

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

Announcement 2023-2, page 344.

Section 80603 of the Infrastructure and Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, 1339 (2021) clarifies and expands the rules regarding the reporting of information on digital assets by brokers under sections 6045 and 6045A of the Internal Revenue Code. The announcement clarifies that until the IRS issues new final regulations under section 80603 with respect to section 6045, a broker may continue to report gross proceeds and basis as required under existing law and regulations. In addition, until the IRS issues new final regulations under section 80603 with respect to section 6045A, a broker may continue to issue statements on transfers of covered securities as required under existing law and regulations. Brokers will not be required to report additional information with respect to dispositions of digital assets, issue additional statements, or report to the IRS on transfers of digital assets until those new final regulations under sections 6045 and 6045A are issued.

Notice 2023-8, page 341.

This notice provides additional guidance for brokers to comply with the provisions of the final regulations under section 1446(f) (and certain provisions of the final regulations that apply to section 1446(a)) (final regulations) that relate to withholding on the transfer of an interest in a publicly traded partnership (PTP interest). The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to issue proposed regulations that would amend the final regulations to implement this additional guidance.

ADMINISTRATIVE, INCOME TAX

Rev. Rul. 2023-1, page 309.

Federal rates; adjusted federal rates; adjusted federal long-term rate, and the long-term tax exempt rate. For purposes of sections 382, 1274, 1288, 7702(f)(11), 7872 and other sections of the Code, tables set forth the rates for January 2023.

Finding Lists begin on page ii.

Bulletin No. 2023-2
January 9, 2023

T. D. 9970, page 311.

This document includes final regulations under the Internal Revenue Code that provide an automatic extension of time for providers of minimum essential coverage (including health insurance issuers, self-insured employers, and government agencies) to furnish individual statements regarding such coverage and an alternative method for furnishing individual statements when the individual shared responsibility payment amount is zero. The final regulations also provide an automatic extension of time for “applicable large employers” (generally employers with 50 or more full-time employees, including full-time equivalent employees) to furnish statements relating to health insurance that the applicable large employers offer to their full-time employees. Additionally, the final regulations provide that “minimum essential coverage,” as that term is used in health insurance-related tax laws, does not include Medicaid coverage limited to COVID-19 testing and diagnostic services provided under the Families First Coronavirus Response Act. The final regulations affect some taxpayers who claim the premium tax credit; health insurance issuers, self-insured employers, government agencies, and other persons that provide minimum essential coverage to individuals; and applicable large employers.

EMPLOYEE PLANS

Notice 2023-5, page 324.

This notice sets forth updates on the corporate bond monthly yield curve, the corresponding spot segment rates for December 2022 used under § 417(e)(3)(D), the 24-month average segment rates applicable for December 2022, and the 30-year Treasury rates, as reflected by the application of § 430(h)(2)(C)(iv).

EMPLOYEE PLANS, EXCISE TAX

Notice 2023-4, page 321.

This notice provides the indexing factors to be used by group health plans and health insurance issuers to cal-

culate the qualifying payment amount (QPA) for items or services provided on or after January 1, 2023, and before January 1, 2024. The No Surprises Act (NSA) added parallel provisions at Code sections 9816 and 9817, ERISA sections 716 and 717, and PHS Act sections 2799A-1 and 2799A-2. These provisions provide protections against balance-billing for certain out-of-network items or services provided to patients. The QPA is the basis for determining individual cost sharing for items and services covered by the balance-billing protections in the NSA, under certain circumstances. The QPA for a given calendar year is based on information regarding median rates for certain items and services from prior years and is indexed based on changes in the consumer price index.

EXCISE TAX, INCOME TAX

Notice 2023-6, page 328.

Notice 2023-6 provides guidance on the new sustainable aviation fuel credits under §§ 40B and 6426(k) of the Internal Revenue Code and related credit and payment rules under §§ 34(a)(3), 38, 87, and 6427(e)(1). This notice also provides rules related to the § 4101 registration requirements. Finally, this notice requests comments from the public related to the SAF credit to assist the Department of the Treasury and the Internal Revenue Service in developing additional guidance on the SAF credit in the future.

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 I

Section 1274.— Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property

(Also Sections 42, 280G, 382, 467, 468, 482, 483, 1288, 7520, 7872.)

Rev. Rul. 2023-1

This revenue ruling provides various prescribed rates for federal income tax purposes for January 2023 (the current month). Table 1 contains the short-term, mid-term,

and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described in section 42(b)(1) for buildings placed in service during the current month. However, under section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service

after July 30, 2008, shall not be less than 9%. Table 5 contains the federal rate for determining the present value of an annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520. Table 6 contains the deemed rate of return for transfers made during calendar year 2023 to pooled income funds described in section 642(c) (5) that have been in existence for less than 3 taxable years immediately preceding the taxable year in which the transfer was made. Finally, Table 7 contains the average of the applicable federal mid-term rates (based on annual compounding) for the 60-month period ending December 31, 2022, for purposes of section 7702(f)(11).

REV. RUL. 2023-1 TABLE 1				
Applicable Federal Rates (AFR) for January 2023				
<i>Period for Compounding</i>				
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
		<i>Short-term</i>		
AFR	4.50%	4.45%	4.43%	4.41%
110% AFR	4.96%	4.90%	4.87%	4.85%
120% AFR	5.41%	5.34%	5.30%	5.28%
130% AFR	5.87%	5.79%	5.75%	5.72%
		<i>Mid-term</i>		
AFR	3.85%	3.81%	3.79%	3.78%
110% AFR	4.23%	4.19%	4.17%	4.15%
120% AFR	4.62%	4.57%	4.54%	4.53%
130% AFR	5.01%	4.95%	4.92%	4.90%
150% AFR	5.80%	5.72%	5.68%	5.65%
175% AFR	6.78%	6.67%	6.62%	6.58%
		<i>Long-term</i>		
AFR	3.84%	3.80%	3.78%	3.77%
110% AFR	4.22%	4.18%	4.16%	4.14%
120% AFR	4.61%	4.56%	4.53%	4.52%
130% AFR	5.00%	4.94%	4.91%	4.89%

REV. RUL. 2023-1 TABLE 2				
Adjusted AFR for January 2023				
<i>Period for Compounding</i>				
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	3.41%	3.38%	3.37%	3.36%
Mid-term adjusted AFR	2.91%	2.89%	2.88%	2.87%
Long-term adjusted AFR	2.91%	2.89%	2.88%	2.87%

REV. RUL. 2023-1 TABLE 3

Rates Under Section 382 for January 2023

Adjusted federal long-term rate for the current month	2.91%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	3.29%

REV. RUL. 2023-1 TABLE 4

Appropriate Percentages Under Section 42(b)(1) for January 2023

Note: Under section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, shall not be less than 9%.

Appropriate percentage for the 70% present value low-income housing credit	7.89%
Appropriate percentage for the 30% present value low-income housing credit	3.38%

REV. RUL. 2023-1 TABLE 5

Rate Under Section 7520 for January 2023

Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest	4.6%
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REV. RUL. 2023-1 TABLE 6

Deemed Rate for Transfers to New Pooled Income Funds During 2023

Deemed rate of return for transfers during 2023 to pooled income funds that have been in existence for less than 3 taxable years	2.2%
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REV. RUL. 2023-1 TABLE 7

Average of the Applicable Federal Mid-Term Rates for 2022

For purposes of section 7702(f)(11), the average of the applicable federal mid-term rates (based on annual compounding) for the 60-month period ending December 31, 2022, is 1.85%, rounded to 2%.

Section 42.—Low-Income Housing Credit

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2023. See Rev. Rul. 2023-1, page 309.

Section 280G.—Golden Parachute Payments

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2023. See Rev. Rul. 2023-1, page 309.

Section 382.—Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change

The adjusted applicable federal long-term rate is set forth for the month of January 2023. See Rev. Rul. 2023-1, page 309.

Section 467.—Certain Payments for the Use of Property or Services

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2023. See Rev. Rul. 2023-1, page 309.

Section 468.—Special Rules for Mining and Solid Waste Reclamation and Closing Costs

The applicable federal short-term rates are set forth for the month of January 2023. See Rev. Rul. 2023-1, page 309.

Section 482.—Allocation of Income and Deductions Among Taxpayers

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2023. See Rev. Rul. 2023-1, page 309.

Section 483.—Interest on Certain Deferred Payments

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2023. See Rev. Rul. 2023-1, page 309.

Section 1288.—Treatment of Original Issue Discount on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2023. See Rev. Rul. 2023-1, page 309.

Section 7520.—Valuation Tables

The applicable federal mid-term rates are set forth for the month of January 2023. See Rev. Rul. 2023-1, page 309.

Section 7872.—Treatment of Loans With Below-Market Interest Rates

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2023. See Rev. Rul. 2023-1, page 309.

26 CFR 1.6055-1 Information reporting for minimum essential coverage

TD 9970

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Parts 1 and 301

Information Reporting of Health Insurance Coverage and Other Issues under Sections 5000A, 6055, and 6056

AGENCY: Internal Revenue Service (IRS), Treasury

ACTION: Final regulations

SUMMARY: This document includes final regulations under the Internal Revenue Code that provide an automatic extension of time for providers of minimum essential coverage (including health insurance issuers, self-insured employers, and government agencies) to furnish individual statements regarding such coverage and an alternative meth-

od for furnishing individual statements when the individual shared responsibility payment amount is zero. The final regulations also provide an automatic extension of time for “applicable large employers” (generally employers with 50 or more full-time employees, including full-time equivalent employees) to furnish statements relating to health insurance that the applicable large employers offer to their full-time employees. Additionally, the final regulations provide that “minimum essential coverage,” as that term is used in health insurance-related tax laws, does not include Medicaid coverage limited to COVID-19 testing and diagnostic services provided under the Families First Coronavirus Response Act. The final regulations affect some taxpayers who claim the premium tax credit; health insurance issuers, self-insured employers, government agencies, and other persons that provide minimum essential coverage to individuals; and applicable large employers.

DATES: Effective date: These regulations are effective on December 15, 2022.

Applicability date: The regulations under §1.5000A-2 apply for months beginning after September 28, 2020. The regulations under §§1.6055-1 and 301.6056-1

apply for calendar years beginning after December 31, 2021.

FOR FURTHER INFORMATION CONTACT: Gerald Semasek at (202) 317-7006 or Lisa Mojiri-Azad at (202) 317-4649 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under sections 5000A and 6055 of the Internal Revenue Code (Code) and to the Procedure and Administration Regulations (26 CFR part 301) under section 6056 of the Code.

