

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.

EMPLOYEE PLANS, EXCISE TAX

Notice 2022-59, page 498.

Sections 4375 and 4376 impose a fee on issuers of specified health insurance policies and plan sponsors of applicable self-insured health plans to help fund the Patient-Centered Outcomes Research Trust Fund. The fee is determined by multiplying the applicable dollar amount for that year by the average number of lives covered during the year. The applicable dollar amount is based on increases in the projected per capita amount of National Health Expenditures, as most recently released by HHS. Notice 2022-4 provided that the adjusted applicable dollar amount for policy years and plan years ending on or after October 1, 2021, and before October 1, 2022, is \$2.79. Notice 2022-59 provides that the adjusted applicable dollar amount that applies for determining the PCORTF fee for policy years and plan years ending on or after October 1, 2022, and before October 1, 2023, is \$3.00. This amount has been determined by Treasury economists using the percentage increase in the projected per capita amount of National Health Expenditures published

Bulletin No. 2022-48
November 28, 2022

by HHS in March 2022 (Table 3) and the adjustment, as determined by Treasury economists, for year to year variations.

INCOME TAX

Announcement 2022-23, page 499.

Following enactment of Public Law 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022 (IRA), this announcement notifies taxpayers of new credit amounts for calendar year 2022 for the renewable electricity production credit under § 45 of the Internal Revenue Code (§ 45 credit) in the case of any qualified facility placed in service after December 31, 2021. Because the IRA changed the manner in which the § 45 credit amounts are calculated in the case of any qualified facility placed in service after December 31, 2021, this announcement supplements the § 45 credit amounts as originally published in Notice 2022-20, 2022-21 I.R.B. 1095. In the case of any qualified facility placed in service before January 1, 2022, the § 45 credit amounts published in Notice 2022-20 remain unchanged.

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.

The contents of this publication are not copyrighted and may be reprinted freely. A citation of the Internal Revenue Bulletin as the source would be appropriate.

Part III

Sections 4375 & 4376 – Insured and Self-Insured Health Plans Adjusted Applicable Dollar Amount for Fee Imposed by Sections 4375 and 4376

Notice 2022-59

I. PURPOSE

This notice provides the adjusted applicable dollar amount to be multiplied by the average number of covered lives for purposes of calculating the fee imposed by sections 4375 and 4376 of the Internal Revenue Code for policy years and plan years that end on or after October 1, 2022, and before October 1, 2023.

II. BACKGROUND

Section 4375 imposes a fee on the issuer of a specified health insurance policy for each policy year ending after September 30, 2012, and before October 1, 2029. Section 4376 imposes a fee on the plan sponsor of an applicable self-insured health plan for each plan year ending after September 30, 2012, and before October 1, 2029. The fee imposed by sections 4375 and 4376 helps to fund the Patient-Centered Outcomes Research Trust Fund (PCORTF) and is calculated using the average number of lives covered under the policy or plan and the applicable dollar amount for that policy year or plan year. Under sections 4375(a) and 4376(a), the applicable dollar amount is \$2 for policy

and plan years ending on or after October 1, 2013, and before October 1, 2014.¹ See Treas. Reg. §§ 46.4375-1(c)(4) and 46.4376-1(c)(3).

Under sections 4375(d) and 4376(d) and §§ 46.4375-1(c)(4) and 46.4376-1(c)(3), the applicable dollar amount for policy years and plan years ending in any Federal fiscal year beginning on or after October 1, 2014, is increased based on increases in the projected per capita amount of National Health Expenditures.

Specifically, the applicable dollar amount is the sum of—

- (i) The applicable dollar amount for the policy year or plan year ending in the previous Federal fiscal year; plus
- (ii) The amount equal to the product of—
 - (A) The applicable dollar amount for the policy year or plan year ending in the previous Federal fiscal year; and
 - (B) The percentage increase in the projected per capita amount of the National Health Expenditures, as most recently released by the Department of Health and Human Services (HHS) before the beginning of the Federal fiscal year.

Notice 2022-4, 2022-2 IRB 309, provides that the adjusted applicable dollar amount for policy years and plan years that end on or after October 1, 2021, and before October 1, 2022, is \$2.79.

