Postponed
1.	Sec. 505(c)(1)	An organization must give notice by filing Form 1024, <i>Application for Recognition of Exemption Under Section 501(a)</i> , to be recognized as an organization exempt under section 501(c)(9) or section 501(c)(17). Generally, if the exemption is to apply for any period before the giving of the notice, Treas. Reg. § 505(c)-1T, Q&A-6 of the regulations requires that Form 1024 be filed within 15 months from the end of the month in which the organization was organized.
2.	Sec. 508 and Treas. Reg. § 1.508-1	A purported section 501(c)(3) organization must generally file Form 1023, <i>Application for Recognition of Exemption</i> , to qualify for exemption. Generally, if the exemption is to apply for any period before the giving of the notice, the Form 1023 must be filed within 15 months from the end of the month in which the organization was organized.
3.	Sec. 6072(e) and Treas. Reg. § 1.6033-2(e)	Annual returns of organizations exempt under section 501(a) must be filed on or before the 15 th day of the 5 th month following the close of the taxable year.

SECTION 11. EXCISE TAX ISSUES

	Statute or Regulation	Act Postponed
1.	Treas. Reg. § 48.4101-1(h)(v)	A registrant must notify the IRS of any change in the information a registrant has submitted within 10 days.
2.	Sec. 4221(b) and Treas. Reg. § 48.4221-2(c)	A manufacturer is allowed to make a tax-free sale of articles for resale to a second purchaser for use in further manufacture. This rule ceases to apply six months after the earlier of the sale or shipment date unless the manufacturer receives certain proof.
3.	Sec. 4221(b) and Treas. Reg. § 48.4221-3(c)	A manufacturer is allowed to make a tax-free sale of articles for export. This rule ceases to apply six months after the earlier of the sale or shipment date unless the manufacturer receives certain proof.
4.	Sec. 4221(e)(2)(A) and Treas. Reg. § 48.4221-7(c)	A manufacturer is allowed to make a tax-free sale of tires for use by the purchaser in connection with the sale of another article manufactured or produced by the purchaser. This rule ceases to apply six months after the earlier of the sale or shipment date unless the manufacturer receives certain proof.

SECTION 12. INTERNATIONAL ISSUES

	Statute or Regulation	Act Postponed
1.	Sec. 482 and Treas. Reg. § 1.482-1(g)(4)(ii)(C)	A claim for a setoff of a section 482 allocation by the IRS must be filed within 30 days of either the date of the IRS's letter transmitting an examination report with notice of the proposed adjustment or the date of a notice of deficiency.

SECTION 12. INTERNATIONAL ISSUES—CONTINUED

	Statute or Regulation	Act Postponed
2.	Sec. 482 and Treas. Reg. § 1.482-1(j)(2)	A claim for retroactive application of the final section 482 regulations, otherwise effective only for taxable years beginning after October 6, 1994, must be filed prior to the expiration of the statute of limitations for the year for which retroactive application is sought.
3.	Sec. 482 and Treas. Reg. § 1.482-7(j)(2)	A participant in a cost-sharing arrangement must provide documentation regarding the arrangement, as well as documentation specified in Treas. Reg. §§ 1.482-7(b)(4) and 1.482-7(c)(1), within 30 days of a request by the IRS.
4.	Treas. Reg. § 1.882-5(d)(2)(ii)(A)(2)	Liabilities of a foreign corporation that is not a bank must be entered on a set of books at a time reasonably contemporaneous with the time the liabilities are incurred.
5.	Treas. Reg. § 1.882-5(d)(2)(iii)(A)(1)	Liabilities of foreign corporations that are engaged in a banking business must be entered on a set of books relating to an activity that produces ECI before the close of the day on which the liability is incurred.
6.	Treas. Reg. § 1.884-2T(b)(3)(i)	Requirement that marketable securities be identified on the books of a U.S. trade or business within 30 days of the date an equivalent amount of U.S. assets ceases to be U.S. assets. This requirement applies when a taxpayer has elected to be treated as remaining engaged in a U.S. trade or business for branch profits tax purposes.
7.	Treas. Reg. § 1.884-4(b)(3)(ii)(B)	Requirement that a foreign corporation which identifies liabilities as giving rise to U.S. branch interest, send a statement to the recipients of such interest within two months of the end of the calendar year in which the interest was paid, stating that such interest was U.S. source income (if the corporation did not make a return pursuant to section 6049 with respect to the interest payment).
8.	Sec. 922(a)(1)(E) and Treas. Reg. § 1.922-1(j) (Q&A-19)	The FSC must appoint a new non-U.S. resident director within 30 days of the date of death, resignation, or removal of the former director, in the event that the sole non-U.S. resident director of a FSC dies, resigns, or is removed.
9.	Sec. 924(b)(2)(B) and Treas. Reg. § 1.924(a)-1T(j)(2)(i)	A taxpayer must execute an agreement regarding unequal apportionment at a time when at least 12 months remain in the period of limitations (including extensions) for assessment of tax with respect to each shareholder of the small FSC in order to apportion unequally among shareholders of a small FSC the \$5 million foreign trading gross receipts used to determine exempt foreign trade income.
10.	Sec. 924(c)(2) and Treas. Reg. § 1.924(c)-1(c)(4)	The FSC must open a new qualifying foreign bank account within 30 days of the date of termination of the original bank account, if a FSC's qualifying foreign bank account terminates during the taxable year due to circumstances beyond the control of the FSC.
11.	Sec. 924(c)(3) and Treas. Reg. § 1.924(c)-1(d)(1)	The FSC must transfer funds from its foreign bank account to its U.S. bank account, equal to the dividends, salaries or fees disbursed, and such transfer must take place within 12 months of the date of the original disbursement from the U.S. bank account, if dividends, salaries, or fees are disbursed from a FSC's U.S. bank account.
12.	Sec. 924(c)(3) and Treas. Reg. § 1.924(c)-1(d)(2)	The FSC must reimburse from its own bank account any dividends or other expenses that are paid by a related person, on or before the due date (including extensions) of the FSC's tax return for the taxable year to which the reimbursement relates.
13.	Sec. 924(c)(3) and Treas. Reg. § 1.924(c)-1(d)(3)	If the Commissioner determines that the taxpayer acted in good faith, the taxpayer may comply with the reimbursement requirement by reimbursing the funds within 90 days of the date of the Commissioner's determination, notwithstanding a taxpayer's failure to meet the return-filing-date reimbursement deadline in Treas. Reg. § 1.924(c)-1(d)(2).