On December 6, 2021, a notice of proposed rulemaking (REG-109128-21) was published in the **Federal Register** (86 FR 68939) (2021 proposed regulations). The 2021 proposed regulations proposed amendments to the regulations under:

- Section 5000A that would provide that Medicaid coverage limited to COVID-19 testing and diagnostic services under section 6004(a)(3) of the Families First Coronavirus Response Act, Public Law 116-127, 134 Stat. 178 (Mar. 18, 2020) is not minimum essential coverage.

- Section 6055 that would provide an automatic extension of time for furnishing statements to responsible individuals¹ and permit an alternative manner for timely furnishing statements.
- Section 6056 that would provide an automatic extension of time for furnishing statements to full-time employees.

The preamble to the 2021 proposed regulations also included a renewed request for comments on rules (REG-103058-16) that were proposed in the **Federal Register** (81 FR 50671) on August 2, 2016 (2016 proposed regulations) relating to information reporting of minimum essential coverage under section 6055.

Ten comments were received in response to the 2021 proposed regulations. No public hearing was requested or held. After consideration of the comments received, this Treasury decision adopts the 2021 proposed regulations with clarifying modifications as final regulations, as discussed in the Summary of Comments and Explanation of Revisions section of this preamble. The Department of the Treasury (Treasury Department) and the IRS continue to consider the 2016 proposed regulations in light of the public comments received both in 2016 and in response to the request in the 2021 proposed regulations. The Treasury Department and the IRS expect to finalize the 2016 proposed regulations separately.

Summary of Comments and Explanation of Revisions

I. Minimum Essential Coverage Under Section 5000A

Under the Patient Protection and Affordable Care Act, Public Law 111-148, 124 Stat. 119 (2010), and the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, 124 Stat. 1029 (2010) (collectively the Affordable Care Act or ACA), eligible individuals who purchase coverage under a qualified health plan through a Health Insurance Exchange (Exchange) established under

section 1311 of the ACA may claim a premium tax credit pursuant to section 36B. Section 36B and §1.36B-3 of the Income Tax Regulations provide that a taxpayer is allowed a premium tax credit only for months that are coverage months for individuals in the taxpayer's family, as defined in §1.36B-1(d). Under section 36B(c)(2)(B) and §1.36B-3(c)(1)(iii), a "coverage month" for an individual includes only those months for which the individual is not eligible for minimum essential coverage other than coverage in the individual market.

Section 5000A(f)(1) defines "minimum essential coverage" to include various types of health plans and programs, including specified government-sponsored programs such as the Medicaid program under Title XIX of the Social Security Act. Section 1.5000A-2(b)(2) lists certain government-sponsored programs that do not constitute minimum essential coverage.

Notice 2020-66, 2020-40 I.R.B. 785, provides that Medicaid coverage that is limited to COVID-19 testing and diagnostic services under section 6004(a)(3) of the Families First Coronavirus Response Act is not minimum essential coverage under a government-sponsored program. Consequently, an individual's eligibility for such coverage for one or more months does not prevent those months from qualifying as coverage months for purposes of determining eligibility for the premium tax credit under section 36B.

Consistent with the guidance provided in Notice 2020-66, the 2021 proposed regulations would amend §1.5000A-2 by adding Medicaid coverage for COVID-19 testing and diagnostic services to the enumerated health coverages under §1.5000A-2(b)(2) that do not qualify as minimum essential coverage under a government-sponsored program. This amendment to §1.5000A-2 would apply for months beginning after September 28, 2020. Under the 2021 proposed regulations, for months beginning on or after January 1, 2020, and before September 28, 2020, taxpayers could rely upon Notice 2020-66. No comments were received

on this proposed change. Accordingly, the Treasury Department and the IRS are finalizing the proposed amendment to §1.5000A-2 without change.

II. Information Reporting Under Sections 6055 and 6056 and Penalties Under Sections 6721 and 6722

Section 6055 requires all persons who provide minimum essential coverage to an individual to report certain information to the IRS that identifies covered individuals and the period of coverage. See section 6055(a) and (b). Those persons are also required to furnish a statement to the covered individuals with the same information. See section 6055(c). These information returns and written statements were needed to administer the individual shared responsibility provisions under section 5000A until the individual shared responsibility payment amount was reduced to zero for months beginning after December 31, 2018 by Public Law 115-97, 131 Stat. 2054, 2092 (2017), commonly referred to as the Tax Cuts and Jobs Act (TCJA). As a result, covered individuals no longer needed the information on the written statements (Form 1095-B) to prepare and file their individual returns. However, the TCJA did not amend any of the reporting or furnishing requirements under section 6055.

Under section 6055 and §1.6055-1(f) and (g), every person that provides minimum essential coverage to an individual during the calendar year is required to file with the IRS an information return and a transmittal on or before February 28 (March 31 if filed electronically) of the year following the calendar year to which it relates and to furnish to the responsible individual identified on the return a written statement on or before January 31 of the year following the calendar year to which the statement relates. The IRS generally has designated Form 1094-B, *Transmittal of Health Coverage Information Returns*, and Form 1095-B, *Health Coverage*, to meet the section 6055 requirements.

Section 6056 requires an applicable large employer (ALE), as defined in sec-

¹As provided in §1.6055-1(b)(11), a responsible individual includes a primary insured, employee, former employee, uniformed services sponsor, parent, or other related person named on an application who enrolls one or more individuals, including him or herself, in minimum essential coverage.

tion 4980H(c)(2) of the Code, that is subject to the requirements of section 4980H to file information returns annually and furnish written statements with respect to the health insurance, if any, that the employer offers to its full-time employees. The information returns are used by the IRS to administer the employer shared responsibility provisions of section 4980H, and by certain full-time employees to help determine if they are eligible for the premium tax credit under section 36B.

Under section 6056 and §301.6056-1(e) and (g), every ALE and member of an aggregated group that is determined to be an ALE (collectively, ALE member) is required to file with the IRS an information return and a transmittal on or before February 28 (March 31 if filed electronically) of the year following the calendar year to which it relates and to furnish to full-time employees a written statement on or before January 31 of the year following the calendar year to which the statement relates. The IRS generally has designated Form 1094-C, *Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns*, and Form 1095-C, *Employer-Provided Health Insurance Offer and Coverage*, to meet the section 6056 requirements.

In addition, an ALE member that offers coverage through a self-insured health plan must complete the reporting required under section 6055, specifically, the information regarding each individual enrolled in the self-insured health plan, using Form 1095-C, Part III, rather than Form 1095-B.

The current regulations under sections 6055 and 6056 allow the IRS to grant an extension of time of up to 30 days to furnish statements to individuals for good cause shown. See §§1.6055-1(g)(4)(i)(B)(1) and 301.6056-1(g)(1)(ii)(A). Additionally, under the current regulations the Commissioner may prescribe guidance or procedures for automatic extensions of time for furnishing statements to individuals. See §§1.6055-1(g)(4)(i)(B)(2) and 301.6056-1(g)(1)(ii)(B). Through a series of notices, the Treasury Department and the IRS extended the due date for fur-

nishing statements to individuals under sections 6055 and 6056 for calendar years 2015 through 2020.²

Section 6721 imposes a penalty for failing to timely file an information return or for filing an incorrect or incomplete information return. Section 6722 imposes a penalty for failing to timely furnish an information statement or furnishing an incorrect or incomplete information statement. The section 6721 and 6722 penalties are imposed regarding information returns and statements listed in section 6724(d), which include those required by sections 6055 and 6056. Section 6724 provides that no penalty will be imposed under section 6721 or 6722 with respect to any failure if it is shown that the failure is due to reasonable cause and not to willful neglect.

a. Automatic Extension of Time to Furnish Statements under Section 6055

To reduce administrative burdens for reporting entities and the IRS, the 2021 proposed regulations provided that reporting entities would be granted an automatic extension of time, not to exceed 30 days after January 31, in which to furnish the written statements required by §1.6055-1(g)(1). The 2021 proposed regulations also provided that if the extended furnishing date falls on a weekend or legal holiday, statements would be timely if furnished on the next business day.

Because this extension would be automatic, the 2021 proposed regulations would eliminate §1.6055-1(g)(4)(i)(B)(1), which allows a reporting entity to make a written application to the IRS to request an extension of time to furnish the statement. The 2021 proposed regulations also would eliminate §1.6055-1(g)(4)(i)(B)(2), under which the Commissioner may prescribe guidance or procedures for automatic extensions of time for furnishing written statements pursuant to section 6055.

Commenters expressed strong support for the proposal to amend §1.6055-1(g)(4) to provide a permanent, automatic extension of time during which a provider of

minimum essential coverage must furnish written statements to individuals. One commenter acknowledged that the addition of the permanent, automatic extension of time for reporting entities to furnish statements obviates the need for the IRS to provide other extensions of time to furnish statements in most circumstances. The commenter nonetheless requested that the final regulations retain the provisions in §1.6055-1(g)(4)(i)(B)(2) allowing the Commissioner, in appropriate cases, to prescribe additional guidance or procedures for automatic extensions of time for furnishing written statements.

After consideration of the comments received, the Treasury Department and the IRS are adopting with one clarifying change the proposal for a permanent, automatic extension of time for furnishing written statements to individuals pursuant to §1.6055-1(g). The 2021 proposed regulations provided that reporting entities would be granted an automatic extension of time not exceeding 30 days in which to furnish required statements. To provide a clear, definite rule, these final regulations expressly provide a 30-day, automatic extension of time. The permanent, 30-day automatic extension of time to furnish written statements replaces §1.6055-1(g)(4)(i) and provides adequate time for furnishing in most situations. Additionally, because a reporting entity may qualify for penalty relief pursuant to section 6724 by showing that a failure was due to reasonable cause and not to willful neglect, the request that §1.6055-1(g)(4)(i)(B)(2) be retained is not adopted.

While expressing support for the proposed rule, one commenter requested that the IRS communicate the automatic extension clearly and directly to state governmental bodies that have their own individual health insurance mandates and reporting requirements. According to the commenter, some states impose requirements similar to the reporting and furnishing requirements of section 6055. In these cases, the commenter suggested that the deadlines should be coordinated or made the same.

² Notice 2016-04, 2016-3 I.R.B. 279 (Jan. 19, 2016); Notice 2016-70, 2016-49 I.R.B. 784 (Dec. 5, 2016); Notice 2018-06, 2018-3 I.R.B. 300 (Jan. 16, 2018); Notice 2018-94, 2018-51 I.R.B. 1042 (Dec. 17, 2018); Notice 2019-63, 2019-51 I.R.B. 1390 (Dec. 16, 2019); and Notice 2020-76, 2020-47 I.R.B. 1058 (Nov. 16, 2020).

