

INTERNAL REVENUE BULLETIN



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.

ADMINISTRATIVE, INCOME TAX

Notice 2022-42, page 276.

This Notice announces that the Department of the Treasury and the Internal Revenue Service intend to amend the regulations under section 901 with respect to the application of the noncompulsory payment regulations to certain amended Puerto Rico tax decrees.

Notice 2022-44, page 277.

Optional special per diem rates. This notice provides the 2022-2023 special per diem rates for taxpayers to use in substantiating the amount of ordinary and

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October 11, 2022

necessary business expenses incurred while traveling away from home. The notice includes (1) the special transportation industry rate, (2) the rate for the incidental expenses only deduction, and (3) the rates and list of high-cost localities for the high-low substantiation method.

Rev. Proc. 2022-19, page 282.

This revenue procedure provides taxpayer assistance procedures, including under § 1362(f) of the Internal Revenue Code (Code), to allow S corporations and their shareholders to resolve frequently encountered issues with certainty and without requesting a private letter ruling (PLR) issued by the Internal Revenue Service (IRS).

The IRS Mission

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

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly.

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

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

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

against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

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

Part II.—Treaties and Tax Legislation.

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

Part III.—Administrative, Procedural, and Miscellaneous.

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

Part IV.—Items of General Interest.

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

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

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Part III

Application of Noncompulsory Payment Regulations to Amendments of Certain Puerto Rico Tax Decrees; Revocation of Notice 2011-29

Notice 2022-42

SECTION 1. PURPOSE

This Notice announces that the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to amend the regulations under section 901 with respect to the application of the noncompulsory payment regulations to certain amended Puerto Rico tax decrees.

SECTION 2. BACKGROUND

The Treasury Department and the IRS are aware that certain U.S. taxpayers with operations in Puerto Rico (including operations conducted indirectly through subsidiaries or other affiliates) have negotiated long-term tax agreements with Puerto Rico, known as tax decrees, that provide more favorable tax treatment than under the generally applicable Puerto Rico tax laws. Among other benefits, these tax decrees provide for reduced rates of tax levied on U.S. taxpayers and their affiliates performing certain activities in Puerto Rico. However, the tax decrees do not modify the application of the modified effectively connected income rules (Modified ECI Rules) of section 1123(f)(3)(B) of the Puerto Rico Internal Revenue Code of 1994, as amended (1994 PR IRC) and incorporated by reference into the Puerto Rico Internal Revenue Code of 2011, as amended (2011 PR IRC), by section 1035.05 of the 2011 PR IRC. The Modified ECI Rules impose a tax on income deemed to be earned in connection with a Puerto Rico trade or business (Modified ECI Tax). Similarly, the tax decrees do not modify the application of the excise tax (Excise Tax) on the acquisition of certain

personal property manufactured or produced in Puerto Rico and amounts paid for certain services performed in Puerto Rico that is imposed by sections 2101 through 2106 of the 1994 PR IRC and incorporated by reference into the 2011 PR IRC by section 1035.05 of the 2011 PR IRC.

Notice 2011-29 states that the Excise Tax raises novel issues that require further study and that, pending the resolution of those issues, the IRS will not challenge a taxpayer's position that the Excise Tax is a tax paid in lieu of an income tax under section 903. Notice 2011-29 further provides that any change in the foreign tax credit treatment of the Excise Tax will apply to Excise Tax paid or accrued after the date that further guidance is issued.

On December 28, 2021, final regulations were filed with the Federal Register, including regulations under Treas. Reg. §§1.901-2(b)(5) and 1.903-1(c)(1)(iv). These final regulations provide that a foreign tax imposed on a nonresident is a foreign income tax within the meaning of Treas. Reg. §1.901-2(a)(2) for which a credit is allowable only if the tax is based on (1) the nonresident's activities in the taxing jurisdiction, (2) income properly sourced to the taxing jurisdiction, or (3) the sale or exchange of certain property located in the taxing jurisdiction. T.D. 9959 (87 FR 276, 339-340, 357-358). Under the final regulations, the Modified ECI Tax and the Excise Tax do not constitute foreign income taxes. Therefore, a credit would not be allowed for those taxes under section 901. The final regulations under Treas. Regs. §§1.901-2 and 1.903-1 apply to any Modified ECI Tax and Excise Tax paid or accrued (depending on the taxpayer's method of accounting for foreign income taxes) in taxable years beginning on or after January 1, 2023. Treas. Reg. §§1.901-2(h) and 1.903-1(e).

On June 30, 2022, Act 52-2022 was enacted into law in Puerto Rico. Act 52-2022 allows taxpayers to amend their existing tax decrees to replace the existing income tax and royalty withholding tax framework with a new income tax and royalty withholding tax framework. If a taxpayer elects to amend an existing tax decree, the remaining term of the amended

tax decree is extended by 15 years. Taxpayers that opt to amend their existing tax decrees pursuant to Act 52-2022 are no longer subject to the Modified ECI Tax and the Excise Tax. In certain cases, the decision to amend an existing tax decree pursuant to Act 52-2022 may result in a U.S. taxpayer and/or one or more of its affiliates owing a greater total amount of tax to Puerto Rico than would be owed absent the amendment. However, the terms of the amended tax decrees are expected to result in taxes imposed at rates lower than those under the generally applicable Puerto Rico income tax laws absent any decree.

Treas. Reg. §1.901-2(e)(5)(i) provides that an amount remitted to a foreign country is not a compulsory payment, and thus is not an amount of foreign income tax paid, to the extent that the amount remitted exceeds the amount of the taxpayer's liability for foreign income tax under the foreign tax law (the "noncompulsory payment regulations").

Treas. Reg. §1.901-2(e)(5)(iii)(A) provides that where foreign tax law provides a taxpayer with options or elections in computing its liability for foreign income tax whereby a taxpayer's foreign income tax liability may be permanently decreased in the aggregate over time, the taxpayer's failure to use such options or elections results in a foreign payment in excess of the taxpayer's liability for foreign income tax.

SECTION 3. APPLICATION OF NONCOMPULSORY PAYMENT REGULATIONS TO AMENDED PUERTO RICO TAX DECREES

The Treasury Department and the IRS are aware that questions have arisen as to whether a decision to amend an existing tax decree pursuant to Act 52-2022 will cause any amount remitted to Puerto Rico in excess of the amount of tax that would have been owed but for amending the existing tax decree to be considered a noncompulsory payment under §1.901-2(e)(5), and therefore not an amount of foreign income tax paid or accrued for which a credit is allowed under section 901.

To facilitate Puerto Rico's transition to Act 52-2022, and given Puerto Rico's status as a territory of the United States, the Treasury Department and the IRS have determined it is necessary and appropriate to provide guidance on the application of Treas. Reg. §1.901-2(e)(5) to amounts remitted to Puerto Rico under the terms of a tax decree amended pursuant to Act 52-2022 on or before December 31, 2022. Therefore, the Treasury Department and the IRS intend to issue regulations under section 901 (the "forthcoming proposed regulations") to provide that amending an existing tax decree with Puerto Rico pursuant to Act 52-2022, on or before December 31, 2022, does not cause any amount of foreign income tax paid or accrued to Puerto Rico pursuant to the amended tax decree to be treated as a noncompulsory amount under Treas. Reg. §1.901-2(e)(5).

Under the forthcoming proposed regulations, amending an existing tax decree pursuant to Act 52-2022 (as enacted on June 30, 2022) will not, solely by reason of any difference in the amount of income tax liability to Puerto Rico under the existing tax decree as compared with the amended tax decree, be considered to increase the taxpayer's liability for Puerto Rico income tax over time for purposes of Treas. Reg. §1.901-2(e)(5) if the existing tax decree is amended pursuant to Act 52-2022 on or before December 31, 2022, and the taxpayer's Puerto Rico income tax liability under the amended tax decree in each taxable year is less than the amount of income tax the taxpayer would have owed to Puerto Rico under Puerto Rico's generally applicable income tax laws in the absence of any tax decree in the taxable year. No inference as to the application of the noncompulsory payment regulations in any other context should be drawn from this Notice.

SECTION 4. TAXPAYER RELIANCE

The forthcoming proposed regulations will provide that the rules set forth in section 3 of this Notice apply to taxable years ending on or after October 11, 2022. Until the date of issuance of the forthcoming proposed regulations, taxpayers may rely on the rules set forth in section 3 of this Notice.

SECTION 5. REQUEST FOR COMMENTS AND CONTACT INFORMATION

The Treasury Department and the IRS invite comments on the forthcoming proposed regulations. Commenters are strongly encouraged to submit public comments electronically. Comments should include a reference to Notice 2022-42. Submit electronic submissions via the Federal eRulemaking Portal at www.regulations.gov (type IRS-2022-0015 in the search field on the [regulations.gov](http://www.regulations.gov) homepage to find this Notice and submit comments). Send paper submissions to the Office of Associate Chief Counsel (International), Attention: Andrew Naughton, Internal Revenue Service, IR-4549B, 1111 Constitution Avenue, NW, Washington, DC 20224. Once submitted, comments cannot be edited or withdrawn. For further information regarding this Notice, contact Andrew Naughton of the Office of Associate Chief Counsel (International) at (202) 317-5356 (not a toll-free call). Written or electronic comments must be received by January 9, 2023.

SECTION 6. EFFECT ON OTHER DOCUMENTS

Notice 2011-29 is revoked, effective for Excise Tax paid or accrued in taxable years beginning on or after January 1, 2023.

2022-2023 Special Per Diem Rates

Notice 2022-44

SECTION 1. PURPOSE

This annual notice provides the 2022-2023 special *per diem* rates for taxpayers to use in substantiating the amount of ordinary and necessary business expenses incurred while traveling away from home, specifically (1) the special transportation industry meal and incidental expenses (M&IE) rates, (2) the rate for the incidental expenses only deduction, and (3) the rates and list of high-cost localities for

purposes of the high-low substantiation method.