SECTION 12. INTERNATIONAL ISSUES—CONTINUED

	Statute or Regulation	Act Postponed
14.	Sec. 924(e)(4) and Treas. Reg. § 1.924(e)-1(d)(2)(iii)	If a payment with respect to a transaction is made directly to the FSC or the related supplier in the United States, the funds must be transferred to and received by the FSC bank account outside the United States no later than 35 days after the receipt of good funds (<i>i.e.</i> , date of check clearance) on the transaction.
15.	Temp. Treas. Reg. § 1.925(a)-1T(e)(4)	A FSC and its related supplier may redetermine a transfer pricing method, the amount of foreign trading gross receipts, and costs and expenses, provided such redetermination occurs before the expiration of the statute of limitations for claims for refund for both the FSC and related supplier, and provided such redetermination shall affect both the FSC and the related supplier. See Treas. Reg. § 1.925(a)-1(c)(8)(i) for time limitations with respect to FSC administrative pricing grouping redeterminations and for a cross-reference to Temp. Treas. Reg. § 1.925(a)-1T(e)(4).
16.	Sec. 927(f)(3)(A) and Treas. Reg. § 1.927(f)-1(b) (Q&A-12)	A corporation may terminate its election to be treated as a FSC or a small FSC by revoking the election during the first 90 days of the FSC taxable year (other than the first year in which the election is effective) in which the election was to take effect.
17.	Sec. 927 and Temp. Treas. Reg. § 1.927(a)-1T(d)(2)(i)(B)	A taxpayer may satisfy the destination test with respect to property sold or leased by a seller or lessor if such property is delivered by the seller or lessor (or an agent of the seller or lessor) within the United States to a purchaser or lessee, if the property is ultimately delivered outside the United States (including delivery to a carrier or freight forwarder for delivery outside the United States) by the purchaser or lessee (or a subsequent purchaser or sublessee) within one year after the sale or lease.
18.	Sec. 927 and Temp. Treas. Reg. § 1.927(b)-1T(e)(2)(i)	A taxpayer that claims FSC commission deductions must designate the sales, leases, or rentals subject to the FSC commission agreement no later than the due date (as extended) of the tax return of the FSC for the taxable year in which the transaction(s) occurred.
19.	Sec. 927 and Treas. Reg. § 1.927(f)-1(a) (Q&A- 4)	A transferee or other recipient of shares in the corporation (other than a shareholder that previously consented to the election) must consent to be bound by the prior election within 90 days of the first day of the FSC's taxable year to preserve the status of a corporation that previously qualified as a FSC or as a small FSC.
20.	Sec. 936 and Treas. Reg. § 1.936-10(c)	If a "qualified investment" in a Caribbean Basin country ceases to meet the qualification requirements, the taxpayer may correct any disqualifying events within a reasonable period of time, which is defined as not more than 60 days from the date that such events came to the attention of the taxpayer (or should have come to its attention by the exercise of reasonable diligence).
21.	Sec. 936 and Treas. Reg. § 1.936-11	A taxpayer that elects retroactive application of the temporary regulation regarding separate lines of business for taxable years beginning after December 31, 1995, must elect to do so prior to the expiration of the statute of limitations for the year in question.
22.	Treas. Reg. §§ 1.964-1(c)(3)(ii) and -1T(g)(2).	An election of, or an adoption of or change in a method of accounting of a CFC (controlled foreign corporation) requires the filing of a written statement jointly executed by the controlling U.S. shareholders of the CFC within 180 days after the close of the taxable year of the CFC.
23.	Sec. 982(c)(2)(A)	Any person to whom a formal document request is mailed shall have the right to bring a proceeding to quash such request not later than the 90th day after the day such request was mailed.