The Treasury Department and the IRS intend to revise the instructions for Form 1094-B and Form 1095-B to communicate the final rule's permanent, 30-day automatic extension of time for furnishing the required statements. However, the Treasury Department and the IRS have no authority over state reporting and furnishing requirements. Whether state deadlines for filing returns or other documents relating to health coverage will align with the regulations is a question of state law. Accordingly, the Treasury Department and the IRS are not revising the regulations to coordinate with state reporting and furnishing requirements.

b. Automatic Extension of Time to Furnish Statements under Section 6056

To reduce administrative burdens for ALE members and the IRS, the 2021 proposed regulations provided that ALE members would be granted an automatic extension of time, not to exceed 30 days after January 31, in which to furnish written statements to full-time employees. The 2021 proposed regulations also provided that if the extended furnishing date falls on a weekend or legal holiday, statements would be timely if furnished on the next business day.

Because this extension would be automatic, the 2021 proposed regulations would eliminate §301.6056-1(g)(1)(ii)(A), which allows an ALE member to make a written application to the IRS to request an extension of time to furnish the statement. The 2021 proposed regulations also would eliminate §1.6056-1(g)(1)(ii)(B), under which the Commissioner may prescribe guidance or procedures for automatic extensions of time for furnishing written statements pursuant to section 6056.

Commenters expressed strong support for the proposal to amend §301.6056-1(g)(1) by providing a permanent automatic extension of time during which an ALE must furnish written statements to full-time employees. One commenter acknowledged that the addition of a permanent, automatic extension of time for reporting entities to furnish statements ob-

viates the need for the IRS to provide other extensions of time to furnish statements in most circumstances. The commenter nonetheless requested that the final regulations retain the provisions in §301.6056-1(g)(1)(ii)(B) allowing the Commissioner, in appropriate cases, to prescribe additional guidance or procedures for automatic extensions of time for furnishing written statements pursuant to section 6056.

After consideration of the comments received, the Treasury Department and the IRS are adopting with one clarifying change the proposal for a permanent, automatic extension of time for furnishing written statements to individuals pursuant to §301.6056-1(g)(1). The 2021 proposed regulations provided that ALEs would be granted an automatic extension of time not exceeding 30 days in which to furnish required statements. To provide a clear, definite rule, these final regulations expressly provide a 30-day, automatic extension of time. The permanent, 30-day automatic extension of time to furnish written statements replaces §301.6056-1(g)(1) and provides adequate time for furnishing in most situations. Additionally, because a reporting entity may qualify for penalty relief pursuant to section 6724 by showing that a failure was due to reasonable cause and not to willful neglect, the request that §1.6056-1(g)(1)(ii)(B) be retained is not adopted.

c. Alternative Manner of Furnishing Statements under Section 6055

The 2021 proposed regulations provided an alternative manner for a reporting entity to timely furnish Forms 1095-B to responsible individuals.³ Under proposed §1.6055-1(g)(4)(ii)(B), the reporting entity first would be required to post a clear and conspicuous notice on the entity's website stating that responsible individuals may receive a copy of their statement upon request. The notice would have to include an email address, a physical address to which a request may be sent, and a telephone number responsible individuals may use to contact a reporting entity with any questions. Additionally, the 2021 proposed regulations provided that the no-

tice would satisfy the requirements for the alternative manner of furnishing if it were written in plain, non-technical terms and with letters of a font size large enough, including any visual clues or graphical figures, to call to a viewer's attention that the information pertains to tax statements reporting that individuals had health coverage. Under the 2021 proposed regulations, a reporting entity would be required to retain the notice in the same location on its website until October 15 of the year following the calendar year to which the statement relates. The reporting entity would have to provide a Form 1095-B to a responsible individual within 30 days of the date of receipt of the individual's request. The proposed alternative manner of furnishing would apply only to taxable years when the individual shared responsibility payment amount under section 5000A(b) is zero.

Commenters generally supported the proposed amendments to §1.6055-1(g) allowing reporting entities to satisfy the furnishing requirements for Form 1095-B by using the alternative manner of furnishing. One commenter requested that the regulations under section 6056 also be amended to extend the alternative manner of furnishing rule to ALEs. The commenter asserted that the information included on Form 1095-C has limited utility because it only helps full-time employees determine if they are eligible for the premium tax credit. The commenter noted the potential environmental benefits, specifically the reduced use of paper and resources, that would result by allowing for the furnishing of forms only upon request.

As noted in Notice 2020-76, the preamble to the 2021 proposed regulations, and earlier in this Summary of Comments and Explanation of Revisions, individuals no longer need Form 1095-B because the TCJA reduced the amount of the individual shared responsibility payment to zero. This change in federal law caused the Treasury Department and the IRS to consider whether it was possible to amend the section 6055 regulations to reduce burdens on providers of minimum essential coverage, while providing for continued compliance with the unchanged statutory

³Notice 2020-76 provided a similar alternative manner of furnishing statements for coverage year 2020.

requirements of section 6055. Thus, the Treasury Department and the IRS proposed the alternative manner of furnishing Form 1095-B in recognition that the TCJA mooted the primary purpose for which individuals would need Form 1095-B.

However, as noted earlier, Form 1095-C serves a different purpose than Form 1095-B. Form 1095-C is used to administer the employer shared responsibility provisions of section 4980H and by certain full-time employees to help determine eligibility for the premium tax credit under section 36B. Neither the TCJA nor any other change in federal law affects the employer shared responsibility provisions of section 4980H or the need for certain full-time employees to have information about their coverage offer to help determine eligibility for the premium tax credit under section 36B. Because the primary purpose for furnishing Form 1095-C is distinct from the primary purpose for furnishing Form 1095-B and was not affected by the changes made by the TCJA, the Treasury Department and the IRS conclude that it is not appropriate to amend the regulations under section 6056 to extend the alternative manner of furnishing rule to ALEs with regard to their full-time employees. However, the 2021 proposed regulations permitted, and these final regulations permit, ALEs to use the alternative manner of furnishing for non-employees and non-full-time employees for whom furnishing is required under §1.6055-1.

The commenter that requested the alternative manner of furnishing for Form 1095-C also expressed concern about the environmental impact of providing Forms 1095-C on paper, but that concern does not take into account the potential mitigation of providing the information electronically.

One commenter requested that the Treasury Department and the IRS eliminate the section 6055 reporting requirement for years when the individual shared responsibility payment amount is zero. According to the commenter, under the proposed alternative manner of furnishing statements, health insurance issuers and plan sponsors must continue to main-

tain record-keeping systems to complete Forms 1095-B that must be provided upon request. The continued requirement to maintain records, according to the commenter, imposes burdens and costs. Thus, the commenter requested that the regulations be revised to eliminate the requirement to furnish Form 1095-B even upon request.

As noted, the TCJA reduced the individual shared responsibility payment amount to zero for months beginning after December 31, 2018; however, the TCJA did not amend any of the reporting or furnishing requirements under section 6055. Because Congress did not repeal or otherwise modify the reporting and furnishing requirements in section 6055, the Treasury Department and the IRS have determined that there is insufficient statutory authority to eliminate the Form 1095-B requirement. Accordingly, the commenter's suggestion is not adopted.

The final regulations include clarifying, non-substantive changes to the language in proposed §1.6055-1(g)(4)(ii)(B) describing the alternative manner of furnishing. The final regulations also modify proposed §1.6055-1(g)(4)(ii)(B)(2) to provide that a reporting entity using the alternative manner of furnishing must post a notice on its website by the date specified in §1.6055-1(g)(4)(i) of these final regulations.

After consideration of the comments received, the Treasury Department and the IRS are adopting the proposed alternative manner of furnishing written statements to individuals under section 6055 with these clarifying changes.

III. Elimination of Transitional Good Faith Relief

The preamble to the 2021 proposed regulations described the genesis of the transitional good faith relief from penalties under sections 6721 and 6722, which the Treasury Department and the IRS provided to reporting entities in the preambles to the regulations under sections 6055 and 6056⁴ for calendar year 2015 and in IRS notices for calendar years 2016-2020.⁵

Under the transitional good faith relief, the IRS did not impose penalties under sections 6721 and 6722 on reporting entities if the entities could show that they made good faith efforts to comply with the information reporting requirements. In Notice 2020-76, the Treasury Department and the IRS stated that 2020 was the last year that transitional good faith relief would be provided. Consistent with Notice 2020-76, the Treasury Department and the IRS reiterated in the preamble to the 2021 proposed regulations that the transitional good faith relief would be discontinued after 2020.

Two commenters requested that the Treasury Department and the IRS reconsider terminating the transitional good faith relief, with one of the commenters suggesting that the relief be retained at least for calendar years 2022, 2023, and 2024. Specifically, one commenter advocated for continuation of the relief because health coverage information reporting, especially for ALEs, is complicated, and many employers continue to make unintentional mistakes. The commenter asserted that the reasonable cause standard would be insufficient to relieve employers from significant penalties. The commenter requested, at a minimum, good faith penalty relief for small employers (as defined under applicable state law) that are ALEs.

The other commenter asked that the transitional good faith relief be retained because, although the individual shared responsibility payment amount is zero, several states have imposed individual mandates regarding health insurance that require reporting; instructions for IRS forms respecting reporting are modified annually; and plans have faced compliance problems caused by the COVID-19 pandemic.

As discussed in the preamble to the 2021 proposed regulations, the good faith relief offered beginning in calendar year 2015 was intended to be transitional to accommodate public concerns with implementing the new reporting requirements under the ACA. These reporting requirements have now been in place for seven years, and transitional relief is no longer

⁴ See T.D. 9660, 79 FR 13220 (Mar. 10, 2014); T.D. 9661, 79 FR 13231 (Mar. 10, 2014).

⁵ See Notice 2016-70; Notice 2018-06; Notice 2018-94; Notice 2019-63; and Notice 2020-76.

appropriate. Also, the Treasury Department and the IRS are of the view that additional good faith relief is not necessary to address the commenters' concerns. The reasonable cause exception under section 6724 already provides adequate relief from penalties under sections 6721 and 6722 for filers who have reasonable cause for failing to timely or accurately complete their reporting requirements.

Applicability Date

The regulations under §1.5000A-2 apply for months beginning after September 28, 2020. For months beginning on or after January 1, 2020, and before September 28, 2020, taxpayers may continue to rely on Notice 2020-66.

The regulations under §§1.6055-1 and 301.6056-1 apply for calendar years beginning after December 31, 2021. As discussed in the Proposed Applicability Date section of the 2021 proposed regulations, taxpayers may rely on §§1.6055-1 and 301.6056-1 of the 2021 proposed regulations for calendar years beginning after December 31, 2020, and before December 15, 2022.