SECTION 2. BACKGROUND

Rev. Proc. 2019-48, 2019-51 I.R.B. 1392 (or successor), provides rules for using a *per diem* rate to substantiate, under § 274(d) of the Internal Revenue Code and § 1.274-5 of the Income Tax Regulations, the amount of ordinary and necessary business expenses paid or incurred while traveling away from home. Taxpayers using the rates and list of high-cost localities provided in this notice must comply with Rev. Proc. 2019-48 (or successor). Notice 2021-52, 2021-38 I.R.B. 381, provides the rates and list of high-cost localities for the period October 1, 2021, to September 30, 2022.

SECTION 3. SPECIAL M&IE RATES FOR TRANSPORTATION INDUSTRY

The special M&IE rates for taxpayers in the transportation industry are \$69 for any locality of travel in the continental United States (CONUS) and \$74 for any locality of travel outside the continental United States (OCONUS). See section 4.04 of Rev. Proc. 2019-48 (or successor).

SECTION 4. RATE FOR INCIDENTAL EXPENSES ONLY DEDUCTION

The rate for any CONUS or OCONUS locality of travel for the incidental expenses only deduction is \$5 per day. See section 4.05 of Rev. Proc. 2019-48 (or successor).

SECTION 5. HIGH-LOW SUBSTANTIATION METHOD

1. *Annual high-low rates.* For purposes of the high-low substantiation method, the *per diem* rates in lieu of the rates described in Notice 2021-52 (the *per diem* substantiation method) are \$297 for travel to any high-cost locality and \$204 for travel to any other locality within CONUS. The amount of the \$297 high rate and \$204 low rate that is treated as paid for meals for purposes of § 274(n) is \$74 for travel to any high-cost locality and \$64 for travel to any other locality within CONUS. See section 5.02 of Rev. Proc. 2019-48 (or

successor). The per diem rates in lieu of the rates described in Notice 2021-52 (the meal and incidental expenses only substantiation method) are \$74 for travel to

any high-cost locality and \$64 for travel to any other locality within CONUS.

2. *High-cost localities.* The following localities have a federal *per diem* rate of

\$250 or more, and are high-cost localities for the specified portion of the calendar year:

Key City	County or Other Defined Location	Portion of Calendar Year
Alabama		
Gulf Shores	Baldwin	June 1 – July 31
Arizona		
Phoenix/Scottsdale	Maricopa	February 1 – March 31
Sedona	City limits of Sedona	October 1 – September 30
California		
Los Angeles	Los Angeles, Orange, and Ventura, and Edwards AFB, but not Santa Monica	October 1 - October 31 and January 1 - September 30
Mill Valley/San Rafael/Novato	Marin	October 1 – October 31 and June 1 – September 30
Monterey	Monterey	June 1 – August 31
Napa	Napa	October 1 – September 30
Oakland	Alameda	October 1 – September 30
San Diego	San Diego	February 1 – August 31
San Francisco	San Francisco	October 1 – September 30
San Luis Obispo	San Luis Obispo	June 1 – August 31
San Mateo/Foster City/Belmont	San Mateo	October 1 – September 30
Santa Barbara	Santa Barbara	October 1 – September 30
Santa Monica	City limits of Santa Monica	October 1 – September 30
Sunnyvale/Palo Alto/San Jose	Santa Clara	October 1 – September 30
Colorado		
Aspen	Pitkin	October 1 – March 31 and June 1 – September 30
Denver/Aurora	Denver, Adams, Arapahoe, and Jefferson	October 1 – October 31 and April 1 – September 30
Durango	La Plata	June 1 – September 30
Grand Lake	Grand	December 1 – March 31
Silverthorne/Breckenridge	Summit	October 1 – March 31 and June 1 – September 30
Steamboat Springs	Routt	December 1 – March 31
Telluride	San Miguel	October 1 – September 30
Vail	Eagle	October 1 – September 30
Delaware		
Lewes	Sussex	July 1 – August 31
District of Columbia		
Washington D.C. (also the cities of Alexandria, Falls Church, and Fairfax, and the counties of Arlington and Fairfax, in Virginia; and the counties of Montgomery and Prince George's in Maryland) (See also Maryland and Virginia)		October 1 – September 30

Key City	County or Other Defined Location	Portion of Calendar Year
Florida		
Boca Raton/Delray Beach/Jupiter	Palm Beach and Hendry	December 1 – April 30
Bradenton	Manatee	February 1 – March 31
Cocoa Beach	Brevard	February 1 – March 31
Fort Lauderdale	Broward	October 1 – April 30
Fort Myers	Lee	February 1 – March 31
Fort Walton Beach/DeFuniak Springs	Okaloosa and Walton	October 1 – October 31 March 1 – September 30
Gulf Breeze	Santa Rosa	June 1 – July 31
Key West	Monroe	October 1 – September 30
Miami	Miami-Dade	December 1 – March 31
Naples	Collier	December 1 – April 30
Panama City	Bay	June 1 – July 31
Pensacola	Escambia	June 1 – July 31
Punta Gorda	Charlotte	February 1 – March 31
Sarasota	Sarasota	February 1 – April 30
Sebring	Highlands	February 1 – March 31
Stuart	Martin	February 1 – March 31
Vero Beach	Indian River	December 1 – April 30
Georgia		
Jekyll Island/ Brunswick	Glynn	March 1 – July 31
Idaho		
Sun Valley/Ketchum	Blaine and Elmore	December 1 – March 31 and June 1 – September 30
Illinois		
Chicago	Cook and Lake	October 1 – November 30 and April 1 – September 30
Maine		
Bar Harbor/ Rockport	Hancock and Knox	October 1 – October 31 and July 1 – September 30
Kennebunk/Kittery/Sanford	York	July 1 – August 31
Portland	Cumberland and Sagadahoc	July 1 – August 31
Maryland		
Ocean City	Worcester	July 1 – August 31
Washington, DC Metropolitan Area	Montgomery and Prince George's	October 1 – September 30
Massachusetts		
Boston/Cambridge	Suffolk and City of Cambridge	October 1 – September 30
Falmouth	City limits of Falmouth	May 1 – August 31
Hyannis	Barnstable less the city of Falmouth	July 1 – August 31
Martha's Vineyard	Dukes	October 1 – September 30
Nantucket	Nantucket	October 1 – September 30
Michigan		
Mackinac Island	Mackinac	July 1 – August 31
Petoskey	Emmet	July 1 – August 31
Traverse City	Grand Traverse	July 1 – August 31

Key City	County or Other Defined Location	Portion of Calendar Year
Minnesota		
Duluth	St. Louis	October 1 – October 31 and June 1 – September 30
Montana		
Big Sky/West Yellowstone/ Gardiner	Gallatin and Park	June 1 – September 30
Kalispell/Whitefish	Flathead	July 1 – August 31
New Mexico		
Carlsbad	Eddy	October 1 – September 30
New Jersey		
Toms River	Ocean	July 1 – August 31
New York		
Glens Falls	Warren	July 1 – August 31
Lake Placid	Essex	July 1 – August 31
New York City	Bronx, Kings, New York, Queens, and Richmond	October 1 – December 31 and March 1 – September 30
North Carolina		
Kill Devil Hills	Dare	April 1 – September 30
Oregon		
Lincoln City	Lincoln	July 1 – August 31
Portland	Multnomah	October 1 – October 31 and June 1 – September 30
Seaside	Clatsop	July 1 – August 31
Pennsylvania		
Hershey	Hershey	June 1 – August 31
Philadelphia	Philadelphia	October 1 – November 30, March 1 – June 30, and September 1 – September 30
Rhode Island		
Jamestown/Middletown/Newport	Newport	October 1 – October 31 and June 1 – September 30
South Carolina		
Charleston	Charleston, Berkeley, and Dorchester	October 1 – September 30
Hilton Head	Beaufort	June 1 – August 31
Myrtle Beach	Horry	June 1 – August 31
Tennessee		
Nashville	Davidson	October 1 – September 30
Utah		
Moab	Grand	October 1 – October 31 and March 1 – September 30
Park City	Summit	October 1 – September 30
Virginia		
Virginia Beach	City of Virginia Beach	June 1 – August 31
Wallops Island	Accomack	July 1 – August 31
Washington, DC Metro Area	Cities of Alexandria, Falls Church, and Fairfax; Counties of Arlington and Fairfax	October 1 – September 30

Key City	County or Other Defined Location	Portion of Calendar Year
Vermont		
Manchester	Bennington	October 1 – September 30
Washington		
Port Angeles/Port Townsend	Clallam and Jefferson	July 1 – August 31
Seattle	King	October 1 – September 30
Vancouver	Clark, Cowlitz, and Skamania	October 1 – October 31 and June 1 – September 30
Wyoming		
Cody	Park	June 1 – September 30
Jackson/Pinedale	Teton and Sublette	October 1 – September 30

3. *Changes in high-cost localities.* The list of high-cost localities in this notice differs from the list of high-cost localities in section 5 of Notice 2021-52.

a. The following localities have been added to the list of high-cost localities: Gulf Shores, Alabama; Phoenix/Scottsdale, Arizona; San Luis Obispo, California; Durango, Colorado; Steamboat Springs, Colorado; Bradenton, Florida; Cocoa Beach, Florida; Gulf Breeze, Florida; Panama City, Florida; Pensacola, Florida; Punta Gorda, Florida; Sarasota, Florida; Sebring, Florida; Stuart, Florida; Sun Valley/Ketchum, Idaho; Portland, Maine; Mackinac Island, Michigan; Duluth, Minnesota; Kalispell/Whitefish, Montana; Toms River, New Jersey; Glens Falls, New York; Kill Devil Hills, North Carolina; Lincoln City, Oregon; Myrtle Beach, South Carolina; Moab, Utah; Manchester, Vermont; Port Angeles/Port Townsend, Washington.

b. The following localities have changed the portion of the year in which it is a high-cost locality: Sedona, Arizona; Napa, California; San Diego, California; Silverthorne/Breckenridge, Colorado; Fort Lauderdale, Florida; Fort Walton Beach/De Funiak Springs, Florida; Key West, Florida; Bar Harbor/Rockport, Maine; Falmouth, Massachusetts; Martha’s Vineyard, Massachusetts; Nantucket, Massachusetts; Jamestown/Middletown/Newport, Rhode Island; Charleston, South Carolina; Park City, Utah; Jackson/Pinedale, Wyoming.

c. The following locality has been removed from the list of high-cost localities: Crested Butte/Gunnison, Colorado.