III. ADJUSTED APPLICABLE DOLLAR AMOUNT

The applicable dollar amount that must be used to calculate the fee imposed

by sections 4375 and 4376 for policy years and plan years that end on or after October 1, 2022, and before October 1, 2023, is \$3.00. The increase from the prior applicable dollar amount is calculated by multiplying \$2.79 (which is the adjusted applicable dollar amount for policy years and plan years ending in the previous Federal fiscal year) by the percentage increase of the projected per capita amount of National Health Expenditures published by HHS on March 24, 2022. See: <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsProjected.html>, Table 3. The percentage increase is calculated after adjustment to reflect updates to the data used to calculate the prior applicable dollar amount, \$2.79, which was based on the per capita amounts of National Health Expenditures for 2021 and 2022 published by HHS on March 20, 2019.²

IV. EFFECTIVE DATE

This notice is effective for policy years and plan years ending on or after October 1, 2022, and before October 1, 2023.

V. DRAFTING INFORMATION

The principal author of this notice is Jason Sandoval of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For further information regarding this notice, contact Mr. Sandoval at 202-317-5500 (not a toll-free number).

¹The applicable dollar amount is \$1 for policy and plan years ending before October 1, 2013.

²HHS did not publish updated National Health Expenditures tables for fiscal year 2021.

Part IV

Renewable Electricity Production Credit Amounts for Calendar Year 2022

Announcement 2022-23

This announcement notifies taxpayers of new credit amounts for calendar year 2022 for the renewable electricity production credit under § 45 of the Internal Revenue Code (§ 45 credit) in the case of any qualified facility placed in service after December 31, 2021. Section 45 was amended by § 13101 of Public Law 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022 (IRA). Because the IRA changed the manner in which the § 45 credit amounts are calculated in the case of any qualified facility placed in service after December 31, 2021, this announcement supplements the § 45 credit amounts as originally published in Notice 2022-20, 2022-21 I.R.B. 1095. In the case of any qualified facility placed in service before January 1, 2022, the § 45 credit amounts published in Notice 2022-20 remain unchanged.

As amended, § 45(a) provides that the § 45 credit for any taxable year is an amount equal to the product of 0.3 cents multiplied by the kilowatt hours of electricity produced by the taxpayer and sold to an unrelated person during the taxable year. This electricity must be produced from qualified energy resources

at a qualified facility during the 10-year period beginning on the date the facility was originally placed in service.

Under amended § 45(b)(2), the 0.3 cent amount referenced in § 45(a) is adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If the 0.3 cent amount as adjusted for inflation is not a multiple of 0.05 cent, the amount is rounded to the nearest multiple of 0.05 cent.

In the case of electricity produced in open-loop biomass facilities, landfill gas facilities, trash facilities, qualified hydropower facilities, and marine and hydrokinetic renewable energy facilities, § 45(b)(4)(A) requires the amount in effect under § 45(a)(1) (determined before the application of the last two sentences of § 45(b)(2) regarding rounding) to be reduced by one-half. As amended, § 45(b)(4)(A) no longer applies to qualified hydropower facilities and marine and hydrokinetic renewable energy facilities placed in service after December 31, 2022.

New § 45(b)(6)(A) provides that, in the case of any qualified facility that satisfies the requirements of § 45(b)(6)(B), the credit amount determined under § 45(a) (determined after the application of § 45(b)(1) through (5)¹ and without regard to § 45(b)(6)) is equal to such amount multiplied by 5. A qualified facility satisfies the requirements of § 45(b)(6)(B) if it is placed in service after December 31, 2021, and is one of the following: (i) a facility with a maximum net output of less

than 1 megawatt (as measured in alternating current); (ii) a facility the construction of which begins prior to the date that is 60 days after the Secretary of the Treasury or her delegate publishes guidance with respect to the requirements of § 45(b)(7)(A) (prevailing wage requirements) and § 45(b)(8) (apprenticeship requirements);² or (iii) a facility that satisfies the requirements of § 45(b)(7)(A) and (8).

Under the calculations required by § 45(b)(2) and § 45(b)(6)(A), the § 45 credit for calendar year 2022 under § 45(a) is 2.75 cents³ per kilowatt hour on the sale of electricity produced in any qualified facility placed in service after December 31, 2021, from the qualified energy resources of wind, closed-loop biomass, geothermal energy, and solar energy.