Statement of Availability of IRS Documents

IRS revenue procedures, revenue rulings, notices, and other guidance cited in this preamble are published in the Internal Revenue Bulletin and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <http://www.irs.gov>.

Special Analyses

I. Regulatory Planning and Review – Economic Analysis

These final regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget (OMB) regarding review of tax regulations. It has been determined that a final regulatory flexibility analysis under 5 U.S.C. 604 is required for this final rule. The analysis is

set forth under the heading, “Final Regulatory Flexibility Analysis.”

II. Paperwork Reduction Act

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

There is no collection of information contained in these final regulations. The collections of information contained in §§1.6055-1 and 301.6056-1 were previously reviewed and approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and are associated with control numbers 1545-2251 (associated with Form 1095-C) and 1545-2252 (associated with Form 1095-B).

The Paperwork Reduction Act (44 U.S.C. 3501-3520) relates to information collection requests by any government agency. A collection of information generally means the “obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either (1) answers to identical questions posted to, or identical reporting or record-keeping requirements imposed on ten or more persons, other than agencies, instrumentalities, or employees of the United States, or (2) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes.” 44 U.S.C. 3502(3). A collection of information is commonly referred to as a reporting, recordkeeping, or disclosure requirement.

These final regulations do not require a reporting entity to provide any information to the Federal Government, to maintain specific records, or to disclose any additional information that the reporting entity did not already have a requirement to disclose.

III. Final Regulatory Flexibility Analysis

When an agency either issues a final rule that follows a required notice of proposed rulemaking or issues a final interpretative rule involving the internal

revenue laws that imposes a collection of information requirement on small entities as described in 5 U.S.C. 603(a), the Regulatory Flexibility Act (5 U.S.C. chapter 6) (Act) requires the agency to “prepare a final regulatory flexibility analysis.” A final regulatory flexibility analysis must, pursuant to 5 U.S.C. 604(a), include the five elements listed in this final regulatory flexibility analysis. For purposes of this final regulatory flexibility analysis, a small entity is defined as a small business, small nonprofit organization, or small governmental jurisdiction. See 5 U.S.C. 601(3)-(6). Small business size standards define whether a business is “small” and have been established for types of economic activities, or industry, generally under the North American Industry Classification System (NAICS). See Title 13, Part 121 of the Code of Federal Regulations (Small Business Size Regulations). The size standards look at various factors, including annual receipts, number of employees, and amount of assets, to determine whether the business is small. See Title 13, Part 121.201 of the Code of Federal Regulations for the Small Business Size Standards by NAICS Industry.

The Treasury Department and the IRS conclude that, although the overall impact of these final regulations will reduce the burden on small entities, these final regulations will impact a substantial number of small entities and the economic impact on those small entities may be significant. As a result, although the impact of these final regulations is positive for small entities, a final regulatory flexibility analysis is required.

A Statement of the Need for, and the Objectives of, the Final Rule

The final regulations under §1.5000A-2 make permanent the guidance in Notice 2020-66 regarding whether certain Medicaid coverage of COVID-19 testing and diagnostic services is minimum essential coverage. These final regulations will ensure that taxpayers have accurate guidance when determining whether they have minimum essential coverage, which in turn will assist taxpayers in determining whether they qualify for the premium tax credit.

The principal objective of the final regulations under section 5000A is to provide certainty that Medicaid coverage limited to certain COVID-19 testing and diagnostic services is not minimum essential coverage. Minimum essential coverage is defined in section 5000A(f)(1) and generally includes coverage under the Medicaid program under title XIX of the Social Security Act. However, §1.5000A-2(b)(2) lists certain types of services that are excluded from the definition of minimum essential coverage and these final regulations will add Medicaid coverage of certain COVID-19 testing and diagnostic services to that list. Thus, eligibility for this coverage will not preclude an individual from qualifying for the premium tax credit.

The final regulations under §§1.6055-1 and 301.6056-1 make permanent the extension of time to furnish Forms 1095-B and 1095-C to responsible individuals and employees that has been provided every calendar year since 2015. These final regulations will reduce the burden on reporting entities by extending the time to satisfy their furnishing obligations for certain health care coverage without the penalty under section 6722 being imposed. This extension should result in an increase in the timeliness and accuracy of the reporting.

The final regulations under §1.6055-1 also allow reporting entities to furnish the statement required by section 6055 by providing notice on their website and by providing the statement to the responsible individual upon request. These final regulations will reduce the burden on reporting entities by providing a less costly option to satisfy the furnishing obligation under section 6055 for tax years when individuals do not need to report health coverage information on their federal income tax returns.

The principal objectives of the final regulations under section 6055 are to (1) provide reporting entities under section 6055 and section 6056 with additional time to complete and furnish accurate statements to responsible individuals and full-time employees; and (2) to offer reporting entities a minimally burdensome option by which to furnish the statement required by section 6055. The legal basis for the extended due date for statements

required under section 6055 and section 6056 was originally set forth in the series of notices referenced in the Summary of Comments and Explanation of Revisions section of this preamble. In those notices, the Treasury Department and the IRS extended the dates for furnishing statements to responsible individuals and full-time employees and provided that reporting entities that satisfy the furnishing requirement by the extended due date will not be subject to penalties under sections 6721 and 6722. Section 6724(a) provides that no penalty is imposed under section 6721 or 6722 if it is shown that the failure is due to reasonable cause and not to willful neglect. The legal basis for the alternative manner of furnishing statements under section 6055 is in section 6055(b)(1)(A), which authorizes the Secretary to prescribe the form of the return that is required to be furnished under section 6055(c).

Summaries of the Significant Issues Raised in the Public Comments Responding to the Initial Regulatory Flexibility Analysis (IRFA) and of the Agency's Assessment of the Issues, and a Statement of Any Changes Made to the Rule as a Result of the Comments

No comments were received in response to the IRFA in the proposed regulations.

The response of the agency to any comments filed by the Chief Counsel for Advocacy of the SBA in response to the proposed rule

Pursuant to section 7805(f) of the Code, the proposed regulations were submitted to the Chief Counsel of the Office of Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

A Description and an Estimate of the Number of Small Entities to Which the Rule Will Apply or an Explanation of Why an Estimate is Not Available

These final regulations apply to health insurance issuers, self-insured employers, government agencies, and other providers of minimum essential coverage required

to furnish individual statements regarding such coverage under section 6055, and to ALE members that are required by section 6056 to furnish information relating to health insurance that the ALE offers to its full-time employees. An estimate of the number of small entities subject to these final regulations is not feasible because a correlation between small entities and this type of reporting cannot be made. These final regulations affect entities in all industries using any NAICS code.

A Description of the Projected Reporting, and Other Compliance Requirements of the Rule, Including an Estimate of the Classes of Small Entities Subject to the Requirements and the Type of Professional Skills Necessary for Preparation of the Report or Record.

As discussed in the Paperwork Reduction Act section earlier in this preamble, these final regulations do not impose any reporting, recordkeeping, or similar requirements on any small entities that did not already apply to small entities.

A Description of the Steps the Agency Has Taken to Minimize the Significant Economic Impact On Small Entities Consistent With the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting Any Alternative Adopted in the Final Rule and Why Other Significant Alternatives Affecting the Impact on Small Entities That the Agency Considered Were Rejected.

The Treasury Department and the IRS are not aware of any steps that could be taken to minimize the economic impact on small entities that would also be consistent with the objectives of these final regulations and have determined that, without a legislative change, there are no viable alternatives to the provisions in the final regulations that would enable reporting entities to continue to satisfy their reporting obligations with a lesser burden. These final regulations do not impose any more requirements on small entities than are necessary to effectively administer the internal revenue laws. Further, these final regulations do not subject small entities to any requirements that are not also ap-

plicable to larger entities covered by the regulations.

Accordingly, the Treasury Department and the IRS conclude that the provisions of these final regulations will effectively promote sound tax administration. The additional exclusion from the definition of minimum essential coverage in §1.5000A-2 will provide guidance to ensure that taxpayers can adequately determine whether they have minimum essential coverage that would preclude them from qualifying for a premium tax credit. An automatic extension of time to furnish statements under §§1.6055-1(g)(4)(i) and 301.6056-1(g)(1) will assist reporting entities to timely and accurately satisfy their statutory reporting obligations, while also reducing the cost and burden of having to request an extension. Last, the alternative manner of furnishing a statement in §1.6055-1(g)(4)(ii)(B), at a time when the individual shared responsibility payment amount is zero, will also help reporting entities reduce costs. Accordingly, implementation of these final regulations will increase tax compliance by providing definitive guidance to individuals, will allow reporting entities the time needed to furnish timely and accurate statements under sections 6055 and 6056, and will allow reporting entities an alternative method of furnishing statements under section 6055 to minimize their production and distribution costs.

IV. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any federal mandate that may result in expenditures in any one year by a state, local, or tribal government, in the aggregate, or by the private sector, of \$100 million (updated annually for inflation). This final rule does not include any federal mandate that may result in expenditures by state, local, or tribal governments, or by the private sector in excess of that threshold.

V. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any

rule that has federalism implications if the rule either imposes substantial, direct compliance costs on state and local governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Drafting Information

The principal author of these final regulations is Gerald Semasek of the Office of Associate Chief Counsel (Income Tax and Accounting). Other personnel from the Treasury Department and the IRS participated in the development of these regulations.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, the Treasury Department and the IRS amend 26 CFR parts 1 and 301 as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.5000A-2 is amended by:

1. Revising paragraph (b)(2)(vii) and (viii); and
2. Adding paragraph (b)(2)(ix).

The revisions and addition read as follows:

§1.5000A-2 Minimum Essential Coverage.

* * * * *

(b) * * *

(2) * * *

(vii) Coverage under section 1079(a), 1086(c)(1), or 1086(d)(1) of title 10, U.S.C., that is solely limited to space available care in a facility of the uniformed services for individuals excluded from TRICARE coverage for care from private sector providers;

(viii) Coverage under section 1074a and 1074b of title 10, U.S.C., for an injury, illness, or disease incurred or aggravated in the line of duty for individuals who are not on active duty; and

(ix) Medicaid coverage limited to COVID-19 testing and diagnostic services provided under section 6004(a)(3) of the Families First Coronavirus Response Act, Pub. L. 116-127, 134 Stat. 178 (March 18, 2020).

Par. 3. Section 1.5000A-5 is amended by revising paragraph (c) to read as follows:

§1.5000A-5 Administration and procedure.

* * * * *

(c) *Applicability date.* Except as otherwise provided in this paragraph (c), this section and §1.5000A-1 through 1.5000A-4 apply for months beginning after December 31, 2013. Section 1.5000A-2(b)(2)(ix) applies for months beginning after September 28, 2020.