SECTION 6. EFFECTIVE DATE

This notice is effective for *per diem* allowances for lodging, meal and incidental expenses, or for meal and incidental expenses only, that are paid to any

employee on or after October 1, 2022, for travel away from home on or after October 1, 2022. For purposes of computing the amount allowable as a deduction for travel away from home, this notice is effective for meal and incidental expenses or for incidental expenses only paid or incurred on or after October 1, 2022. *See* sections 4.06 and 5.04 of Rev. Proc. 2019-48 (or successor) for transition rules for the last 3 months of calendar year 2022.

SECTION 7. EFFECT ON OTHER DOCUMENTS

Notice 2021-52 is superseded.

DRAFTING INFORMATION

The principal author of this notice is Knolan Smith of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this notice contact Mr. Smith at (202) 317-7005 (not a toll-free number).

Rev. Proc. 2022-19

TABLE OF CONTENTS

SECTION 1. WHAT ARE THE PURPOSES OF THIS REVENUE PROCEDURE?.....283

SECTION 2. BACKGROUND283

.01 Overview of S Corporations and QSubs.....283

.02 Section 1362(f) Relief for Inadvertent Invalid Elections or Terminations284

.03 Six Areas for Which Issues are Resolvable Without a PLR284

SECTION 3. TAXPAYER ASSISTANCE PROCEDURES FOR ADDRESSING OR CORRECTING ISSUES REGARDING S ELECTIONS AND QSUB ELECTIONS286

.01 Agreements and Arrangements with No Principal Purpose to Circumvent One Class of Stock Requirement286

.02 Governing Provisions That Provide for Identical Distribution and Liquidation Rights286

.03 Procedures for Addressing Missing Shareholder Consents, Errors with Regard to a Permitted Year, Missing Officer’s Signature, and Other Inadvertent Errors and Omissions286

.04 Procedures for Verifying S Elections or QSub Elections287

.05 Procedures for Addressing a Federal Income Tax Return Filing Inconsistent with an S Election or a QSub Election287

.06 Procedures for Retroactively Correcting One or More Non-Identical Governing Provisions287

SECTION 4. NO RULE AREAS TO TAKE INTO ACCOUNT THIS REVENUE PROCEDURE.....289

.01 Areas in Which PLRs Will Not Be Issued289

.02 Areas in Which a PLR Will Not Ordinarily Be Issued289

SECTION 5. EFFECTIVE DATES.....290

.01 General Effective Date290

.02 Transition Rule for Pending PLR Requests290

SECTION 6. EFFECT ON OTHER DOCUMENTS290

.01 Rev. Proc. 2013-30290

.02 Rev. Proc. 2022-1290

.03 Rev. Proc. 2022-3290

SECTION 7. PAPERWORK REDUCTION ACT AND TAXPAYER BURDEN REDUCTION290

SECTION 8. DRAFTING INFORMATION AND PRIMARY CONTACT FOR QUESTIONS291

SECTION 1. WHAT ARE THE PURPOSES OF THIS REVENUE PROCEDURE?

This revenue procedure provides taxpayer assistance procedures, including under § 1362(f) of the Internal Revenue Code (Code), to allow S corporations and their shareholders to resolve frequently encountered issues with certainty and without requesting a private letter ruling (PLR) issued by the Internal Revenue Service (IRS). The issues addressed by the taxpayer assistance procedures set forth in sections 3.01 through 3.05 of this revenue procedure are issues that the IRS historically has identified as not affecting the validity or continuation of a corporation’s election under § 1362(a) of the Code to be treated as an S corporation (S election); or an S corporation’s election under § 1361(b)(3)(B)(ii) of the Code to treat its corporate subsidiary as a qualified subchapter S subsidiary (a QSub, and the election a QSub election). Section 3.06 of this revenue procedure provides retroactive corrective relief procedures under section 1362(f) in certain circumstances to allow taxpayers to retroactively preserve S elections that are invalid or terminated solely as the result of one or more non-identical governing provisions (as defined in section 2.03(6)(a) of this revenue procedure). The Department of the Treasury (Treasury Department) and the IRS have provided these taxpayer assistance procedures to (1) reduce burdens on taxpayers and the IRS, (2) facilitate increased taxpayer compliance with S election and QSub election rules, and (3) reduce costs and delays for completing transactions involving S corporations and QSubs. Appendix A (Sample Corporate Governing Provision Statement) and Appendix B (Sample Shareholder Statement) are provided to assist corporations and their shareholders in complying with the taxpayer assistance procedures in section 3 of this revenue procedure. In

connection with these taxpayer assistance procedures, section 4 of this revenue procedure provides areas in which the IRS will not rule, or will not ordinarily rule, regarding the validity or continuation of an S election or a QSub election.

SECTION 2. BACKGROUND

.01 Overview of S Corporations and QSubs.

(1) Definition of S corporation. Section 1361(a)(1) defines an “S corporation,” with respect to any taxable year, as a small business corporation for which an S election, under § 1362(a), is in effect for that year.

(2) Definition of small business corporation. Section 1361(b)(1) defines a “small business corporation” as a domestic corporation that is not an ineligible corporation (defined in § 1361(b)(2)) and that does not (A) have more than 100 shareholders, (B) have as a shareholder a person (other than an estate, a trust described in § 1361(c)(2), or an organization described in § 1361(c)(6)) who is not an individual, (C) have a nonresident alien as a shareholder, and (D) have more than 1 class of stock.

(3) Definition of QSub. Section 1361(b)(3)(B) defines a “QSub” as a domestic corporation that is not an ineligible corporation if (i) an S corporation (parent S corporation) holds 100 percent of the stock of the corporation, and (ii) that parent S corporation elects to treat the subsidiary as a QSub.

(4) S election. Section 1.1362-6(a)(2) of the Income Tax Regulations sets forth procedural requirements pursuant to which a small business corporation makes an S election. Among those requirements, the small business corporation must timely file a completed Form 2553, Election by a Small Business Corporation. See Rev. Proc. 2013-30, 2013-36 I.R.B. 173 (providing a simplified method for taxpayers to request relief for late S elections).

(5) QSub election. Section 1.1361-3(a) and Notice 2000-58, 2000-2 C.B. 491, set forth procedural requirements for a parent S corporation to elect to treat one or more of its eligible subsidiaries as a QSub. Among those requirements, the parent S corporation must timely file a completed Form 8869, Qualified Subchapter S Subsidiary Election. See Rev. Proc. 2013-30 (providing a simplified method for taxpayers to request relief for late QSub elections).

(6) Ineffective or terminated S election. If a corporation is not eligible to elect to be taxed under subchapter S of the Code (for example, the corporation is not a small business corporation under § 1361(b)(1)), then the corporation’s S election never becomes effective. If a corporation makes a valid S election, generally its status as an S corporation (i) can be terminated by revocation of the election, and (ii) will be terminated (A) whenever the corporation ceases to be a small business corporation, or (B) whenever the passive investment income of the corporation exceeds 25 percent of gross receipts for three consecutive taxable years and the corporation has accumulated earnings and profits at the close of each of the three consecutive years. See generally § 1362(d).

(7) Ineffective or terminated QSub election. If a parent S corporation cannot make an effective QSub election because the subsidiary corporation is not eligible to be taxed as a QSub (for example, the required consent on Form 8869 is missing), then that corporation’s QSub election never becomes effective. If a parent S corporation makes a valid QSub election for its subsidiary, generally the subsidiary’s status as a QSub (i) can be terminated by revocation of the election, and (ii) will be terminated if (A) the S election of its parent S corporation is terminated, or (B) the subsidiary ceases to qualify as a QSub under § 1361(b)(3)(B). See generally § 1.1361-5(a)(1). In addition, a QSub election for a subsidiary terminates if the

parent S corporation transfers 100 percent of the QSub stock, whether by sale or reorganization under § 368(a)(1)(A), (C), or (D) of the Code, to another S corporation in a transaction that does not qualify as a reorganization under § 368(a)(1)(F). *See* Rev. Rul. 2004-85, 2004-2 C.B. 189 (Situation 2).

.02 Section 1362(f) Relief for Inadvertent Invalid Elections or Terminations.

(1) *Overview.* Section 1362(f) provides that if an S election under § 1362(a) or a QSub election under § 1361(b)(3)(B)(ii) by any corporation either (A) was not effective for the taxable year for which made (determined without regard to § 1362(b)(2)) by reason of a failure to meet the requirements of § 1361(b) or to obtain shareholder consents, or (B) was terminated under § 1362(d)(2) or (3) or § 1361(b)(3)(C), then, notwithstanding the circumstances resulting in that ineffectiveness or termination, that corporation will be treated as an S corporation or a QSub, as the case may be, during the period specified by the Secretary (as defined in § 7701(a)(11)(B) of the Code) if the three requirements set forth in § 1362(f)(2) through (4) are satisfied. First, the Secretary must determine that the circumstances resulting in the ineffectiveness or termination were inadvertent. *See* § 1362(f)(2). Second, no later than a reasonable period of time after discovery of the circumstances resulting in that ineffectiveness or termination, steps were taken either (A) so that the corporation for which the election was made or the termination occurred is an S corporation or a QSub, as the case may be, or (B) to acquire the required shareholder consents. *See* § 1362(f)(3). Third, the corporation for which the election was made or the termination occurred, and each person who was a shareholder in that corporation at any time during the period specified pursuant to § 1362(f), agrees to make such adjustments (consistent with the treatment of that corporation as an S corporation or a QSub, as the case may be) as may be required by the Secretary with respect to that period. *See* § 1362(f)(4).