SECTION 12. INTERNATIONAL ISSUES—CONTINUED

	Statute or Regulation	Act Postponed
24.	Treas. Reg. § 1.988-1(a)(7)(ii)	An election to have Treas. Reg. § 1.988-1(a)(2)(iii) apply to regulated futures contracts and nonequity options must be made on or before the first day of the taxable year, or if later, on or before the first day during such taxable year on which the taxpayer holds a contract described in section 988(c)(1)(D)(ii) and Treas. Reg. § 1.988-1(a)(7)(ii). A late election may be made within 30 days after the time prescribed for the election.
25.	Sec. 988(c)(1)(E)(iii)(V) (qualified fund) and Treas. Reg. § 1.988-1(a)(8)(i)(E)	A qualified fund election must be made on or before the first day of the taxable year, or if later, on or before the first day during such taxable year on which the partnership holds an instrument described in section 988(c)(1)(E)(i).
26.	Treas. Reg. § 1.988-3(b)	An election to treat (under certain circumstances) any gain or loss recognized on a contract described in Treas. Reg. § 1.988-2(d)(1) as capital gain or loss must be made by clearly identifying such transaction on taxpayer's books and records on the date the transaction is entered into.
27.	Treas. Reg. § 1.988-5(a)(8)(i)	Taxpayer must establish a record, and before the close of the date the hedge is entered into, the taxpayer must enter into the record for each qualified hedging transaction the information contained in Treas. Reg. §§ 1.988-5(a)(8)(i)(A) through (E).
28.	Treas. Reg. § 1.988-5(b)(3)(i)	Taxpayer must establish a record and before the close of the date the hedge is entered into, the taxpayer must enter into the record a clear description of the executory contract and the hedge.
29.	Treas. Reg. § 1.988-5(c)(2)	Taxpayer must identify a hedge and underlying stock or security under the rules of Treas. Reg. § 1.988-5(b)(3).
30.	Sec. 991	A corporation that elects IC-DISC treatment (other than in the corporation's first taxable year) must file Form 4876-A, <i>Election To Be Treated as an Interest Charge DISC</i> , with the regional service center during the 90-day period prior to the beginning of the tax year in which the election is to take effect.
31.	Sec. 991 and Treas. Reg. § 1.991-1(g)(2)	A corporation that filed a tax return as a DISC, but subsequently determines that it does not wish to be treated as a DISC, must notify the [district director] more than 30 days before the expiration of period of limitations on assessment applicable to the tax year.
32.	Sec. 992 and Treas. Reg. § 1.992-2(a)(1)(i)	A qualifying corporation must file Form 4876-A, or attachments thereto, containing the consent of every shareholder of the corporation to be treated as a DISC as of the beginning of the corporation's first taxable year.
33.	Sec. 992 and Treas. Reg. § 1.992-2(b)(2)	A qualifying corporation must file consents of the shareholders of the corporation to be treated as a DISC with the service center with which the DISC election was first filed, within 90 days after the first day of the taxable year, or within the time granted for an extension to file such consents.
34.	Sec. 992 and Treas. Reg. § 1.992-2(e)(2)(ii)	A corporation seeking to revoke a prior election to be treated as a DISC, must file a statement within the first 90 days of the taxable year in which the election is to take effect with the service center with which it filed the election or, if the corporation filed an annual information return, by filing the statement at the service center with which it filed its most recent annual information return.
35.	Sec. 992 and Treas. Reg. § 1.992-3(c)(3)	A DISC that receives notification that it failed to satisfy the 95 percent of gross receipts test or the 95 percent assets test, or both tests, for a particular taxable year, must make a corrective deficiency distribution within 90 days of the date of the first written notification from the IRS.
36.	Sec. 993 and Treas. Reg. § 1.993-3(d)(2)(i)(b)	A taxpayer must deliver export property outside the U.S. within one year of the date of sale or lease in order to generate DISC benefits from a qualifying export transaction.