Par. 4. Section 1.6055-1 is amended by:

1. Revising the first sentence of paragraph (g)(1);
2. Revising paragraph (g)(4)(i) and (ii);
3. Revising paragraph (j)

The revisions read as follows:

§1.6055-1 Information reporting for minimum essential coverage.

* * * * *

(g) * * * Except as otherwise provided in paragraph (g)(4)(ii)(B) of this section, every person required to file a return under this section must furnish to the responsible individual identified on the return a written statement. * * *

(4) *Time and manner for furnishing statements*--(i) *Time for furnishing*—Except as otherwise provided in this paragraph (g)(4)(i), a reporting entity must furnish the statements required under paragraph (g)(1) of this section on or before January 31 of the year following the calendar year in which the minimum essential coverage is provided. Reporting entities are granted an automatic, 30-day extension of time in which to furnish these statements.

(ii) *Manner of furnishing*—(A) *In general*. Except as otherwise provided in paragraph (g)(4)(ii)(B) of this section, if mailed, the statement must be sent to the responsible individual’s last known permanent address or, if no permanent address is known, to the individual’s temporary address. For purposes of this paragraph (g)(4)(ii)(A), a reporting entity’s first class mailing to the last known permanent address, or if no permanent address is known, the temporary address, discharges the requirement to furnish the statement. A reporting entity may furnish the statement electronically if the requirements of §1.6055-2 are satisfied.

(B) *Alternative manner of furnishing*. A reporting entity shall be treated as furnishing the statement in a timely manner under this paragraph (g)(4) if the individual shared responsibility payment amount under section 5000A(c) for the calendar year in which the minimum essential coverage is provided is zero and the reporting entity satisfies the requirements in this paragraph (g)(4)(ii)(B). If the reporting entity is an applicable large employer member that sponsors a self-insured group health plan and makes a return in accordance with paragraph (f)(2)(i) of this section related to that plan, the applicable large employer member may use the alternative manner of furnishing described in this paragraph (g)(4)(ii)(B) for statements to non-full-time employees and non-employees who are enrolled in the applicable large employer’s self-insured group health plan. The reporting entity satisfies the requirements of this paragraph (g)(4)(ii)(B) only if the reporting entity:

(1) Provides clear and conspicuous notice, in a location on its website that is reasonably accessible to all responsi-

ble individuals, stating that responsible individuals may receive a copy of their statement upon request. The notice must include an email address, a physical address to which a request for a statement may be sent, and a telephone number that responsible individuals may use to contact the reporting entity with any questions. A notice posted on a reporting entity’s website satisfies the requirements of this paragraph (g)(4)(ii)(B) (1) if it is written in plain, non-technical terms and with letters of a font size large enough, including any visual clues or graphical figures, to call to a viewer’s attention that the information pertains to tax statements reporting that individuals had health coverage. For example, a reporting entity’s website provides a clear and conspicuous notice if it includes a statement on the main page -- or a link on the main page, reading “Tax Information”, to a secondary page that includes a statement -- in capital letters, “IMPORTANT HEALTH COVERAGE TAX DOCUMENTS”; explains how responsible individuals may request a copy of Form 1095-B, Health Coverage, (or, for an applicable large employer member that sponsors a self-insured group health plan and makes a return in accordance with paragraph (f)(2)(i) of this section, explains how non-full-time employees and non-employees who are enrolled in the plan may request a copy of Form 1095-C, Employer-Provided Health Insurance Offer and Coverage); and includes the reporting entity’s email address, mailing address, and telephone number;

(2) Posts the notice on its website by the date specified in paragraph (g)(4)(i) of this section and retains the notice in the same location on its website through October 15 of the year following the calendar year to which the statements relate (or the first business day after October 15, if October 15 falls on a Saturday, Sunday or legal holiday); and

(3) Furnishes the statement to a requesting responsible individual within 30 days of the date the request is received. To satisfy the requirement of this paragraph (g)(4)(ii)(B)(3), a reporting entity may furnish the statement electronically pursuant to §1.6055-2(a)(2) through (a)(6).

(j) *Applicability date*. Except as otherwise provided in this paragraph (j), this section applies for calendar years beginning after December 31, 2014. Paragraphs (g)(1), (g)(4)(i), and (g)(4)(ii) of this section apply for calendar years beginning after December 31, 2021, but reporting entities may choose to apply paragraphs (g)(1), (g)(4)(i), and (g)(4)(ii) of this section for calendar years beginning after December 31, 2020. Except as otherwise provided in this paragraph (j), paragraph (g)(4), as contained in 26 CFR part 1 edition revised as of April 1, 2021, applies to calendar years ending after December 31, 2014, and beginning before January 1, 2022.

Part 301—PROCEDURE AND ADMINISTRATION

Par. 5. The authority citation for part 301 continues to read in part as follows:

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

Par. 6. Section 301.6056-1 is amended by revising paragraphs (g)(1) and (m) to read as follows:

§301.6056-1 Rules relating to reporting by applicable large employers on health insurance coverage offered under employer-sponsored plans—

(g) * * *(1) *Time for furnishing*--Except as otherwise provided in this paragraph (g)(1), each statement required by this section for a calendar year must be furnished to a full-time employee on or before January 31 of the year succeeding the calendar year in accordance with applicable Internal Revenue Service procedures and instructions. Applicable large employers are granted an automatic, 30-day extension of time in which to furnish these statements.

(m) *Applicability date*. Except as otherwise provided in this paragraph (m), this section applies for calendar years beginning after December 31, 2014. Paragraph (g)(1) of this section applies for calendar years beginning after December 31, 2021, but applicable large employers may

choose to apply paragraph (g)(1) of this section for calendar years beginning after December 31, 2020. Except as otherwise provided in this paragraph (m), paragraph (g)(1), as contained in 26 CFR part 1 edition revised as of April 1, 2021, applies to calendar years ending after December

31, 2014, and beginning before January 1, 2022.

Melanie R. Krause,
*Acting Deputy Commissioner for
Services and Enforcement.*

Approved: December 6, 2022.

Lily Batchelder,
Assistant Secretary of the Treasury
(Tax Policy).

(Filed by the Office of the Federal Register on December 12, 2022, 4:15 p.m. and published in the issue of the Federal Register for December 15, 2022, 87 FR 76569)

Part III

26 CFR 54.9816-6T: Calculating the qualifying payment amounts in 2023

Notice 2023-4

SECTION 1. PURPOSE AND SCOPE

Pursuant to Treas. Reg. § 54.9816-6T(c), 29 CFR 2590.716-6(c), and 45 CFR 149.140(c), this notice provides the percentage increase for calculating the qualifying payment amounts for items and services furnished during 2023 for purposes of sections 9816 and 9817 of the Internal Revenue Code (Code), sections 716 and 717 of the Employee Retirement Income Security Act of 1974 (ERISA), and sections 2799A-1 and 2799A-2 of the Public Health Service Act (PHS Act). This notice was drafted in consultation with the Departments of Labor and Health and Human Services. Similar guidance for items and services furnished during 2022 was published in Revenue Procedure 2022-11, 2022-3 IRB 449, and Notice 2022-11, 2022-14 IRB 939.¹ Percentage increases for calculating the qualifying payment amounts for items and services furnished in future years may be published in the annual revenue procedure containing inflation-adjusted items for the following tax year.

SECTION 2. BACKGROUND

The No Surprises Act was enacted as Title I of Division BB of the Consolidated Appropriations Act, 2021.² The No Surprises Act added sections 9816 and 9817 to the Code, sections 716 and 717 to ERISA, and sections 2799A-1 and 2799A-2 to the PHS Act. These provisions provide protections against surprise medical bills

in certain circumstances. Surprise medical bills can occur when a patient unexpectedly receives health care from a provider, facility, or provider of air ambulance services that does not participate in the network of the individual's group health plan or group or individual health insurance coverage (an out-of-network or nonparticipating provider, facility, or provider of air ambulance services).³

Before the enactment of the No Surprises Act, when the terms of a group health plan or group or individual health insurance coverage did not provide for coverage of the entire amount billed by a nonparticipating provider, facility, or provider of air ambulance services, the provider, facility, or provider of air ambulance services could balance bill the patient for the amount in excess of the amount paid by the plan or coverage and any applicable patient cost sharing (unless prohibited under applicable state law). For non-emergency services and air ambulance services, the patient could also have been responsible for out-of-network cost-sharing amounts, which may have been higher than in-network cost-sharing amounts. Under the No Surprises Act, in certain circumstances, the nonparticipating provider, facility, or provider of air ambulance services can no longer balance bill the patient for the excess amount, and patient cost sharing is generally limited to in-network levels. The No Surprises Act and implementing regulations⁴ provide that, generally, in the absence of an All-Payer Model Agreement under section 1115A of the Social Security Act or specified state law,⁵ a patient's cost-sharing amount must be calculated based on the lesser of the qualifying payment amount⁶ or the amount billed by the provider or facility. In the case of air am-

bulance services, the patient's cost-sharing amount must be calculated based on the lesser of the qualifying payment amount or the billed amount for the services.

Further, in the absence of an All-Payer Model Agreement or specified state law,⁷ the No Surprises Act and its implementing regulations provide for a 30-business-day open negotiation period for group health plans or health insurance issuers offering group or individual health insurance coverage (plans and issuers) and the nonparticipating providers, facilities, or providers of air ambulance services to determine the amount to be paid by the plans or issuers as the out-of-network rate.⁸ If the parties are unable to reach an agreement through open negotiation, the No Surprises Act provides for the out-of-network rate to be determined by a certified independent dispute resolution (IDR) entity through a Federal IDR process set forth in sections 9816(c) and 9817(b) of the Code, sections 716(c) and 717(b) of ERISA, and sections 2799A-1(c) and 2799A-2(b) of the PHS Act. The statute and implementing interim final regulations issued in October 2021⁹ and the final regulations issued in August 2022¹⁰ provide that, under the Federal IDR process, the certified IDR entity considers the qualifying payment amount for the item or service, among other additional circumstances and information as provided for in the statute and implementing regulations, in determining which offer to select as the out-of-network rate.

Under § 54.9816-6T(c), 29 CFR 2590.716-6(c), and 45 CFR 149.140(c), for an item or service furnished during 2022, plans and issuers must calculate the qualifying payment amount by increasing the median contracted rate (as determined in accordance with § 54.9816-

¹ <https://www.irs.gov/pub/irs-drop/rp-22-11.pdf> and <https://www.irs.gov/pub/irs-drop/n-22-11.pdf>.

² Pub. L. 116-260, 134 Stat. 1182 (2020).