(2) *Legislative history.* In enacting § 1362(f), Congress stated that, “[i]f the [IRS] determines that a corporation’s subchapter S election is inadvertently terminated, the [IRS] can waive the effect of the

terminating event for any period if the corporation timely corrects the event and if the corporation and the shareholders agree to be treated as if the election had been in effect for such period.” S. Rep. No. 97-640, at 12 (Sept. 29, 1982). Congress “intend[ed] that the [IRS] be reasonable in granting waivers, so that corporations whose subchapter S eligibility requirements have been inadvertently violated do not suffer the tax consequences of a termination if no tax avoidance would result from the continued subchapter S treatment. In granting a waiver, [Congress] hoped that taxpayers and the government will work out agreements that protect the revenues without undue hardship to taxpayers.” *Id.*

(3) *Section 1362(f) regulations.* Section 1.1362-4(c) provides that a corporation may request invalid election or inadvertent termination relief by submitting a request for a PLR. *See generally* Rev. Proc. 2022-1, 2022-1 I.R.B. 1 (or any successor revenue procedure) (providing general instructions for requesting PLRs and determination letters). Section 1.1362-4(d) provides that the Commissioner may condition the granting of a PLR request on any adjustments that are appropriate. Section 1.1362-4(e) requires that the corporation and all persons who were shareholders of the corporation at any time during the time specified by the Commissioner consent to any adjustments that the Commissioner may require. Section 1.1362-4(f) provides that the status of a corporation after the terminating event or invalid election, and before the determination of inadvertence, is determined by the IRS. Inadvertent termination or inadvertent invalid election relief may be granted by the IRS retroactively (i) for all years for which the terminating event or circumstance giving rise to invalidity is effective, or (ii) only for the period in which the corporation became eligible for S corporation or QSub treatment.

(4) *Frequent PLR requests for relief under section 1362(f).* The Associate Chief Counsel (Passthroughs and Special Industries) frequently receives requests for PLRs seeking relief under § 1362(f) to address a potential inadvertent invalid election or termination. For example, the Associate Chief Counsel (Passthroughs and Special Industries) receives PLR

requests seeking confirmation that specific agreements, distributions to shareholders, minor errors in filing elections, missing or lost confirmations, or inconsistent return filings do not invalidate an S corporation’s election or terminate the corporation’s status as an S corporation.

.03 Six Areas for Which Issues are Resolvable Without a PLR. Sections 2.03(1) through 2.03(6) of this revenue procedure describe the six areas for which issues are resolvable without a PLR, and for which this revenue procedure provides taxpayer assistance procedures. With regard to the sixth area described in 2.03(6) of this revenue procedure (addressing potential retroactive correction of non-identical governing provisions), the validity or continuation of a corporation’s S election is not affected in certain circumstances only if the corporation and its applicable shareholders (as defined in section 3.06(1)(a) of this revenue procedure) meet the requirements of section 3.06 of this revenue procedure.

(1) *One class of stock requirement and governing provisions, including “principal purpose” conditions.*

(a) *Overview.* Pursuant to § 1361(b)(1)(D) and § 1.1361-1(l)(1), a corporation that has more than one class of stock does not qualify as a small business corporation. Section 1.1361-1(l)(1) provides generally that a corporation is treated as having only one class of stock if all outstanding shares of stock confer identical rights to distribution and liquidation proceeds.

(b) *Governing provisions.* Section 1.1361-1(l)(2)(i) provides that the determination of whether all outstanding shares of stock confer identical rights to distribution and liquidation proceeds is made based on the corporate charter, articles of incorporation, bylaws, applicable State law, and binding agreements relating to distribution and liquidation proceeds (collectively, governing provisions). A commercial contractual agreement is not a binding agreement relating to distribution and liquidation proceeds, and therefore is not a governing provision, unless a principal purpose of the agreement is to circumvent the one class of stock requirement. *See* § 1.1361-1(l)(2)(i).

(c) *Other agreements and arrangements.* The Income Tax Regulations identify a number of other agreements and

arrangements between or among an S corporation and its shareholders that may or may not be treated as second classes of stock depending in part on whether a principal purpose of the agreement or arrangement was to circumvent the one class of stock requirement or otherwise alter shareholders' rights to distribution and liquidation proceeds. See § 1.1361-1(l)(2)(iii)(A) (buy-sell agreements among shareholders, agreements restricting the transferability of stock, and redemption agreements), § 1.1361-1(l)(4)(ii)(A) (special rules for instruments, obligations, or arrangements treated as equity under general principles of Federal tax law), § 1.1361-1(l)(4)(ii)(B)(I) (short-term unwritten advances that fail the safe harbor described in § 1.1361-1(l)(4)(ii)(B)(I)), and § 1.1361-1(l)(4)(ii)(B)(2) (obligations of the same class that are considered equity under general principles of Federal tax law but fail the safe harbor described in § 1.1361-1(l)(4)(ii)(B)(2)). See section 3.01 of this revenue procedure (providing that the IRS will not treat taxpayers who have entered into the agreements or arrangements described in this section 2.03(1)(c) as violating the one class of stock requirement of § 1361(b)(1)(D) so long as there was no principal purpose to use the agreement or arrangement as a means to circumvent the one class of stock requirement).

(2) *Disproportionate distributions.* A "disproportionate distribution" is any distribution (including an actual distribution, a constructive distribution, or a deemed distribution) of property by a corporation with respect to shares of its stock that differs in timing or amount from the distribution with respect to any other shares of its stock. See § 1.1361-1(l)(1) and (2). Section 1.1361-1(l)(2)(i) provides that, "[a]lthough a corporation is not treated as having more than one class of stock so long as the governing provisions provide for identical distribution and liquidation rights, any distributions (including actual, constructive, or deemed distributions) that differ in timing or amount are to be given appropriate tax effect in accordance with the facts and circumstances." Despite this regulation providing that "a corporation is not treated as having more than one class of stock so long as the governing provisions provide for identical distribution and liquidation rights," taxpayers

and practitioners have indicated concern with the language of § 1.1361-1(l)(2)(i). The articulated concern is that the word "although" in combination with the subsequent language requiring that certain disproportionate distributions "be given appropriate tax effect" creates uncertainty as to whether an S corporation has created a second class of stock – even though the governing provisions provide identical distribution and liquidation rights with respect to each share. Practitioners suggest that the language in § 1.1361-1(l)(2)(i) could be clarified by removing the word "[a]lthough" and point to inconsistency in PLRs in the treatment of disproportionate distributions. See section 3.02 of this revenue procedure (providing that the IRS will not treat any disproportionate distributions by a corporation as violating the one class of stock requirement of § 1361(b)(1)(D) so long as the corporation's governing provisions provide for identical distribution and liquidation rights).

(3) *Certain inadvertent errors or omissions on Form 2553 or Form 8869.* An inadvertent error or omission on Form 2553 or Form 8869 does not invalidate an S election or a QSub election, unless the error or omission is with respect to a shareholder consent, a selection of a permitted year (as defined in § 1378(b) and § 1.1378-1(b)), or an officer's signature. See generally § 1362(a)(2) (an S election is valid "only if all persons who are shareholders in such corporation on the day on which such election is made consent to such election"), § 1.1378-1 (requiring that the taxable year of an S corporation must be a permitted year, which is defined to include a calendar year or any other taxable year for which the corporation establishes a business purpose to the satisfaction of the Commissioner), and § 1.1361-3(a)(2) (a QSub election form must be signed by a person authorized to sign the S corporation's return). See section 3.03 of this revenue procedure (providing procedures for a taxpayer to correct, without the receipt of a PLR, an error, an omission, or a missing required consent on a Form 2553 or Form 8869).

(4) *Missing administrative acceptance letter for S election or QSub election.* Generally, within 90 days after the IRS receives a corporation's Form 2553, the IRS mails a CP261 Notice as an acknowledgment to

the corporation that the IRS has accepted the corporation's filing. For QSub elections filed on Form 8869, the IRS mails a CP279 Notice to the filer and a CP279A Notice to the subsidiary, generally within 60 days after the IRS accepts the QSub election. A lack of written acknowledgment that the IRS has accepted the corporation's S election or its subsidiary's QSub election (for example, because it was lost or never received) creates uncertainty for some taxpayers about the validity of the election. However, neither subchapter S of the Code nor the Income Tax Regulations thereunder provide that a lack of possession of a CP261 Notice, CP279 Notice, or CP279A Notice affects the validity of an S election or a QSub election, respectively. Rather, such notices are merely administrative acknowledgments of an effective election that can be reproduced upon the taxpayer's request. See section 3.04 of this revenue procedure (providing procedures to replace a missing CP261 Notice, CP279 Notice, or CP279A Notice).

(5) *A Federal income tax return filing inconsistent with an S election or a QSub election.* Occasionally, a corporation files a Federal income tax return that is inconsistent with the corporation's status as an S corporation or a QSub (for example, an S corporation files a Form 1065, *U.S. Return of Partnership Income*, or Form 1120, *U.S. Corporation Income Tax Return*, instead of Form 1120-S, *U.S. Income Tax Return for an S Corporation*). Although an inconsistent Federal income tax return filing can create several complications for the filer, nothing in the Code or Income Tax Regulations thereunder provides that such a filing affects the validity of a corporation's S election or QSub election. For example, neither § 1362(d) nor § 1.1361-5(a) lists an inconsistent Federal income tax return filing as an event that gives rise to a termination of an S election or a QSub election. See section 3.05 of this revenue procedure (providing procedures for taxpayers to address, without the receipt of a PLR, a Federal income tax return filing inconsistent with an S election or a QSub election, as appropriate).

(6) *Non-identical governing provisions.*

(a) *Overview.* Section 1361(b)(1)(D) requires an S corporation to have only one class of stock. Section 1.1361-1(l) provides that a corporation is treated as

having only one class of stock if all outstanding shares of the corporation's stock confer identical rights to distribution and liquidation proceeds and if the corporation has not issued any instrument or obligation, or entered into any arrangement, that is treated as a second class of stock. An S corporation in compliance with § 1.1361-1(l) is commonly referred to as having "identical governing provisions." The term "non-identical governing provision" means a governing provision, as defined by § 1.1361-1(l)(2)(i), on its own or as part of another governing provision, that for Federal income tax purposes results in the S corporation having more than one class of stock under § 1.1361-1(l)(1) (even if the S corporation never made a non-pro rata distribution or liquidating distribution).