SECTION 12. INTERNATIONAL ISSUES—CONTINUED

	Statute or Regulation	Act Postponed
37.	Sec. 1445 Treas. Reg. § 1.1445-1	Form 8288, <i>U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests</i> , must be filed by a buyer or other transferee of a U.S. real property interest, and a corporation, partnership, or fiduciary that is required to withhold tax. The amount withheld is to be transmitted with Form 8288, which is generally to be filed by the 20th day after the date of transfer.
38.	Sec. 1446	All partnerships with effectively connected gross income allocable to a foreign partner in any tax year must file forms 8804, <i>Annual Return for Partnership Withholding Tax</i> , and 8805, <i>Foreign Partner's Information Statement of Section 1446 Withholding Tax</i> , on or before the 15 th day of the 4 th month following the close of the partnership's taxable year.
39.	Sec. 1446	Form 8813, <i>Partnership Withholding Tax Payment Voucher</i> , is used to pay the withholding tax under section 1446 for all partnerships with effectively connected gross income allocable to a foreign partner in any tax year. Form 8813 must accompany each payment of section 1446 tax made during the partnership's taxable year. Form 8813 is to be filed on or before the 15 th day of the 4 th , 6 th , 9 th , and 12 th months of the partnership's taxable year for U.S. income tax purposes.
40.	Sec. 6038A(d)(2) and Treas. Reg. § 1.6038A-4(d)(1)	A reporting corporation must cure any failure to furnish information or failure to maintain records within 90 days after the IRS gives notice of the failure to avoid the continuation penalty.
41.	Sec. 6038A(d)(2) and Treas. Reg. § 1.6038A-4(d)(1)	A reporting corporation must cure any failure to furnish information or failure to maintain records before the beginning of each 30-day period after expiration of the initial 90-day period to avoid additional continuation penalties.
42.	Sec. 6038A(e)(1) and Treas. Reg. § 1.6038A-5(b)	A reporting corporation must furnish an authorization of agent within 30 days of a request by the IRS to avoid a penalty.
43.	Sec. 6038A(e)(4)(A)	A reporting corporation must commence any proceeding to quash a summons filed by the IRS in connection with an information request within 90 days of the date the summons is issued.
44.	Sec. 6038A(e)(4)(B)	A reporting corporation must commence any proceeding to review the IRS's determination of noncompliance with a summons within 90 days of the IRS's notice of noncompliance.
45.	Sec. 6038A and Treas. Reg. § 1.6038A-3(b)(3)	A reporting corporation must supply an English translation of records provided pursuant to a request for production within 30 days of a request by the IRS for a translation to avoid a penalty.
46.	Sec. 6038A and Treas. Reg. § 1.6038A-3(f)(2)	A reporting corporation must, within 60 days of a request by the IRS for records maintained outside the United States, either provide the records to the IRS, or move them to the United States and provide the IRS with an index to the records to avoid a penalty.
47.	Sec. 6038A and Treas. Reg. § 1.6038A-3(f)(2)(i)	A reporting corporation must supply English translations of documents maintained outside the United States within 30 days of a request by the IRS for translation to avoid a penalty.
48.	Sec. 6038A and Treas. Reg. § 1.6038A-3(f)(4)	A reporting corporation must request an extension of time to produce or translate documents maintained outside the United States beyond the period specified in the regulations within 30 days of a request by the IRS to avoid a penalty.
49.	Sec. 6662(e) and Treas. Reg. § 1.6662-6(d)(2)(iii)(A)	A taxpayer must provide, within 30 days of a request by the IRS, specified "principal documents" regarding the taxpayer's selection and application of transfer pricing method to avoid potential penalties in the event of a final transfer pricing adjustment by the IRS. <i>See also</i> Treas. Reg. § 1.6666-6(d)(2)(iii)(C) (similar requirement re: background documents).

SECTION 12. INTERNATIONAL ISSUES—CONTINUED

	Statute or Regulation	Act Postponed
50.	Secs. 6038, 6038B, and 6046A	The filing of Form 8865, <i>Return of U.S. Persons With Respect to Certain Foreign Partnerships</i> , for those taxpayers who do not have to file an income tax return. The form is due at the time that an income tax return would have been due had the taxpayer been required to file an income tax return.