³ The protections against surprise billing additionally apply to health benefits plans offered by carriers under the Federal Employees Health Benefits (FEHB) Act pursuant to 5 U.S.C. 8902(p). Accordingly, the guidance provided in this notice applies to FEHB carriers to the extent consistent with their contracts. See also 5 CFR 890.114.

⁴ 86 FR 36872 (July 13, 2021).

⁵ If an All-Payer Model Agreement or specified state law applies, the applicable Agreement or law determines the cost-sharing amount. "Specified state law" is defined in § 54.9816-3T, 29 CFR 2590.716-3, and 45 CFR 149.30.

⁶ "Qualifying payment amount" is defined in § 54.9816-6T(a)(16), 29 CFR 2590.716-6(a)(16), and 45 CFR 149.140(a)(16).

⁷ If an All-Payer Model Agreement or specified state law applies, the applicable Agreement or law determines the out-of-network rate.

⁸ "Out-of-network rate" is defined in § 54.9816-3T, 29 CFR 2590.716-3, and 45 CFR 149.30.

⁹ 86 FR 55980 (October 7, 2021).

¹⁰ 87 FR 52618 (August 26, 2022).

6T(b), 29 CFR 2590.716-6(b), and 45 CFR 149.140(b)) for the same or similar item or service under such plan or coverage, on January 31, 2019, by the combined percentage increase as published by the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) to reflect the percentage increase in the consumer price index for all urban consumers (U.S. city average) (CPI-U) over 2019, such percentage increase over 2020, and such percentage increase over 2021.¹¹ Pursuant to Rev. Proc. 2022-11, for items and services provided on or after January 1, 2022, and before January 1, 2023, the combined percentage increase to adjust the median contracted rate for the same or similar item or service under such plan or coverage, on January 31, 2019, is 1.0648523983. The revenue procedure also provides that plans and issuers may round to the nearest dollar any resulting qualifying payment amounts.

Pursuant to § 54.9816-6T(c)(3)(i), 29 CFR 2590.716-6(c)(3)(i), and 45 CFR 149.140(c)(3)(i), for an item or service furnished during 2022, a plan or issuer that does not have sufficient information to calculate the median of the contracted rates in 2019 for the same or similar item or service provided in a geographic region must calculate the qualifying payment amount by first identifying the rate that is equal to the median of the in-network allowed amounts for the same or similar item or service provided in the geographic region in 2021, determined by the plan or issuer through use of any eligible database, and then increasing that rate by the percentage increase in the CPI-U over 2021. Similarly, in the case of a newly covered item or service furnished during the first coverage year, when a plan or issuer does not have sufficient information to calculate the median of the contracted rates in the first coverage year for the item or service, the plan or issuer must calculate the qualifying payment amount by using an eligible database to determine the rate that

is equal to the median of the in-network allowed amounts for the same or similar item or service provided in the geographic region in the year immediately preceding the first coverage year, and then increasing that rate by the percentage increase in the CPI-U over the preceding year.

Under § 54.9816-6T(c)(3)(ii), 29 CFR 2590.716-6(c)(3)(ii), and 45 CFR 149.140(c)(3)(ii), for an item or service furnished in a subsequent year (before the first sufficient information year for the item or service with respect to the plan or coverage), the plan or issuer must calculate the qualifying payment amount by increasing the qualifying payment amount determined for the item or service for the year immediately preceding the subsequent year, by the percentage increase in the CPI-U over the preceding year.

The percentage increase in the CPI-U for items and services provided in 2022 over the preceding year is the average CPI-U for 2021 over the average CPI-U for 2020. Pursuant to Notice 2022-11, the percentage increase from 2021 to 2022 is 1.0299772040. The notice also provides that plans and issuers may round any resulting qualifying payment amounts to the nearest dollar.

Under § 54.9816-6T(c)(2)(i), 29 CFR 2590.716-6(c)(2)(i), and 45 CFR 149.140(c)(2)(i), with respect to a sponsor of a plan or issuer offering group or individual health insurance coverage in a geographic region in which the sponsor or issuer did not offer any group health plan or health insurance coverage in 2019, for the first year in which the group health plan or group or individual health insurance coverage is offered in the region, if the plan or issuer does not have sufficient information to calculate the median of the contracted rates for an item or service provided in the geographic region, the plan or issuer must determine the qualifying payment amount pursuant to § 54.9816-6T(c)(3)(i), 29 CFR 2590.716-6(c)(3)(i), and 45 CFR 149.140(c)(3)(i) for an item

or service furnished in 2022, as previously discussed. For each subsequent year the group health plan or group or individual health insurance coverage is offered in the region, the plan or issuer must calculate the qualifying payment amounts by increasing the qualifying payment amounts so determined for items or services provided in the immediately preceding year, by the percentage increase in the CPI-U over the preceding year.¹²

Under § 54.9816-6T(c)(4)(i), 29 CFR 2590.716-6(c)(4)(i), and 45 CFR 149.140(c)(4)(i), in the case of a plan or issuer that does not have sufficient information to calculate the median of the contracted rates for the same or similar item or service provided in a geographic region and determine the qualifying payment amount in accordance with the previously described methodology because the item or service is billed under a new service code, for items or services furnished in 2022 (or for newly covered items and services, during the first coverage year for the item or service), the plan or issuer must calculate the qualifying payment amounts pursuant to § 54.9816-6T(c)(4)(i), 29 CFR 2590.716-6(c)(4)(i), and 45 CFR 149.140(c)(4)(i).

Under § 54.9816-6T(c)(4)(ii), 29 CFR 2590.716-6(c)(4)(ii), and 45 CFR 149.140(c)(4)(ii), for such an item or service furnished in a subsequent year (before the first sufficient information year for the item or service with respect to such plan or coverage or before the first year for which an eligible database has sufficient information to calculate a rate under § 54.9816-6T(c)(3)(i), 29 CFR 2590.716-6(c)(3)(i), and 45 CFR 149.140(c)(3)(i) in the immediately preceding year), the plan or issuer must calculate the qualifying payment amount by increasing the qualifying payment amount determined for the item or service for the year immediately preceding the subsequent year, by the percentage increase in the CPI-U over the preceding year.

¹¹ The calculations of the qualifying payment amounts for anesthesia services, air ambulance services, and certain other items or services furnished during 2022 for which a plan or issuer has sufficient information to calculate the median of the contracted rates in 2019 differ slightly, but all use the same formula for increasing a base rate by the combined percentage increase as published by the Treasury Department and the IRS to reflect the percentage increase in the CPI-U over 2019 and subsequent years. See § 54.9816-6T(c)(1)(iii)-(vii), 29 CFR 2590.716-6(c)(1)(iii)-(vii), and 45 CFR 149.140(c)(1)(iii)-(vii).

¹² The calculations of the qualifying payment amounts for anesthesia services, air ambulance services, and certain other items or services furnished in a subsequent year differ slightly, but all use the same formula for increasing the indexed median contracted rate determined for the item or service in the immediately preceding year by the percentage increase. See § 54.9816-6T(c)(2)(ii), 29 CFR 2590.716-6(c)(2)(ii), and 45 CFR 149.140(c)(2)(ii).

SECTION 3. GUIDANCE

The percentage increase in the CPI-U over a preceding year is calculated by dividing the average CPI-U for the preceding year by the average CPI-U for the year immediately prior to the preceding year. For this purpose, the average CPI-U for a year is the average of the monthly CPI-Us published by the Bureau of Labor Statistics of the Department of Labor for the 12-month period ending on August 31 of each year, rounded to 10 decimal places. The percentage increase in the CPI-U for items and services provided in 2023 over the preceding year is the average CPI-U for 2022 over the average CPI-U for 2021. Pursuant to this calculation, the percentage increase from 2022 to 2023 is 1.0768582128. Further, pursuant to this notice, plans and issuers may round any resulting qualifying payment amounts to the nearest dollar.

.01 Adjusting qualifying payment amounts based on January 31, 2019 rates.

For qualifying payment amounts calculated by increasing the median contracted rate for 2019¹³, the qualifying payment amounts for items and services furnished in 2023 are determined by taking the qualifying payment amounts calculated for items and services furnished in 2022 and multiplying the 2022 adjusted qualifying payment amounts by the percentage increase from 2022 to 2023, that is, 1.0768582128.

For example: An item is furnished in 2023. The median contracted rate for the item on January 31, 2019 was \$1,500. The 2022 adjusted qualifying payment amount for the item was \$1,597 (\$1,500 x 1.0648523983). The 2023 adjusted qualifying payment amount for the item is \$1,720 (\$1,597 x 1.0768582128).

.02 Adjusting qualifying payment amounts based on 2021 rates.

For items and services furnished in 2022, for which the qualifying payment amounts were calculated by increasing the median of the in-network allowed amounts

for the same or similar item or service provided in the geographic region in 2021, drawn from any eligible database, by the percentage increase from 2021 to 2022¹⁴, the qualifying payment amounts for items and services furnished in 2023 are determined by taking the qualifying payment amounts calculated for the items and services furnished in 2022 and multiplying the 2022 adjusted qualifying payment amounts by the percentage increase from 2022 to 2023 (that is, 1.0768582128).

For example: A newly covered service for which the plan or issuer does not have sufficient information to calculate the median of the contracted rates is furnished in 2022. The median of the in-network allowed amounts for the same or similar service provided in the geographic region in 2021, drawn from an eligible database, was \$2,100. The 2022 adjusted qualifying payment amount for the service was \$2,163 (\$2,100 x 1.0299772040). The 2023 adjusted qualifying payment amount for the service is \$2,329 (\$2,163 x 1.0768582128).

The adjustment to the qualifying payment amounts will be applied similarly for items and services covered by a new plan or new group or individual health insurance coverage that was not offered in a geographic region in a prior year. For items and services first offered by a new plan or new group or individual health insurance coverage in a geographic region in 2022 for which the plan or issuer does not have sufficient information to calculate the median of the contracted rates for the items or services provided in the geographic region¹⁵, the qualifying payment amounts would be calculated by increasing the median of the in-network allowed amounts for the same or similar item or service provided in the geographic region in 2021, drawn from any eligible database, by the percentage increase from 2021 to 2022 (1.0299772040). For that plan or coverage, the qualifying payment amounts for items and services furnished in 2023

is determined by taking the qualifying payment amounts calculated for items and services furnished in 2022 and multiplying the 2022 adjusted qualifying payment amounts by the percentage increase from 2022 to 2023, that is, 1.0768582128.

.03 Calculating qualifying payment amounts when 2023 is the first coverage year.

For newly covered items and services furnished in 2023 for which the plan or issuer does not have sufficient information, when 2023 is the first coverage year for the item or service with respect to the plan or coverage, the qualifying payment amounts for the items and services first furnished in 2023 are determined by multiplying the median of the in-network allowed amounts for the same or similar item or service provided in the geographic region in 2022, drawn from any eligible database, by the percentage increase from 2022 to 2023, that is, 1.0768582128.