(b) *Consequences of non-identical governing provisions.* If an entity files an S election when it has more than a single class of stock, the entity does not meet the requirements to be an S corporation and its attempted election is invalid. See § 1361(a)(1). If a valid S corporation later provides for more than a single class of stock, its S election automatically terminates on the day the disqualifying event occurs. See § 1362(d)(2). See section 3.06 of this revenue procedure (providing procedures for correcting, without the receipt of a PLR, the validity or continuation of an S election with regard to one or more non-identical governing provisions, as defined in section 2.03(6)(a) of this revenue procedure).

SECTION 3. TAXPAYER ASSISTANCE PROCEDURES FOR ADDRESSING OR CORRECTING ISSUES REGARDING S ELECTIONS AND QSUB ELECTIONS

.01 *Agreements and Arrangements with No Principal Purpose to Circumvent One Class of Stock Requirement.* Certain agreements and arrangements described in section 2.03(1)(c) of this revenue procedure are not governing provisions and are not treated as second classes of stock so long as there was no principal purpose to use the agreement as a means to circumvent the one class of stock requirement. Accordingly, the IRS will not treat an S corporation as violating the one class of

stock requirement of § 1361(b)(1)(D) as a result of an agreement or arrangement identified in section 2.03(1)(c) of this revenue procedure that does not have a principal purpose to circumvent the one class of stock requirement. Because entering into these specific agreements in these circumstances will not result in termination of S corporation status, taxpayers do not need to seek relief from the IRS. For this reason, and because the existence of a principal purpose is inherently factual in nature, the IRS will not rule in these situations. See section 4.01(1) of this revenue procedure.

.02 *Governing Provisions That Provide for Identical Distribution and Liquidation Rights.* As outlined in section 2.03(2) of this revenue procedure, § 1.1361-1(l)(2)(i) provides that a corporation is not treated as having more than one class of stock so long as the governing provisions provide for identical distribution and liquidation rights. Accordingly, the IRS will not treat any disproportionate distributions made by a corporation as violating the one class of stock requirement of § 1361(b)(1)(D) so long as the governing provisions of the corporation provide for identical distribution and liquidation rights. Because disproportionate distributions made in these circumstances will not result in the termination of S corporation status, taxpayers do not need to seek relief from the IRS and the IRS will not rule in these situations. See section 4.01(2)(a) of this revenue procedure.

.03 *Procedures for Addressing Missing Shareholder Consents, Errors with Regard to a Permitted Year, Missing Officer's Signature, and Other Inadvertent Errors and Omissions.*

(1) *Correction of a missing shareholder consent.* An S election that fails to include the consent of a shareholder may be corrected pursuant to the following:

(a) Section 1.1362-6(b)(3)(iii) (providing an extension of time for filing a shareholder consent to an S election);

(b) Rev. Proc. 2013-30 (providing a simplified method for taxpayers to request relief for late S elections);

(c) Rev. Proc. 2004-35, 2004-1 C.B. 1029 (providing automatic relief for certain taxpayers requesting relief for late shareholder consents for S elections in community property States); or

(d) If the remedies listed in section 3.03(1)(a) through (c) of this revenue procedure do not apply, a taxpayer or the taxpayer's authorized representative may request relief by submitting a request for a PLR under § 1362(f) to the Associate Chief Counsel (Passthroughs and Special Industries).

(2) *Correction of an error with regard to a permitted year.* A Form 2553 that contains an inadvertent error with regard to a permitted year may be corrected pursuant to Rev. Proc. 2013-30 (providing a simplified method for taxpayers to request relief for late S elections). If a taxpayer is not eligible for relief under Rev. Proc. 2013-30, a correction may be obtained through the receipt of a PLR under § 1362(f) from the Associate Chief Counsel (Passthroughs and Special Industries).

(3) *Correction of missing officer's signature.* A Form 2553 or Form 8869 that is missing the signature of an authorized officer of the S corporation that affects the validity of the S election or QSub election may be corrected pursuant to Rev. Proc. 2013-30 (providing a simplified method for taxpayers to request relief for late S elections and QSub elections). If a taxpayer is not eligible for relief under Rev. Proc. 2013-30, a correction may be obtained through the receipt of a PLR under § 1362(f) from the Associate Chief Counsel (Passthroughs and Special Industries).

(4) *Correction of other inadvertent errors or omissions.* Errors and omissions on Form 2553 or Form 8869, other than those addressed in section 3.03(1) through (3) of this revenue procedure, may be corrected by explaining in writing the error(s) or omission(s) and the necessary correction(s) and submitting the written explanation to one of the following addresses (depending on the Internal Revenue Submission Processing Center with which the S corporation files its Form 1120-S) or any successor address the IRS may provide:

(a) Internal Revenue Service, MS 6055, 333 W. Pershing Rd., Kansas City, MO 64108.

(b) Internal Revenue Service, MS 6273, 1973 N. Rulon White Blvd., Ogden, UT 84404.

(5) *Unavailability of a PLR for certain inadvertent errors, omissions, or missing required consents.* The IRS will not issue

a PLR under § 1362(f) regarding any error or omission described in section 3.03(4) of this revenue procedure. Such inadvertent errors or omissions do not impact a corporation's S election or QSub election. See section 2.03(3) of this revenue procedure. The IRS will also not issue a PLR under § 1362(f) for a missing required consent, errors with regard to a permitted year, or a missing officer's signature where the taxpayer qualifies for relief under any of the means of relief identified in section 3.03(1) through (3) of this revenue procedure. The Associate Chief Counsel (Passthroughs and Special Industries) will consider the issuance of a PLR only if the error or omission concerns a shareholder consent, the selection of a permitted year, or a missing officer's signature, and the taxpayer has no other means of requesting relief. See section 4.02(2) of this revenue procedure.

.04 Procedures for Verifying S Elections or QSub Elections.

(1) *Availability of replacement letters.* With regard to a missing administrative acceptance letter for an S election or an administrative acceptance letter for a QSub election, as appropriate, a replacement letter may be requested:

(a) For an S corporation and shareholders of an S corporation, by contacting the IRS Business and Specialty Tax Line at 800-829-4933; and

(b) For practitioners, by contacting the IRS Practitioner Priority Service at 866-860-4259.

(2) *Unavailability of a PLR.* The IRS will not issue a PLR under § 1362(f) with regard to any missing administrative acceptance letter described in section 3.04(1) of this revenue procedure. See section 4.01(2) of this revenue procedure. A missing administrative acceptance letter does not impact an S election or a QSub election. See section 2.03(4) of this revenue procedure.

.05 Procedures for Addressing a Federal Income Tax Return Filing Inconsistent with an S Election or a QSub Election.

(1) *Filing a corrected original return or an amended return.* An S corporation, or a parent S corporation of a QSub, that files a Federal income tax return for a taxable year that is inconsistent with the status of the corporation as an S corporation, or inconsistent with the status of a

subsidiary of the parent S corporation as a QSub, must file a Federal income tax return for open taxable years consistent with its status, as appropriate—

(a) to reflect the status of the corporation as an S corporation or parent of a QSub; or

(b) to reflect the status of the subsidiary as a QSub.

(2) *Unavailability of a PLR.* The IRS will not issue a PLR under § 1362(f) with regard to any inconsistent return filing described in section 3.05(1) of this revenue procedure. See section 4.01(2) of this revenue procedure. Such an inconsistent return filing does not impact an S election or a QSub election. See section 2.03(5) of this revenue procedure.

(3) *Federal income tax effect of a corporation's prior transactions.* Because a corporation is not treated as having terminated its S election or QSub election, as appropriate, merely due to the filing of one or more Federal income tax returns inconsistent with its S election or QSub election, the corporation's distributions and other transactions will be treated consistent with its status as an S corporation or a QSub, as appropriate. Thus, a QSub's income or deductions will be treated as income or deductions of the parent S corporation and distributions between the QSub and its parent will be disregarded.

.06 Procedures for Retroactively Correcting One or More Non-Identical Governing Provisions.

(1) *Definitions.* For purposes of this section 3.06:

(a) *Applicable shareholder.* The term "applicable shareholder" means a current or former shareholder of a corporation who owns or owned stock of the corporation at any time during the period:

(i) Beginning on the date on which the non-identical governing provision was adopted (on its own or as part of another governing provision); and

(ii) Ending on the date on which the non-identical governing provision was removed or modified in a manner such that the governing provision complies with the one class of stock requirement.

(b) *Discovered by the IRS.* The term "discovered by the IRS" has the meaning given the term in § 301.9100-3(b)(1)(i) of the Procedure and Administration Regulations (26 CFR part 301).

(c) *Disproportionate distribution.* The term "disproportionate distribution" is defined in section 2.03(2) of this revenue procedure.

(d) *Non-identical governing provision.* The term "non-identical governing provision" is defined in section 2.03(6)(a) of this revenue procedure.

(2) *Retroactive corrective relief procedures.*

(a) *Retroactive continuing validity of S election.* If an S corporation and its applicable shareholders meet the requirements of this section 3.06, an S election that is invalid or terminated solely as the result of one or more non-identical governing provisions will be treated for Federal income tax purposes as continuing from the date on which the first non-identical governing provision that invalidated or terminated the corporation's S election was adopted.

(b) *Eligibility.* A small business corporation and each applicable shareholder of the corporation are eligible for corrective relief under this section 3.06 if the following requirements are satisfied:

(i) The corporation has or had one or more non-identical governing provisions;

(ii) The corporation has not made, and for Federal income tax purposes is not deemed to have made, a disproportionate distribution to an applicable shareholder;

(iii) The corporation timely filed a return on Form 1120-S (as required under § 6037 of the Code and § 1.6037-1 of the Income Tax Regulations) for each taxable year of the corporation beginning with the taxable year in which the first non-identical governing provision was adopted and through the taxable year immediately preceding the taxable year in which the corporation made a request for corrective relief under this section 3.06 (a corporation is treated as having timely filed a required Form 1120-S under this section 3.06(2)(b)(iii) if the Form 1120-S is filed within six months after its original due date, excluding extensions); and

(iv) Before any non-identical governing provision is discovered by the IRS, all of the requirements described in section 3.06(2)(c) of this revenue procedure are satisfied.