SECTION 13. PARTNERSHIP AND S CORPORATION ISSUES

	Statute or Regulation	Act Postponed
1.	Treas. Reg. §§ 1.442-1(b)(1) and (3) and 1.706-1(b)(8)	A partnership may obtain approval of the Commissioner to adopt, change or retain an annual accounting periods by filing Form 1128, <i>Application to Adopt, Change, or Retain a Tax Year</i> , with such time as provided in administrative procedures published by the Commissioner.
2.	Treas. Reg. § 1.743-1(k)(2)	A transferee that acquires, by sale or exchange, an interest in a partnership with an election under section 754 in effect for the taxable year of the transfer, must notify the partnership, in writing, within 30 days of the sale or exchange. A transferee that acquires, on the death of a partner, an interest in a partnership with an election under section 754 in effect for the taxable year of the transfer, must notify the partnership, in writing, within one year of the death of the deceased partner.
3.	Treas. Reg. § 1.754-1(c)(1)	Generally, a partnership may revoke a section 754 election by filing the revocation no later than 30 days after the close of the partnership taxable year with respect to which the revocation is intended to take effect.
4.	Treas. Reg. § 1.761-2(b)(3)	A partnership may generally elect to be excluded from subchapter K. The election will be effective unless within 90 days after the formation of the organization any member of the organization notifies the Commissioner that the member desires subchapter K to apply to such organization and also advises the Commissioner that he has so notified all other members of the organization. In addition, an application to revoke an election to be excluded from subchapter K must be submitted no later than 30 days after the beginning of the first taxable year to which the revocation is to apply.
5.	Treas. Reg. § 1.761-2(c)	A partnership requesting permission to be excluded from certain provisions of subchapter K must submit the request to the Commissioner no later than 90 days after the beginning of the first taxable year for which partial exclusion is desired.
6.	Sec. 1361(e)	In general, the trustee of the electing small business trust (ESBT) must file the ESBT election within the 2-month and 16-day period beginning on the day the stock is transferred to the trust. <i>See</i> Notice 97-12, 1997-1 C.B. 385.
7.	Treas. Reg. § 1.1361-1(j)(6)	The current income beneficiary of a qualified subchapter S trust (QSST) must make a QSST election within the 2-month and 16-day period from one of the dates prescribed in Treas. Reg. § 1.1361-1(j)(6)(iii).
8.	Treas. Reg. § 1.1361-1(j)(10)	The successive income beneficiary of a QSST may affirmatively refuse to consent to the QSST election. The beneficiary must sign the statement and file the statement with the IRS within 15 days and 2 months after the date on which the successive income beneficiary becomes the income beneficiary.
9.	Treas. Reg. § 1.1361-3(a)(4)	If an S corporation elects to treat an eligible subsidiary as a qualified subchapter S subsidiary (QSUB), the election cannot be effective more than 2 months and 15 days prior to the date of filing the election.
10.	Treas. Reg. § 1.1361-3(b)(2)	An S corporation may revoke a QSUB election by filing a statement with the service center. The effective date of a revocation of a QSUB election cannot be more than 2 months and 15 days prior to the filing date of the revocation.

SECTION 13. PARTNERSHIP AND S CORPORATION ISSUES—CONTINUED

	Statute or Regulation	Act Postponed
11.	Treas. Reg. § 1.1362-2(a)(2), (4)	If a corporation revokes its subchapter S election after the first 2½-months of its taxable year, the revocation will not be effective until the following taxable year. An S corporation may rescind a revocation of an S election at any time before the revocation becomes effective.
12.	Sec. 1362(b)(3)	If a corporation files a subchapter S election after the first 2½-months of a corporation's taxable year, that corporation will not be treated as an S corporation until the taxable year after the year in which the S election is made.
13.	Sec. 1378(b) and Treas. Reg. § 1.1378-1(c)	An S or electing S corporation may obtain the approval of the Commissioner to adopt, change or retain an annual accounting period by filing Form 1128, <i>Application to Adopt, Change, or Retain a Tax Year</i> , within such time as is provided in administrative procedures published by the Commissioner. See Rev. Procs. 2002-38 and 2002-39.

SECTION 14. PROCEDURE & ADMINISTRATION ISSUES

.01 Bankruptcy and Collection

	Statute or Regulation	Act Postponed
1.	Treas. Reg. §§ 301.6036-1(a)(2) and (3)	A court-appointed receiver or fiduciary in a non-bankruptcy receivership, a fiduciary in aid of foreclosure who takes possession of substantially all of the debtor's assets, or an assignee for benefit of creditors, must give written notice within ten days of his appointment to the IRS as to where the debtor will file his tax return.
2.	Secs. 6320(a)(3)(B), 6320(c) and Treas. Reg. §§ 301.6320-1(b), (c) and (f)	A taxpayer has 30 days after receiving a notice of a lien to request a Collection Due Process (CDP) administrative hearing. After a determination at the CDP hearing, the taxpayer may appeal this determination within 30 days to the United States Tax Court or a United States district court.
3.	Secs. 6330(a)(3)(B) and (d)(1) and Treas. Reg. §§ 301.6330-1(b), (c) and (f)	The taxpayer must request a Collections Due Process (CDP) administrative hearing within 30 days after the IRS sends notice of a proposed levy. After a determination at the CDP hearing, the taxpayer may appeal this determination within 30 days to the United States Tax Court or a United States district court.
4.	Sec. 6331(k)(1) and Treas. Reg. § 301.7122-1T(f)(2)(ii)	If a taxpayer submits a good-faith revision of a rejected offer in compromise within 30 days after the rejection, the Service will not levy to collect the liability before deciding whether to accept the revised offer.
5.	Sec. 7122(d)(2) and Treas. Reg. § 301.7122-1T(e)(5)(i)	A taxpayer must request administrative review of a rejected offer in compromise within 30 days after the date on the letter of rejection.