For example: A newly covered service is furnished in 2023. The median of the in-network allowed amounts for the service provided in the geographic region in 2022, drawn from an eligible database, was \$3,000. The 2023 adjusted qualifying payment amount for the service is \$3,231 (\$3,000 x 1.0768582128).

SECTION 4. EFFECTIVE DATE

The effective date of this notice is January 1, 2023.

SECTION 5. 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 Jason Sandoval at 202-317-5500 (not a toll-free number).

¹³ These qualifying payment amounts are calculated by increasing the median contracted rate for the same or similar item or service under the plan or coverage, on January 31, 2019, by the combined percentage increase (2019, 2020, and 2021) published in Rev. Proc. 2022-11 (that is, 1.0648523983).

¹⁴ These qualifying payment amounts are calculated by multiplying the median of the in-network allowed amounts for the same or similar item or service provided in the geographic region in 2021, drawn from any eligible database, by the percentage increase from 2021 to 2022 (that is, 1.0299772040).

¹⁵ These qualifying payment amounts are calculated by multiplying the median of the in-network allowed amounts for the same or similar item or service provided in the geographic region in 2021, drawn from any eligible database, by the percentage increase from 2021 to 2022 (that is, 1.0299772040).

Update for Weighted Average Interest Rates, Yield Curves, and Segment Rates

Notice 2023-5

This notice provides guidance on the corporate bond monthly yield curve, the corresponding spot segment rates used under § 417(e)(3), and the 24-month average segment rates under § 430(h)(2) of the Internal Revenue Code. In addition, this notice provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II) as in effect for plan years beginning before 2008 and the 30-year Treasury weighted average rate under § 431(c)(6)(E)(ii)(I).

YIELD CURVE AND SEGMENT RATES

Section 430 specifies the minimum funding requirements that apply to sin-

gle-employer plans (except for CSEC plans under § 414(y)) pursuant to § 412. Section 430(h)(2) specifies the interest rates that must be used to determine a plan's target normal cost and funding target. Under this provision, present value is generally determined using three 24-month average interest rates ("segment rates"), each of which applies to cash flows during specified periods. To the extent provided under § 430(h)(2)(C)(iv), these segment rates are adjusted by the applicable percentage of the 25-year average segment rates for the period ending September 30 of the year preceding the calendar year in which the plan year begins.¹ However, an election may be made under § 430(h)(2)(D)(ii) to use the monthly yield curve in place of the segment rates.

Notice 2007-81, 2007-44 I.R.B. 899, provides guidelines for determining the monthly corporate bond yield curve, and the 24-month average corporate bond segment rates used to compute the target normal cost and the funding target. Consistent with the methodology specified in Notice 2007-81, the monthly corporate

bond yield curve derived from November 2022 data is in Table 2022-11 at the end of this notice. The spot first, second, and third segment rates for the month of November 2022 are, respectively, 5.09, 5.60, and 5.41.

The 24-month average segment rates determined under § 430(h)(2)(C)(i) through (iii) must be adjusted pursuant to § 430(h)(2)(C)(iv) to be within the applicable minimum and maximum percentages of the corresponding 25-year average segment rates. The 25-year average segment rates for plan years beginning in 2021, 2022 and 2023 were published in Notice 2020-72, 2020-40 I.R.B. 789, Notice 2021-54, 2021-41 I.R.B. 457, and Notice 2022-40, 2022-40 I.R.B. 266, respectively.

24-MONTH AVERAGE CORPORATE BOND SEGMENT RATES

The three 24-month average corporate bond segment rates applicable for December 2022 without adjustment for the 25-year average segment rate limits are as follows:

Applicable Month	24-Month Average Segment Rates Without 25-Year Average Adjustment		
	First Segment	Second Segment	Third Segment
December 2022	1.95	3.50	3.85

Section 9706(a) of the American Rescue Plan Act of 2021, Pub. L. 117-2 (the ARP), which was enacted on March 11, 2021, changed the 25-year average segment rates and the applicable minimum and maximum percentages used under § 430(h)(2)(C)(iv) of the Code to adjust the 24-month average segment rates.² Prior to this change, the applicable minimum and maximum percentages were 85% and 115% for a plan year beginning in 2021, and 80% and 120% for

a plan year beginning in 2022, respectively. After this change, the applicable minimum and maximum percentages are 95% and 105% for a plan year beginning in 2021 or 2022. In addition, pursuant to this change, any 25-year average segment rate that is less than 5% is deemed to be 5%.³

Pursuant to § 9706(c)(1) of the ARP, these changes apply with respect to plan years beginning on or after January 1, 2020. However, § 9706(c)(2) of the ARP

provides that a plan sponsor may elect not to have these changes apply to any plan year beginning before January 1, 2022.⁴

The adjusted 24-month average segment rates set forth in the chart below reflect § 430(h)(2)(C)(iv) of the Code as amended by § 9706(a) of the ARP. These adjusted 24-month average segment rates apply only for plan years for which an election under § 9706(c)(2) of the ARP is not in effect. For a plan year for which such an election does not apply, the 24-month

¹Pursuant to § 433(h)(3)(A), the third segment rate determined under § 430(h)(2)(C) is used to determine the current liability of a CSEC plan (which is used to calculate the minimum amount of the full funding limitation under § 433(c)(7)(C)).

²Section 80602 of the Infrastructure Investment and Jobs Act, Pub. L. 117-58, makes further changes to the time periods for which specified applicable minimum and maximum percentages apply.

³Pursuant to this change, the 25-year averages of the first segment rate for 2021 and 2022 are increased to 5.00% because those 25-year averages as originally published are below 5.00%.

⁴This election may be made either for all purposes for which the amendments under § 9706 of the ARP apply or solely for purposes of determining the adjusted funding target attainment percentage under § 436 of the Code for the plan year.

averages applicable for December 2022, adjusted to be within the applicable minimum

and maximum percentages of the corresponding 25-year average segment

rates in accordance with § 430(h)(2)(C)(iv) of the Code, are as follows:

<i>Adjusted 24-Month Average Segment Rates</i>				
For Plan Years Beginning In	Applicable Month	First Segment	Second Segment	Third Segment
2021	December 2022	4.75	5.36	6.11
2022	December 2022	4.75	5.18	5.92
2023	December 2022	4.75	5.00	5.74

The adjusted 24-month average segment rates set forth in the chart below do not reflect the changes to § 430(h)(2)(C)(iv) of the Code made by § 9706(a) of the ARP. These adjusted 24-month average

segment rates apply only for plan years for which an election under § 9706(c)(2) of the ARP is in effect. For a plan year for which such an election applies, the 24-month averages applicable for Decem-

ber 2022, adjusted to be within the applicable minimum and maximum percentages of the corresponding 25-year average segment rates in accordance with § 430(h)(2)(C)(iv) of the Code, are as follows:

<i>Pre-ARP Adjusted 24-Month Average Segment Rates</i>				
For Plan Years Beginning In	Applicable Month	First Segment	Second Segment	Third Segment
2021	December 2022	3.32	4.79	5.47

30-YEAR TREASURY SECURITIES INTEREST RATES

Section 431 specifies the minimum funding requirements that apply to multiemployer plans pursuant to § 412. Section 431(c)(6)(B) specifies a minimum amount for the full-funding limitation described in § 431(c)(6)(A), based on the plan's current liability. Section 431(c)(6)(E)(ii)(I) provides that the interest rate used to calculate current liability for this

purpose must be no more than 5 percent above and no more than 10 percent below the weighted average of the rates of interest on 30-year Treasury securities during the four-year period ending on the last day before the beginning of the plan year. Notice 88-73, 1988-2 C.B. 383, provides guidelines for determining the weighted average interest rate. The rate of interest on 30-year Treasury securities for November 2022 is 3.99 percent. The Service determined this rate as the average of the

daily determinations of yield on the 30-year Treasury bond maturing in August 2052 determined each day through August 9, 2022 and the yield on the 30-year Treasury bond maturing in November 2052 determined each day for the balance of the month. For plan years beginning in December 2022, the weighted average of the rates of interest on 30-year Treasury securities and the permissible range of rate used to calculate current liability are as follows:

<i>Treasury Weighted Average Rates</i>		
For Plan Years Beginning In	30-Year Treasury Weighted Average	Permissible Range 90% to 105%
December 2022	2.38	2.14 to 2.50

MINIMUM PRESENT VALUE SEGMENT RATES

In general, the applicable interest rates

under § 417(e)(3)(D) are segment rates computed without regard to a 24-month average. Notice 2007-81 provides guidelines for determining the minimum pres-

ent value segment rates. Pursuant to that notice, the minimum present value segment rates determined for November 2022 are as follows:

<i>Minimum Present Value Segment Rates</i>			
Month	First Segment	Second Segment	Third Segment
November 2022	5.09	5.60	5.41

DRAFTING INFORMATION

The principal author of this notice is Tom Morgan of the Office of Associate

Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). However, other personnel from the IRS participated in the development of

this guidance. For further information regarding this notice, contact Mr. Morgan at 202-317-6700 or Tony Montanaro at 626-927-1475 not toll-free numbers).