(c) *Corrective relief statements.*

(i) *Corporate governing provision and shareholder statements.* The corporation must complete a Corporate Governing

Provision Statement in accordance with section 3.06(2)(c)(ii) of this revenue procedure and a Shareholder Statement signed by each applicable shareholder in accordance with section 3.06(2)(c)(iii) of this revenue procedure.

(ii) *Corporate Governing Provision Statement.* The Corporate Governing Provision Statement, a sample of which is provided in Appendix A, must be completed in accordance with this section 3.06(2)(c)(ii).

(A) *Designation.* The Corporate Governing Provision Statement must state at the top of the document: “CORPORATE GOVERNING PROVISION STATEMENT PURSUANT TO REV. PROC. 2022-19, SECTION 3.06(2)(c)(ii)”.

(B) *Information.* The Corporate Governing Provision Statement must provide the following information:

(1) The date of the Corporate Governing Provision Statement, the corporation’s name, employment identification number (EIN), address, date of formation or incorporation, and State of formation or incorporation;

(2) The actual or intended effective date of the corporation’s S election filed on Form 2553 (*see* Form 2553, Part I, line E) that is the subject of the request for corrective relief under this section 3.06;

(3) The name, address, and social security number or taxpayer identification number of each applicable shareholder; and

(4) To establish an inadvertent termination or invalidation of the S election of the corporation, a description of all relevant facts regarding why each non-identical governing provision was adopted, how each non-identical governing provision was discovered, and each action taken to correct or remove each non-identical governing provision before any non-identical governing provision is discovered by the IRS. This description must include each action taken by the corporation and each applicable shareholder to establish that the corporation and each applicable shareholder acted reasonably and in good faith in correcting or removing each non-identical governing provision upon discovery to demonstrate reasonable cause for relief.

(C) *Representations.* Except as provided in section 3.06(2)(c)(ii)(D), the

corporation must provide the following four representations:

(1) “The corporation’s S election was inadvertently invalid or terminated solely because of the adoption of one or more non-identical governing provisions.”;

(2) “The corporation and each applicable shareholder satisfy all of the requirements set forth in section 3.06 of Rev. Proc. 2022-19.”;

(3) “The corporation responds in the negative to each requested statement set forth in section 7.01(4) or (5) of Rev. Proc. 2022-1, or any successor revenue procedure (statements regarding whether the same or a similar issue was previously ruled on or whether a request involving the same or a similar issue was submitted or is currently pending).”;

(4) “The corporation and each applicable shareholder acted reasonably and in good faith in correcting or removing each non-identical governing provision upon discovery.”

(D) *Explanation regarding previously ruled on, submitted, or pending PLRs.* If the corporation cannot respond in the negative to any requested statement set forth in section 7.01(4) or (5) of Rev. Proc. 2022-1, or any successor revenue procedure (and therefore cannot make the representation described in section 3.06(2)(c)(ii)(C)(3) of this revenue procedure), the corporation must provide an explanation for each such response as part of the description of all relevant facts required by section 3.06(2)(c)(ii)(B)(4) of this revenue procedure.

(E) *Statements.* The corporation must provide the statements set forth in section 3.06(2)(c)(ii)(E)(1) through (3) of this revenue procedure:

(1) “The corporation acknowledges that the relief provided by section 3.06 of Rev. Proc. 2022-19 is limited solely to each non-identical governing provision described in this Corporate Governing Provision Statement.”;

(2) “The corporation acknowledges that the relief provided by section 3.06 of Rev. Proc. 2022-19 is based solely on the information, representations, and other statements provided by the corporation pursuant to section 3.06 of Rev. Proc. 2022-19, each of which is subject to verification during IRS examination.”; and

(3) “During the period between the date on which the non-identical governing

provision became effective and the date on which all of the procedures described in section 3.06 of Rev. Proc. 2022-19 are completed, each applicable shareholder has reported their income on all affected returns consistent with the S corporation election for the taxable year the non-identical governing provision became effective and for all subsequent years for which each applicable shareholder owned shares of the corporation.”.

(F) *Signature.* The Corporate Governing Provision Statement must be signed under penalties of perjury by a person authorized to sign the corporation’s Federal income tax return under § 6062 of the Code. The penalties of perjury statement must be provided in the following format: “Under penalties of perjury, I declare that I have examined this Corporate Governing Provision Statement for corrective relief for one or more non-identical governing provisions, as provided by Rev. Proc. 2022-19, section 3.06, including accompanying documents, and, to the best of my knowledge and belief, the request contains all the relevant facts, and such facts are true, correct, and complete.”.

(iii) *Shareholder Statement.* The Shareholder Statement, a sample of which is provided in Appendix B, must be completed in accordance with this section 3.06(2)(c)(iii).

(A) *Designation.* The Shareholder Statement must state at the top of the document: “SHAREHOLDER STATEMENT PURSUANT TO REV. PROC. 2022-19, SECTION 3.06(2)(c)(iii)”.

(B) *Information.* The Shareholder Statement must provide:

(1) The date of the Shareholder Statement, the corporation’s name, EIN, address, date of formation or incorporation, and State of formation or incorporation;

(2) The name and address of each applicable shareholder;

(3) The social security number or taxpayer identification number of each applicable shareholder;

(4) The number of shares of stock or, in the case of a limited liability company, percentage of ownership each applicable shareholder owns or owned and the date(s) the stock was acquired and, if applicable, transferred; and

(5) The date that each applicable shareholder provided their signature, as required by section 3.06(2)(c)(iii)(D) of this revenue procedure.

(C) *Statement of consent.* Each applicable shareholder must provide the following statement of consent: “Under penalties of perjury, I declare that I consent to the election of [insert corporation’s name], referred to herein as “the Corporation,” located at [insert the Corporation’s address], whose employment identification number (EIN) is [insert the Corporation’s EIN], to be an S corporation under § 1362(a)(1) of the Code. I have examined this consent statement, including accompanying documents, and, to the best of my knowledge and belief, the request for corrective relief contains all the relevant facts, and such facts are true, correct, and complete. I understand that my consent is binding and may not be withdrawn after the Corporation receives relief pursuant to Rev. Proc. 2022-19, section 3.06. I also declare under penalties of perjury that I have reported my income on all affected returns consistent with the Corporation’s election to be an S corporation for the taxable year for which the election would have been in effect but for the non-identical governing provision(s) described in the Corporate Governing Provision Statement for corrective relief and for all subsequent years I have owned shares of the Corporation.”

(D) *Signature.* The Shareholder Statement must be signed under penalties of perjury by each applicable shareholder.

(d) *Record retention requirement.* The corporation is required to retain the Corporate Governing Provision Statement, the Shareholder Statement(s), and the revised governing provisions in accordance with § 6001 of the Code and the Income Tax Regulations thereunder. The Corporate Governing Provision Statement, the Shareholder Statement(s), and the revised governing provisions must be retained by the corporation for inspection by authorized Internal Revenue officers or employees, and must be retained so long as the contents thereof may become material in the administration of any provision of the Code or the Income Tax Regulations. See § 1.6001-1(e).

(e) *Alternative relief.*

(i) *General rule.* An S corporation or applicable shareholder that does not qualify for corrective relief under this section 3.06 may seek corrective relief through a request submitted by the S corporation, applicable shareholder, or authorized representative (as appropriate) to the Associate Chief Counsel (Passthroughs and Special Industries) for a PLR. The request must provide the required explanation described in section 3.06(2)(e)(ii) of this revenue procedure. See generally Rev. Proc. 2022-1 (or any successor revenue procedure).

(ii) *Required explanation.* A request for a PLR by an S corporation or applicable shareholder, or authorized representative, under section 3.06(2)(e)(i) of this revenue procedure must include an explanation regarding each reason why the requirements for corrective relief under this section 3.06 could not be satisfied.

SECTION 4. NO RULE AREAS TO TAKE INTO ACCOUNT THIS REVENUE PROCEDURE

.01 *Areas in Which PLRs Will Not Be Issued.*

(1) *Principal purpose determinations regarding the one class of stock requirement.* The IRS will not issue a PLR under § 1362(f) addressing the validity or continuation of an S election in situations regarding the one class of stock requirement that require a determination of the existence of a principal purpose because such a determination is inherently factual in nature. See section 6.02 of Rev. Proc. 2022-1 (or any successor revenue procedure). Accordingly, the IRS will not issue a PLR under § 1362(f) addressing:

(a) For purposes of determining whether all outstanding shares of stock confer identical rights to distribution and liquidation proceeds under § 1.1361-1(l)(2), whether a principal purpose of a commercial contractual agreement, buy-sell agreement, an agreement restricting the transferability of stock, or a redemption agreement is to circumvent the one class of stock requirement of § 1361(b)(1)(D) and § 1.1361-1(l) (see § 1.1361-1(l)(2)(i) and (iii)(A)(I)); or

(b) For purposes of determining whether an instrument, obligation, or

arrangement is treated as a second class of stock, whether:

(i) A principal purpose of issuing or entering into an instrument, obligation, or arrangement is to circumvent the rights to distribution or liquidation proceeds conferred by the outstanding shares of stock or to circumvent the limitation on eligible shareholders contained in § 1.1361-1(b)(1) (see § 1.1361-1(l)(4)(ii)(A)(2)); or

(ii) A principal purpose of an unwritten advance or proportionately held obligation is to circumvent the rights of the outstanding shares of stock or the limitation on eligible shareholders under § 1.1361-1(l)(4)(ii)(A)(2) (see § 1.1361-1(l)(4)(ii)(B)).

(2) *Comfort rulings.* The IRS will not issue a PLR under § 1362(f) addressing the validity or continuation of an S election or a QSub election in situations addressed by the relief procedures provided in sections 3.01 through 3.05 of this revenue procedure because such a PLR would comprise a “Comfort Ruling” (as defined by section 6.11 of Rev. Proc. 2022-1 and section 4.02(9) of Rev. Proc. 2022-3). Accordingly, the IRS will not issue a PLR under § 1362(f) addressing:

(a) *Disproportionate distributions.* Determinations of the validity or continuation of an S election with regard to one or more disproportionate distributions (as defined in section 2.03(2) of this revenue procedure) if the governing provisions confer identical rights to distribution and liquidation proceeds. See § 1.1361-1(l)(1) and (2).