.02 Information Returns

1.	Sec. 6050I	Any person engaged in a trade or business receiving more than \$10,000 cash in one transaction (or 2 or more related transactions) must file an information return, Form 8300, <i>Report of Cash Payments over \$10,000 Received in a Trade or Business</i> , by the 15 th day after the date the cash was received. Additionally, a statement must be provided to the person with respect to whom the information is required to be furnished by Jan. 31 st of the year following.
2.	Sec. 6050L	Returns relating to certain dispositions of donated property, Forms 8282, <i>Donee Information Return</i> , must be filed within 125 days of the disposition.

SECTION 14. PROCEDURE & ADMINISTRATION ISSUES—CONTINUED

.03 Miscellaneous

1.	Sec. 1314(b)	A taxpayer may file a claim for refund or credit of tax based upon the mitigation provisions of sections 1311 through 1314 if, as of the date a determination (as defined in section 1313(a)) is made, one year remains on the period for filing a claim for refund.
2.	Sec. 6015	A requesting spouse must request relief under section 6015 within 2 years of the first collection activity against the requesting spouse.
3.	Sec. 6411	Taxpayers applying for a tentative carryback adjustment of the tax for the prior taxable year must file Form 1139 (for corporations) or Form 1045 (for entities other than corporations) within 12 months after the end of such taxable year that generates such net operating loss, net capital loss, or unused business credit from which the carryback results.
4.	Sec. 6656(e)(2)	A taxpayer who is required to deposit taxes and fails to do so is subject to a penalty under section 6656. Under section 6656(e)(2), the taxpayer may, within 90 days of the date of the penalty notice, designate to which deposit period within a specified tax period the deposits should be applied.

SECTION 15. TAX CREDIT ISSUES

	Statute or Regulation	Act Postponed
1.	Treas. Reg. § 1.42-5(c)(1)	The taxpayer must make certain certifications at least annually to the Agency.
2.	Treas. Reg. § 1.42-5(c)(1)(iii)	The taxpayer must receive an annual income certification from each low-income tenant with documentation to support the certification.
3.	Treas. Reg. § 1.42-8(a)(3)(v)	The taxpayer and an Agency may elect to use an appropriate percentage under section 42(b)(2)(A)(ii)(I) by notarizing a binding agreement by the 5th day following the end of the month in which the binding agreement was made.
4.	Treas. Reg. § 1.42-8(b)(1)(vii)	The taxpayer and an Agency may elect an appropriate percentage under section 42(b)(2)(A)(ii)(II) by notarizing a binding agreement by the 5th day following the end of the month in which the tax-exempt bonds are issued.
5.	Sec. 42(d)(2)(D)(ii)(IV)	In order to claim section 42 credits on an existing building, section 42(d)(2)(B)(ii)(I) requires that the building must have been placed in service at least ten years before the date the building was acquired by the taxpayer. A building is not considered placed in service for purposes of section 42(d)(2)(B)(ii) if the building is resold within a 12-month period after acquisition by foreclosure of any purchase-money security interest.
6.	Sec. 42(g)(3)(A)	A building shall be treated as a qualified low-income building only if the project meets the minimum set aside requirement by the close of the first year of the credit period of the building.
7.	Sec. 42(h)(6)(J)	A low-income housing agreement commitment must be in effect as of the beginning of the year for a building to receive credit. If such a commitment was not in effect, the taxpayer has a one-year period for correcting the failure.
8.	Sec. 42(h)(1)(E) and (F)	The taxpayer's basis in the building project, as of the later of the date which is 6 months after the date the allocation was made or the close of the calendar year in which the allocation is made, must be more than 10 percent of the taxpayer's reasonably expected basis in the project.
9.	Sec. 47(c)(1)(C) and Treas. Reg. § 1.48-12(b)(2)	A taxpayer has a 24- or 60-month measuring period in which the requisite amount of rehabilitation expenditures have to be incurred in order to satisfy the "substantial rehabilitation" test.
10.	Treas. Reg. § 1.48-12(d)(7)	In the historic rehabilitation context, if the taxpayer fails to receive final certification of completed work prior to the date that is 30 months after the date that the taxpayer filed the return on which the credit is claimed, the taxpayer must, prior to the last day of the 30th month, consent to extending the statute of limitations by submitting a written statement to the District Director.