Under the calculations required by § 45(b)(2), § 45(b)(4)(A), and § 45(b)(6)(A), the § 45 credit for renewable electricity production for calendar year 2022 under § 45(a) is 1.25 cents⁴ per kilowatt hour on the sale of electricity produced in any qualified facility placed in service after December 31, 2021, that is an open-loop biomass facility, a landfill gas facility, a trash facility, a qualified hydropower facility, or a marine and hydrokinetic renewable energy facility.

The principal author of this announcement is Charles Hyde of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this announcement contact Mr. Hyde at (202) 317-6853 (not a toll-free number).

¹The phaseout of the § 45 credit for wind facilities provided in § 45(b)(5) does not apply to facilities placed in service after December 31, 2021.

²The publication of this announcement is not the publication of guidance with respect to the prevailing wage and apprenticeship requirements described in § 45(b)(6)(B)(ii), and it is not relevant in determining whether the prevailing wage and apprenticeship requirements are satisfied under § 45 or any other provision of the Internal Revenue Code. The Department of the Treasury and the Internal Revenue Service will explicitly identify when guidance with respect to the prevailing wage and apprenticeship requirements that is relevant for determining whether such requirements have been satisfied for purposes of any provision of the Internal Revenue Code has been published.

³This number is determined by multiplying the base credit amount of 0.3 cent by the 2022 inflation adjustment factor (1.7593), then rounding to the nearest multiple of 0.05 cent. The rounded number is then multiplied by 5. All calendar year 2022 sales of kilowatt hours of electricity produced in any qualified facility placed in service after December 31, 2021, from the qualified energy resources of wind, closed-loop biomass, geothermal energy, and solar energy, will meet the requirements for the 5X credit multiplier under § 45(b)(6)(A).

⁴This number is determined by multiplying the base credit amount of 0.3 cent by the 2022 inflation adjustment factor (1.7593), then reducing this number by one-half, before rounding to the nearest multiple of 0.05 cent. The rounded number is then multiplied by 5. All calendar year 2022 sales of kilowatt hours of electricity produced in any qualified facility placed in service after December 31, 2021, that is an open-loop biomass facility, a landfill gas facility, a trash facility, a qualified hydropower facility, or a marine and hydrokinetic renewable energy facility, will meet the requirements for the 5X credit multiplier under § 45(b)(6)(A).

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 2022–48

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
2022-21, 2022-46 I.R.B. 464
2022-22, 2022-47 I.R.B. 497
2022-23, 2022-48 I.R.B. 499

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
2022-43, 2022-42 I.R.B. 303
2022-45, 2022-42 I.R.B. 307
2022-41, 2022-43 I.R.B. 304
2022-46, 2022-43 I.R.B. 306
2022-47, 2022-43 I.R.B. 312
2022-48, 2022-43 I.R.B. 316
2022-49, 2022-43 I.R.B. 321
2022-50, 2022-43 I.R.B. 325
2022-51, 2022-43 I.R.B. 331
2022-52, 2022-43 I.R.B. 337
2022-53, 2022-45 I.R.B. 437
2022-54, 2022-45 I.R.B. 439
2022-55, 2022-45 I.R.B. 443
2022-56, 2022-47 I.R.B. 480
2022-57, 2022-47 I.R.B. 482
2022-58, 2022-47 I.R.B. 483
2022-59, 2022-48 I.R.B. 498

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
REG-110368-22, 2022-44 I.R.B. 405
REG-100719-21, 2022-45 I.R.B. 457
REG-121509-00, 2022-45 I.R.B. 463

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
2022-31, 2022-43 I.R.B. 339
2022-37, 2022-43 I.R.B. 377
2022-38, 2022-45 I.R.B. 445
2022-40, 2022-47 I.R.B. 487

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
2022-19, 2022-44 I.R.B. 379
2022-20, 2022-45 I.R.B. 407
2022-21, 2022-47 I.R.B. 468

Treasury Decisions:

9963, 2022-34 I.R.B. 145
9964, 2022-35 I.R.B. 172
9965, 2022-37 I.R.B. 192
9966, 2022-44 I.R.B. 380
9967, 2022-44 I.R.B. 385
9968, 2022-45 I.R.B. 409

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 2022–48

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.

Internal Revenue Service

Washington, DC 20224

Official Business
Penalty for Private Use, \$300

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.