(b) *Missing administrative S election acceptance letter or QSub election acceptance letter.* Whether a missing administrative letter from the IRS accepting an election for a corporation to be an S corporation or accepting an election for a corporation to be a QSub affects the validity or continuation of the election.

(c) *Filing of Federal income tax return inconsistent with status as an S corporation or QSub.* Whether the filing of a Federal income tax return that is inconsistent with a corporation’s status as an S corporation or a QSub affects the validity or continuation of the S election or QSub election (as appropriate).

.02 *Areas in Which a PLR Will Not Ordinarily Be Issued.* Rev. Proc. 2022-3 is amplified and modified by—

(1) Revising section 4.01(47) to read as follows:

(47) Section 1362.—Election; Revocation; Invalidation; Termination.—All situations in which the Service has provided an automatic approval procedure or administrative procedure for an S corporation or its shareholders to obtain the following:

(i) Relief for late S corporation elections, qualified subchapter S subsidiary elections, qualified subchapter S trust elections, or electing small business trust elections. *See* Rev. Proc. 2013-30. (For instructions on how to seek this relief, *see* Rev. Proc. 2013-30.)

(ii) Retroactive corrective relief regarding non-identical governing provisions for S corporations meeting the eligibility requirements of Rev. Proc. 2022-19, section 3.06(2)(b). (For instructions on how to seek this relief, *see* Rev. Proc. 2022-19, section 3.06.)

(2) Adding the following as the last paragraph of section 4.01:

Section 1362(f).—Certain inadvertent errors, omissions, or missing signatures.—Except with regard to an inadvertent error relating to a “permitted year” (as defined in § 1378(b) and § 1.1378-1), the absence of a required shareholder consent, or an officer signature for which there is no other relief as provided in Rev. Proc. 2022-19, section 3.03, the IRS will not issue a PLR under § 1362(f) addressing whether an inadvertent error or omission, or a missing required consent or signature (*see* § 1362(a)(2), § 1.1361-3(a)(2), and § 1.1362-6(a)(1)), on Form 2553 or Form 8869 affects the validity of the S election or QSub election.

SECTION 5. EFFECTIVE DATES

.01 *General Effective Date.* Except as provided by section 5.02 of this revenue procedure, this revenue procedure is effective [INSERT IRB PUBLICATION DATE], the date of publication of this revenue procedure in the Internal Revenue Bulletin.

.02 *Transition Rule for Pending PLR Requests.*

(1) *Requirement to notify IRS.* If a taxpayer has a request for a PLR regarding a non-identical governing provision that is postmarked or, if not mailed, received

by the IRS on or before [INSERT DATE 1 DAY AFTER IRB PUBLICATION DATE], one day after the date of publication of this revenue procedure in the Internal Revenue Bulletin (pending ruling request), within 45 calendar days after that date, the taxpayer must notify the Associate Chief Counsel (Passthroughs and Special Industries) of its decision to either:

(a) Rely on this revenue procedure, withdraw the pending PLR request, and receive a refund of the associated user fee; or

(b) Continue to pursue the pending PLR request.

(2) *Failure to notify IRS.* If a taxpayer described in section 5.02(1) of this revenue procedure does not satisfy the notification requirement under that section, the taxpayer is deemed to choose to continue to pursue the pending PLR request.

SECTION 6. EFFECT ON OTHER DOCUMENTS

.01 *Rev. Proc. 2013-30.* Rev. Proc. 2013-30 is amplified.

.02 *Rev. Proc. 2022-1.* Sections 6.11 and 7.01(4) and (5) of Rev. Proc. 2022-1 are amplified.

.03 *Rev. Proc. 2022-3.* Sections 4.01(47) and 4.02(9) of Rev. Proc. 2022-3 are amplified and modified.

SECTION 7. PAPERWORK REDUCTION ACT AND TAXPAYER BURDEN REDUCTION

The current burden for collection of information is effectively contained in § 1362(f) and § 1.1362-4 (inadvertent terminations and inadvertently invalid elections). Under § 1.1362-4(a), the determination of whether a termination or invalid S election or QSub election was inadvertent is made by the Commissioner. This determination is made through the PLR process pursuant to Rev. Proc. 2022-1 (and any successor revenue procedure). An entity that fails to qualify as an S corporation or a QSub may continue to qualify as an S corporation or a QSub, respectively, by following each requirement described in section 3 of this revenue procedure in lieu of requesting a PLR under § 1362(f) and § 1.1362-4.

Based on consultation with industry stakeholders, the Treasury Department and the IRS estimate that a taxpayer’s cost to outsource the current PLR process to Federal income tax and other advisors is approximately \$108,000 (that is, the sum obtained by adding a \$38,000 PLR user fee, a \$20,000 average preparer PLR fee, and \$50,000 of average preparer due diligence fees). This revenue procedure is expected to eliminate those fees.

Historically, approximately 80 S corporations per year have submitted a PLR with regard to one or more of the areas covered by this revenue procedure to avoid or correct an inadvertent invalid election or termination of their S corporation or QSub elections. The Treasury Department and the IRS have determined that many S corporations that do not seek administrative relief refrain from doing so because of the high cost associated with a PLR request. By setting forth the procedures provided in section 3 of this revenue procedure, which will significantly reduce the cost of relief for S corporations, the Treasury Department and the IRS expect that an additional 120 S corporations will use this revenue procedure each year. Overall, the Treasury Department and the IRS expect that approximately 200 S corporations will use this revenue procedure on an annual basis.

The Treasury Department and the IRS estimate that the streamlined process for non-identical governing provisions will take, on average, 10 total hours for each entity to read the instructions and complete the Corporate Governing Provision Statement and Shareholder Statement. The previously approved Office of Management and Budget hour estimate for a PLR is 80 total hours. Therefore, the 10-hour estimated burden of the streamlined process would result in a 70-hour time reduction for S corporations that would have sought PLR relief in the absence of this revenue procedure.

In addition, the Treasury Department and the IRS have determined that the 80-hour time estimate represents an average for all PLRs. However, the average number of hours spent on PLRs that would be impacted by this revenue procedure would likely be much higher. As a result, the Treasury Department and the

IRS believe that a reasonable estimate for the number of hours spent on the impacted PLRs is 200 hours, and therefore the time burden reduction related to this revenue procedure is likely closer to 190 hours, rather than 70 hours. In addition, the Treasury Department and the IRS have determined that the total monetized burden hours is \$188,120.

Based on the previously approved PLR hour estimate, each S corporation that would have otherwise filed a PLR will save 70 hours of time. As a result, there would be an overall savings of 5,600 hours per year. As previously

stated, the 80-hour estimate is likely low for this subset of PLRs. If the 200-hour estimate for this subset of PLRs is used, the overall burden reduction would equal 15,200 hours (80 requests x 190 hours) per year.

The Treasury Department and the IRS emphasize that the currently approved burden estimate does not include money burden. Assuming S corporations will no longer need to request these PLRs, the Treasury Department and the IRS have determined that this same group of businesses is expected to save, on an annual basis, an estimated \$108,000 per

S corporation for an overall money burden reduction of \$8,640,000.

SECTION 8. DRAFTING INFORMATION AND PRIMARY CONTACT FOR QUESTIONS

The principal authors of this revenue procedure are Anthony Doxey and Kevin Babitz of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue procedure, please contact Mr. Doxey or Mr. Babitz at (202) 317-5279 (not a toll-free call).

APPENDIX A

SAMPLE CORPORATE GOVERNING PROVISION STATEMENT

(Pursuant to Rev. Proc. 2022-19, Section 3.06(2)(c)(ii))

[Date of Corporate Governing Provision Statement]

Record Retention Requirement. The Corporation (as defined in Section 1 of this Corporate Governing Provision Statement) is required to retain the Corporate Governing Provision Statement, the Shareholder Statement, and the revised governing provisions in accordance with § 6001 of the Internal Revenue Code (Code) and the Income Tax Regulations thereunder. *See* Rev. Proc. 2022-19, [XX] I.R.B. [XXX], section 3.06(2)(d).

Section 1. Request for Relief and Required Information of the Corporation

The corporation (*insert the corporation's name*), referred to as “the Corporation,” whose employment identification number (EIN) is (*insert the Corporation's EIN*), located at (*insert the Corporation's address*), and formed or incorporated on (*insert date*) in (*insert State*), requests relief for an invalid election under § 1362(a)(1) of the Code (S election) or termination of an S election pursuant to § 1362(f), and Rev. Proc. 2022-19, section 3.06, for one or more non-identical governing provisions (as defined in § 1.1361-1(l)).

The Corporation's actual or intended effective date of its S election was (*insert date*). If the Corporation has multiple S elections, and requests relief for an S election that was not its most recent S election, then describe the circumstances as part of the disclosure of all relevant facts, as required by Section 3 of this Corporate Governing Provision Statement.

Section 2. Required Information Regarding the Applicable Shareholders

Provide the information required by the table below with regard to each applicable shareholder. The term “applicable shareholder” means a current or former shareholder of the Corporation who owns or owned stock of the Corporation at any time during the period (i) beginning on the date on which the non-identical governing provision was adopted (on its own or as part of another governing provision), and (ii) ending on the date on which the non-identical governing provision was removed or modified in a manner such that the governing provision complies with the one class of stock requirement. *See* Rev. Proc. 2022-19, section 3.06(1)(a).

Table of Required Information for Each Applicable Shareholder (Attach additional pages, if necessary. One page per applicable shareholder is also acceptable.)		
Name	Address	Social Security Number or Taxpayer Identification Number
1.		
2.		
3.		
4.		
5.		