SECTION 15. TAX CREDIT ISSUES—CONTINUED

	Statute or Regulation	Act Postponed
11.	Sec. 51(d)(12)(A)(ii)(II) and 51A(d)(1)	An employer seeking the Work Opportunity Credit or the Welfare-to-Work Credit with respect to an individual must submit Form 8850, <i>Pre-Screening Notice and Certification Request for the Work Opportunity and Welfare-to-Work Credits</i> , to the State Employment Security Agency not later than the 21 st day after the individual begins work for the employer.

SECTION 16. TAX-EXEMPT BOND ISSUES

	Statute or Regulation	Act Postponed
1.	Treas. Reg. § 1.25-4T(c)	On or before the date of distribution of mortgage credit certificates under a program or December 31, 1987, the issuer must file an election not to issue an amount of qualified mortgage bonds. An election may be revoked, in whole or on part, at any time during the calendar year in which the election was made.
2.	Treas. Reg. §§ 1.141-12(d)(3) and 1.142-2(c)(2)	An issuer must provide notice to the Commissioner of the establishment of a defeasance escrow within 90 days of the date such defeasance escrow is established in accordance with Treas. Reg. § 1.141-12(d)(1) or 1.142-2(c)(1).
3.	Sec. 142(d)(7)	An operator of a multi-family housing project for which an election was made under section 142(d) must submit to the Secretary an annual certification as to whether such project continues to meet the requirements of section 142(d).
4.	Sec. 142(f)(4) and Treas. Reg. § 1.142(f)(4)-1	A person engaged in the local furnishing of electric energy or gas (a local furnisher) that uses facilities financed with exempt facility bonds under section 142(a)(8) and expands its service area in a manner inconsistent with the requirements of sections 142(a)(8) and 142(f), may make an election to ensure that those bonds will continue to be treated as exempt facility bonds. The election must be filed with the IRS on or before 90 days after the date of the service area expansion that causes the bonds to cease to meet the applicable requirements.
5.	Sec. 146(f) and Notice 89-12	If an issuing authority's volume cap for any calendar year exceeds the aggregate amount of tax-exempt private activity bonds issued during such calendar year by such authority, such authority may elect to treat all (or any portion) of such excess as a carryforward for 1 or more carryforward purposes. Such election must be filed by the earlier of (1) February 15 of the calendar year following the year in which the excess amount arises, or (2) the date of issue of bonds issued pursuant to the carryforward election.
6.	Sec. 148(f)(3) and Treas. Reg. § 1.148-3(g)	An issuer of a tax-exempt municipal obligation must make any required rebate payment no later than 60 days after the computation date to which the payment relates. A rebate payment is paid when it is filed with the IRS at the place or places designated by the Commissioner. A payment must be accompanied by the form provided by the Commissioner for this purpose.
7.	Treas Reg. § 1.148-5(c)	An issuer of a tax-exempt municipal obligation must make a yield reduction payment on or before the date of required rebate installment payments as described in Treas. Reg. § 1.148-3(f), (g), and (h).
8.	Sec. 148(f)(4)(C)(xvi) and Treas. Reg. § 1.148-7(k)(1)	As issuer of a tax-exempt municipal obligation that elects to pay certain penalties in lieu of rebate must make any required penalty payments not later than 90 days after the period to which the penalty relates.
9.	Sec. 149(e)	An issuer of a tax-exempt municipal obligation must submit to the Secretary a statement providing certain information regarding the municipal obligation not later than the 15 th day of the 2 nd calendar month after the close of the calendar quarter in which the municipal obligation is issued.

SECTION 17. INQUIRIES

If you wish to recommend that other acts qualify for postponement, please write to the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division), CC:PA:APJP:B2, 1111 Constitution Avenue, NW, Washington, DC 20224. Please mark "7508A List" on the envelope. In the alternative, e-mail your comments to: *Notice.Comments@irscounsel.treas.gov*.

SECTION 18. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2001-53, 2001-2 C.B. 506 is superseded.

SECTION 19. EFFECTIVE DATE

This revenue procedure is effective for acts that may be performed on or after November 18, 2002.

SECTION 20. DRAFTING INFORMATION

The principal author of this revenue procedure is Marcy W. Mendelsohn of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). For further information regarding this revenue procedure, contact Ms. Mendelsohn at (202) 622-4940 (not a toll-free call).

Social Security Contribution and Benefit Base for 2003

Under authority contained in the Social Security Act ("the Act"), the Commissioner, Social Security Administration, has determined and announced (67 F.R. 65620, dated October 25, 2002) that the contribution and benefit base for remuneration paid in 2003, and self-employment income earned in taxable years beginning in 2003 is \$87,000.

"Old-Law" Contribution and Benefit Base

General

The "old-law" contribution and benefit base for 2003 is \$64,500. This is the base that would have been effective under the Act without the enactment of the 1977 amendments. We compute the base under section 230(b) of the Act as it read prior to the 1977 amendments.