Section 3. Required Description of All Relevant Facts Regarding Each Non-Identical Governing Provision

To establish an inadvertent termination or invalidation of the S election of the Corporation, provide a description of all relevant facts regarding why each non-identical governing provision was adopted, how each non-identical governing provision was discovered, and each action taken to correct or remove each non-identical governing provision before any non-identical governing provision is discovered by the Internal Revenue Service (IRS) (within the meaning of § 301.9100-3(b)(1)(i) of the Procedure and Administration Regulations). To demonstrate reasonable cause for relief, this description must include each action taken by the Corporation and each applicable shareholder to establish that the Corporation and each applicable shareholder acted reasonably and in good faith in correcting or removing each non-identical governing provision upon discovery. *See* Rev. Proc. 2022-19, section 3.06(2)(c)(ii)(B)(4). (Attach additional pages, if necessary.)

Section 4. Required Representations or Explanation of the Corporation

1. Except as provided by Section 5 of this Corporate Governing Provision Statement, provide the following representations required by section 3.06(2)(c)(ii)(C) and (D) of Rev. Proc. 2022-19:
 - A. The Corporation's S election was inadvertently invalid or terminated solely because of the adoption of one or more non-identical governing provisions.
 - B. The Corporation and each applicable shareholder satisfy all of the requirements set forth in section 3.06 of Rev. Proc. 2022-19.
 - C. Except as provided by section 4.2 of this Corporate Governing Provision Statement, the Corporation responds in the negative to each requested statement set forth in section 7.01(4) or (5) of Rev. Proc. 2022-1, 2022-1 I.R.B. 1, or any successor revenue procedure (statements regarding whether the same or a similar issue was previously ruled on or whether a request involving the same or a similar issue was submitted or is currently pending).
 - D. The corporation and each applicable shareholder acted reasonably and in good faith in correcting or removing each non-identical governing provision upon discovery.
2. Required Explanation. If the Corporation has a positive response to any requested statement set forth in section 7.01(4) or (5) of Rev. Proc. 2022-1 (or any successor revenue procedure), the Corporation must provide an explanation for each such response as part of the description of all relevant facts required by section 3.06(2)(c)(ii)(B)(4) of Rev. Proc. 2022-19.

Section 5. Required Statements of the Corporation

The Corporation must provide the following statements required by section 3.06(2)(c)(ii)(E)(1) through (3) of Rev. Proc. 2022-19.

1. The Corporation acknowledges that the relief provided by section 3.06 of Rev. Proc. 2022-19 is limited solely to each non-identical governing provision described in this Corporate Governing Provision Statement.
2. The Corporation acknowledges that the relief provided by section 3.06 of Rev. Proc. 2022-19 is based solely on the information, representations, and other statements provided by the Corporation pursuant to section 3.06 of Rev. Proc. 2022-19, each of which is subject to verification during IRS examination.
3. During the period between the date on which the non-identical governing provision became effective and the date on which all of the procedures described in section 3.06 of Rev. Proc. 2022-19 are completed, each applicable shareholder has reported their income on all affected returns consistent with the S corporation election for the taxable year the non-identical governing provision became effective and for all subsequent years for which each applicable shareholder owned shares of the Corporation.

Section 6. Required Penalties of Perjury Statement

Provide the following penalties of perjury statement required by section 3.06(2)(c)(ii)(F) of Rev. Proc. 2022-19.

Under penalties of perjury, I declare that I have examined this Corporate Governing Provision Statement for corrective relief for one or more non-identical governing provisions, as provided by Rev. Proc. 2022-19, section 3.06, including accompanying documents, and, to the best of my knowledge and belief, the request contains all the relevant facts, and such facts are true, correct, and complete.

[Signature]

[Title]

[Date]

This signature is provided by an officer of the Corporation who is authorized to sign the Corporation's return under § 6062 of the Code.

APPENDIX B

SAMPLE SHAREHOLDER STATEMENT

(Pursuant to Rev. Proc. 2022-19, Section 3.06(2)(c)(iii))

[Date of Shareholder Statement]

Record Retention Requirement. The Corporation (as defined in Section 1 of this Shareholder Statement) is required to retain the Corporate Governing Provision Statement, the Shareholder Statement, and the revised governing provisions in accordance with § 6001 of the Internal Revenue Code (Code) and the Income Tax Regulations thereunder. See Rev. Proc. 2022-19, [XX] I.R.B. [XXX], section 3.06(2)(d).

Section 1. Request for Relief and Required Information of the Corporation

The Corporation (*insert the Corporation's name*), referred to as “the Corporation,” whose employment identification number (EIN) is (*insert the Corporation's EIN*), located at (*insert the Corporation's address*), and formed or incorporated on (*insert date*) in (*insert State*), requests relief for an invalid election under § 1362(a)(1) of the Code (S election) or termination of an S election pursuant to § 1362(f), and Rev. Proc. 2022-19, section 3.06, for one or more non-identical governing provisions (as defined in § 1.1361-1(l)).

Section 2. Required Statement of Consent by All Applicable Shareholders

The term “applicable shareholder” means a current or former shareholder of the Corporation who owns or owned stock of the Corporation at any time during the period (i) beginning on the date on which the non-identical governing provision was adopted (on its own or as part of another governing provision), and (ii) ending on the date on which the non-identical governing provision was removed or modified in a manner such that the governing provision complies with the one class of stock requirement. See Rev. Proc. 2022-19, section 3.06(1)(a).

Each applicable shareholder must provide the following statement of consent, as required by section 3.06(2)(c)(iii)(C) of Rev. Proc. 2022-19. Each applicable shareholder provides that consent by completing and signing the table provided by this Section 2 (on the following page).

Under penalties of perjury, I declare that I consent to the election of (*insert the Corporation's name*), referred to herein as “the Corporation,” located at (*insert the Corporation's address*), whose employment identification number (EIN) is (*insert the Corporation's EIN*), to be an S corporation under § 1362(a)(1). I have examined this consent statement, including accompanying documents, and, to the best of my knowledge and belief, the request for corrective relief contains all the relevant facts, and such facts are true, correct, and complete. I understand that my consent is binding and may not be withdrawn after the Corporation receives relief pursuant to Rev. Proc. 2022-19, section 3.06. I also declare under penalties of perjury that I have reported my income on all affected returns consistent with the Corporation's election to be an S corporation for the taxable year for which the election would have been in effect but for the non-identical governing provision(s) described in the Corporate Governing Provision Statement for corrective relief and for all subsequent years I have owned shares of the Corporation.

Table of Required Consent and Information for Each Applicable Shareholder
 (Attach additional pages, if necessary. One page per applicable shareholder is acceptable.)

	Name and Address	Social Security Number or Taxpayer Identification Number			Number of Shares of Stock Owned or Ownership Percentage (in the case of a Limited Liability Company)		
			Signature	Date	Number of shares or percentage of ownership	Date(s) acquired (month, day, and year)	If applicable, date(s) and number of shares (or percentage of ownership) transferred (month, day, and year)
1.							
2.							
3.							
4.							
5.							

Definition of Terms

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

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

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

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

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the

new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

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

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

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the

new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

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

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

Abbreviations

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

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.

ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
FR.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.

PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

Numerical Finding List¹

Bulletin 2022–41

Announcements:

2022-14, 2022-31 I.R.B. 136
2022-15, 2022-31 I.R.B. 136
2022-16, 2022-33 I.R.B. 144
2022-17, 2022-35 I.R.B. 179
2022-18, 2022-36 I.R.B. 190
2022-19, 2022-36 I.R.B. 191
2022-20, 2022-38 I.R.B. 238

Notices:

2022-29, 2022-28 I.R.B. 66
2022-30, 2022-28 I.R.B. 70
2022-31, 2022-29 I.R.B. 85
2022-32, 2022-32 I.R.B. 137
2022-33, 2022-34 I.R.B. 147
2022-34, 2022-34 I.R.B. 150
2022-35, 2022-36 I.R.B. 184
2022-36, 2022-36 I.R.B. 188
2022-37, 2022-37 I.R.B. 234
2022-38, 2022-39 I.R.B. 239
2022-39, 2022-40 I.R.B. 264
2022-40, 2022-40 I.R.B. 266
2022-42, 2022-41 I.R.B. 276
2022-44, 2022-41 I.R.B. 277

Proposed Regulations:

REG-130975-08, 2022-28 I.R.B. 71
REG 130675-17, 2022-30 I.R.B. 104
REG-125693-19, 2022-39 I.R.B. 241

Revenue Procedures:

2022-25, 2022-27 I.R.B. 3
2022-28, 2022-27 I.R.B. 65
2022-26, 2022-29 I.R.B. 90
2022-32, 2022-30 I.R.B. 101
2022-30, 2022-31 I.R.B. 112
2022-29, 2022-33 I.R.B. 141
2022-34, 2022-33 I.R.B. 143
2022-35, 2022-40 I.R.B. 270
2022-36, 2022-40 I.R.B. 274
2022-19, 2022-41 I.R.B. 282

Revenue Rulings:

2022-12, 2022-27 I.R.B. 1
2022-13, 2022-30 I.R.B. 99
2022-14, 2022-31 I.R.B. 110
2022-15, 2022-35 I.R.B. 152
2022-17, 2022-36 I.R.B. 182
2022-18, 2022-40 I.R.B. 262

Treasury Decisions:

9963, 2022-34 I.R.B. 145
9964, 2022-35 I.R.B. 172
9965, 2022-37 I.R.B. 192

¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2021–27 through 2021–52 is in Internal Revenue Bulletin 2021–52, dated December 27, 2021.

Finding List of Current Actions on Previously Published Items¹

Bulletin 2022-41

¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2021-27 through 2021-52 is in Internal Revenue Bulletin 2021-52, dated December 27, 2021.

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INTERNAL REVENUE BULLETIN

The Introduction at the beginning of this issue describes the purpose and content of this publication. The weekly Internal Revenue Bulletins are available at www.irs.gov/irb/.

We Welcome Comments About the Internal Revenue Bulletin

If you have comments concerning the format or production of the Internal Revenue Bulletin or suggestions for improving it, we would be pleased to hear from you. You can email us your suggestions or comments through the IRS Internet Home Page (www.irs.gov) or write to the Internal Revenue Service, Publishing Division, IRB Publishing Program Desk, 1111 Constitution Ave. NW, IR-6230 Washington, DC 20224.