The "old-law" contribution and benefit base is used by:

(a) the Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments which correspond to basic Social Security benefits,

(b) the Pension Benefit Guaranty Corporation to determine the maximum amount of pension guaranteed under the Employee Retirement Income Security Act (as stated in section 230(d) of the Social Security Act),

(c) Social Security to determine a year of coverage in computing the special minimum benefit, as described earlier, and

(d) Social Security to determine a year of coverage (acquired whenever earnings equal or exceed 25 percent of the "old-law" base for this purpose only) in com-

puting benefits for persons who are also eligible to receive pensions based on employment not covered under section 210 of the Act.

Domestic Employee Coverage Threshold

General

The minimum amount a domestic worker must earn so that such earnings are covered under Social Security or Medicare is the domestic employee coverage threshold. For 2003, this threshold is \$1,400. Section 3121(x) of the Internal Revenue Code provides the formula for increasing the threshold.

Computation

Under the formula, the domestic employee coverage threshold amount for 2003 shall be equal to the 1995 amount of \$1,000 multiplied by the ratio of the national average wage index for 2001 to that for 1993. If the resulting amount is not a multiple of \$100, it shall be rounded to the next lower multiple of \$100.

Domestic Employee Coverage Threshold Amount

Multiplying the 1995 domestic employee coverage threshold amount (\$1,000) by the ratio of the national average wage index for 2001 (\$32,921.92) to that for 1993 (\$23,132.67) produces the amount of \$1,423.18. We then round this amount to \$1,400. Accordingly, the domestic employee coverage threshold amount is \$1,400 for 2003.

(Filed by the Office of the Federal Register on October 24, 2002, 8:45 a.m., and published in the issue of the Federal Register for October 25, 2002, 67 F.R. 65620)

Part IV. Items of General Interest

IRS and The George Washington University Law School To Sponsor Institute on International Tax Issues

Announcement 2002-105

Director, International (LMSB) Carol Dunahoo has announced the Fifteenth Annual Institute on Current Issues in International Taxation, jointly sponsored by the Internal Revenue Service and The George Washington University Law School, to be held on December 12 and 13, 2002, at the J.W. Marriott Hotel in Washington, DC. Registration is currently underway for the Institute, which is intended for international tax professionals.

The program will present a unique opportunity for top IRS and Treasury officials and tax experts, as well as leading private sector specialists, to address breaking issues and present key perspectives on new developments. The first day will feature sessions on the following:

- Cross-Border Issues in Employee Compensation;
- Check-the-Box Elections: Traps for the Unwary;
- Corporate Tax Compliance: Designing and Managing a Global Transfer Pricing Program; and
- Updates on Outbound Issues.

The Honorable Pamela F. Olson, Assistant Secretary (Tax Policy), U.S. Department of the Treasury, will deliver the luncheon address. In addition, a panel of competent authority officials from Canada, India, Mexico, and the U.S. will discuss practical issues relating to the mutual agreement procedure.

The second day will focus on the following topics:

- Updates on Inbound Issues;
- Corporate Inversions and Other Cross-Border Restructurings; and
- US Trade or Business Revisited.

The Honorable B. John Williams, Jr., Chief Counsel, Internal Revenue Service,

will deliver the luncheon address. The second day will also include an "Ask the IRS" panel featuring senior officials from the Service.

Those interested in attending or obtaining more information should contact The George Washington University Law School, Conference Management Services, by visiting its web site at <http://www.law.gwu.edu/ciit15>, e-mail: stacey@tggroup.com or by telephoning 301-934-8589.

Subchapter S Subsidiaries; Correction

Announcement 2002-106

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting Amendment

SUMMARY: This document contains corrections to final regulations (T.D. 8869, 2000-1 C.B. 498), which were published in the **Federal Register** on Tuesday, January 25, 2000 (65 FR 3843), relating to the treatment of corporate subsidiaries of S corporations.

EFFECTIVE DATE: January 25, 2000.

FOR FURTHER INFORMATION

CONTACT: Jeanne M. Sullivan (202) 622-3070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 1361 of the Internal Revenue Code.

Need for Correction

As published, final regulations (T.D. 8869) contains an error which may prove to be misleading and is in need of clarification.

* * * * *

Correction of Publication

Accordingly, 26 CFR Part 1 is corrected by making the following correcting amendment:

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 * * *

§ 1.1361-5 [Corrected]

Par. 2. In § 1.1361-5, paragraph (c)(1), the first sentence is amended by removing the language "paragraph (b) of this section)" and adding the language "§ 1.1362-5(b))" in its place.

Cynthia E. Grigsby,
Chief, Regulations Unit,
Associate Chief Counsel
(Income Tax and Accounting).

(Filed by the Office of the Federal Register on October 23, 2002, 8:45 a.m., and published in the issue of the Federal Register for October 24, 2002, 67 FR. 65312)

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 Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign Corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.

PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—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.

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