Table 2022-11
 Monthly Yield Curve for November 2022
 Derived from October 2022 Data

<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>
0.5	4.94	20.5	5.63	40.5	5.38	60.5	5.31	80.5	5.27
1.0	5.04	21.0	5.62	41.0	5.38	61.0	5.31	81.0	5.27
1.5	5.11	21.5	5.61	41.5	5.38	61.5	5.31	81.5	5.27
2.0	5.14	22.0	5.59	42.0	5.38	62.0	5.31	82.0	5.27
2.5	5.15	22.5	5.58	42.5	5.37	62.5	5.31	82.5	5.27
3.0	5.13	23.0	5.57	43.0	5.37	63.0	5.31	83.0	5.27
3.5	5.11	23.5	5.56	43.5	5.37	63.5	5.30	83.5	5.27
4.0	5.09	24.0	5.55	44.0	5.37	64.0	5.30	84.0	5.27
4.5	5.09	24.5	5.54	44.5	5.36	64.5	5.30	84.5	5.27
5.0	5.10	25.0	5.53	45.0	5.36	65.0	5.30	85.0	5.27
5.5	5.13	25.5	5.52	45.5	5.36	65.5	5.30	85.5	5.27
6.0	5.17	26.0	5.51	46.0	5.36	66.0	5.30	86.0	5.27
6.5	5.22	26.5	5.50	46.5	5.36	66.5	5.30	86.5	5.27
7.0	5.28	27.0	5.50	47.0	5.35	67.0	5.30	87.0	5.27
7.5	5.34	27.5	5.49	47.5	5.35	67.5	5.30	87.5	5.27
8.0	5.40	28.0	5.48	48.0	5.35	68.0	5.29	88.0	5.26
8.5	5.45	28.5	5.48	48.5	5.35	68.5	5.29	88.5	5.26
9.0	5.51	29.0	5.47	49.0	5.35	69.0	5.29	89.0	5.26
9.5	5.56	29.5	5.47	49.5	5.34	69.5	5.29	89.5	5.26
10.0	5.60	30.0	5.46	50.0	5.34	70.0	5.29	90.0	5.26
10.5	5.64	30.5	5.46	50.5	5.34	70.5	5.29	90.5	5.26
11.0	5.68	31.0	5.45	51.0	5.34	71.0	5.29	91.0	5.26
11.5	5.70	31.5	5.45	51.5	5.34	71.5	5.29	91.5	5.26
12.0	5.73	32.0	5.44	52.0	5.34	72.0	5.29	92.0	5.26
12.5	5.74	32.5	5.44	52.5	5.33	72.5	5.29	92.5	5.26
13.0	5.76	33.0	5.44	53.0	5.33	73.0	5.29	93.0	5.26
13.5	5.76	33.5	5.43	53.5	5.33	73.5	5.29	93.5	5.26
14.0	5.77	34.0	5.43	54.0	5.33	74.0	5.28	94.0	5.26
14.5	5.77	34.5	5.42	54.5	5.33	74.5	5.28	94.5	5.26
15.0	5.76	35.0	5.42	55.0	5.33	75.0	5.28	95.0	5.26
15.5	5.76	35.5	5.42	55.5	5.32	75.5	5.28	95.5	5.26
16.0	5.75	36.0	5.41	56.0	5.32	76.0	5.28	96.0	5.26
16.5	5.74	36.5	5.41	56.5	5.32	76.5	5.28	96.5	5.26
17.0	5.73	37.0	5.41	57.0	5.32	77.0	5.28	97.0	5.26
17.5	5.71	37.5	5.40	57.5	5.32	77.5	5.28	97.5	5.25
18.0	5.70	38.0	5.40	58.0	5.32	78.0	5.28	98.0	5.25
18.5	5.69	38.5	5.40	58.5	5.32	78.5	5.28	98.5	5.25
19.0	5.67	39.0	5.39	59.0	5.32	79.0	5.28	99.0	5.25
19.5	5.66	39.5	5.39	59.5	5.31	79.5	5.28	99.5	5.25
20.0	5.65	40.0	5.39	60.0	5.31	80.0	5.28	100.0	5.25

Sustainable Aviation Fuel Credit; Registration; Certificates; Request for Public Comments

Notice 2023-6

SECTION 1. PURPOSE

This notice provides guidance on the new sustainable aviation fuel credits under §§ 40B and 6426(k) of the Internal Revenue Code (Code) (collectively referred to as a SAF credit or the SAF credit) and related credit and payment rules under §§ 34(a)(3), 38, 87, and 6427(e)(1). This notice also provides rules related to the § 4101 registration requirements. Finally, this notice requests comments from the public related to the SAF credit to assist the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) in developing additional guidance on the SAF credit in the future.

SECTION 2. OVERVIEW

Section 13203 of Public Law 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022, added § 40B and amended §§ 38(b), 40A, 87, 4101(a), 6426, and 6427(e)(1), enacting a sustainable aviation fuel credit, effective for certain fuel mixtures containing sustainable aviation fuel sold or used after December 31, 2022, and prior to January 1, 2025.

The SAF credit is equal to the product of— (1) the number of gallons of sustainable aviation fuel in a qualified mixture, multiplied by (2) the sum of— (A) \$1.25, plus (B) the applicable supplementary amount (as calculated under section 4.05 of this notice) with respect to such sustainable aviation fuel. *See* §§ 40B(a) and 6426(k). In general, the applicable supplementary amount increases the \$1.25 base credit by \$0.01 for each percentage point by which the *lifecycle greenhouse gas emissions reduction percentage* (as defined in section 3.01(4) of this notice) of the sustainable aviation fuel exceeds 50 percent. *See* section 3 of this notice for the requirements of sustainable aviation fuel and qualified mixtures; *see* section 4

of this notice for calculating the applicable supplementary amount and lifecycle greenhouse gas emissions reduction percentage.

For a claimant to qualify for the SAF credit, §§ 40B(f)(1) and 6426(k)(3) require the producer or importer of the sustainable aviation fuel to be registered with the IRS under § 4101. *See* section 5 of this notice for information on how a producer or importer may register; *see* section 6.02 of this notice for which party is the proper claimant.

A claimant who qualifies for the SAF credit may either: (1) claim an excise tax credit under § 6426(k), in which case the claimant first claims the SAF credit against its § 4081 excise tax liability for a particular quarter and, to the extent that the credit exceeds the claimant's § 4081 excise tax liability for that quarter, the claimant may claim either a payment under § 6427(e)(1) or a refundable income tax credit under § 34(a)(3); or (2) claim a nonrefundable § 38 general business income tax credit under § 38(b)(35) and include the amount of the § 40B credit in gross income under § 87. *See* section 6 of this notice regarding the procedures for making a claim as well as the claim requirements.

Sections 40B and 6426(k) allow a SAF credit for the production of a qualified mixture which, broadly speaking, is a mixture of sustainable aviation fuel and kerosene. Section 40B(d)(1)(A) defines sustainable aviation fuel by reference to two American Society for Testing and Materials (ASTM) specifications: ASTM D7566 and certain Fischer Tropsch provisions of ASTM D1655 Annex A1. The referenced ASTM specifications describe two distinct processes to produce a qualified mixture. Generally, under ASTM D7566, a person produces a qualified mixture by mixing a synthetic blending component with kerosene. In contrast, under ASTM D1655 Annex A1, a person produces a qualified mixture by co-processing an appropriate feedstock with a petroleum feedstock during the production of kerosene that results in a qualified mixture, although no separate step of mixing a sustainable aviation fuel with kerosene occurs.

This notice primarily addresses the SAF credit requirements applicable to a qualified mixture produced under ASTM D7566. Treasury and the IRS, in consul-

tation with the Department of Transportation and the Federal Aviation Administration, understand that no jet fuel is currently produced in the United States under ASTM D1655 Annex A1 that would qualify for the SAF credit. As a result, this notice provides limited information with respect to ASTM D1655 Annex A1 and requests comments with respect to ASTM D1655 Annex A1 so that future guidance may accurately address these types of claims.

SECTION 3. SUSTAINABLE AVIATION FUEL; QUALIFIED MIXTURES; TAXATION OF SUSTAINABLE AVIATION FUELS AND QUALIFIED MIXTURES

.01 *Sustainable aviation fuel.* Under § 40B(d)(1), the term *sustainable aviation fuel* means the portion of liquid fuel that is not kerosene that (i) either (A) meets the specifications of “ASTM D7566” (as defined in section 3.01(1)(a) of this notice to mean the ASTM D7566 Annexes), or (B) meets the specifications of ASTM D1655 Annex A1 (as defined in section 3.01(1)(b) of this notice); and (ii) satisfies the requirements of section 3.01(2) through (4) of this notice regarding sustainability. A liquid fuel that meets the specifications of one of the ASTM D7566 Annexes or meets the specifications of ASTM D1655 Annex A1, but does not meet the requirements of section 3.01(2) through (4) of this notice is ineligible for the SAF credit.

Sustainable aviation fuel may be categorized as either (i) a SAF synthetic blending component or (ii) a co-processed liquid fuel that was produced by co-processing petroleum with synthesized hydrocarbons derived from synthesis gas via the Fischer Tropsch process (*FT hydrocarbons*). This notice refers to a liquid fuel that meets the specifications of one of the ASTM D7566 Annexes and that satisfies the requirements of 3.01(2) through (4) of this notice as a *SAF synthetic blending component*. This notice refers to a liquid fuel that meets the specifications of ASTM D1655 Annex A1, in which the FT hydrocarbons were derived from biomass that satisfies the requirements of section 3.01(2) through (4) of this notice as a *SAF co-processed qualified mixture*. FT hydrocarbons, which are derived from biomass

that satisfies the requirements of section 3.01(2) through (4) of this notice, are referred to as *SAF FT hydrocarbons*.

(1) *ASTM International specifications*. For purposes of this notice, references to *ASTM* or *ASTM International Standard* are references to specifications published by ASTM International (formerly ASTM). For availability of ASTM specifications, see § 48.4081-1(d) of the Manufacturers and Retailers Excise Tax Regulations (26 CFR part 48).

(a) *ASTM D7566 Annexes*. The term *ASTM D7566 Annexes* means any of the annexes in ASTM D7566 that provide the specifications for a pathway to create a synthetic blending component that can be blended with ASTM D1655 kerosene (as defined in section 3.02(2)(a) of this notice) to make a qualified mixture.

(b) *ASTM D1655 Annex A1*. The term *ASTM D1655 Annex A1* means the Fischer Tropsch provisions of ASTM D1655 Annex A1 that are contained in section A1.2.2.2, which provides a pathway for producing a liquid fuel by co-processing up to five percent of FT hydrocarbons with petroleum to make a qualified mixture. For purposes of this notice, the term *petroleum* includes any conventionally sourced hydrocarbons permitted under ASTM D1655 Annex A1.

Liquid fuel produced under section A1.2.2.1 does not qualify for the SAF credit because section A1.2.2.1 defines a pathway for producing a liquid fuel from co-processing an applicable material (or materials derived from an applicable material) with a feedstock that is not biomass (for example, petroleum), which § 40B(d) (1)(B) excludes from the SAF credit. See section 3.01(2) of this notice.

(2) *Not derived from co-processing applicable materials*. To qualify as sustainable aviation fuel, the liquid fuel must not be derived from co-processing an “applicable material” (or materials derived from an applicable material) with a feedstock that is not biomass (within the meaning of § 45K(c)(3) of the Code). Section 40B(d) (2)(A) defines the term *applicable material* for this purpose to mean (i) mono-glycerides, diglycerides, and triglycerides, (ii) free fatty acids, and (iii) fatty acid esters. Section 45K(c)(3) defines the term *biomass* to mean any organic material other than (A) oil and natural gas (or any

product thereof), and (B) coal (including lignite) or any product thereof.

(3) *Not derived from palm fatty acid distillates or petroleum*. To qualify as sustainable aviation fuel, the liquid fuel must not be derived from palm fatty acid distillates or petroleum.

(4) *Lifecycle greenhouse gas emissions reduction percentage*. To qualify as sustainable aviation fuel, the liquid fuel must have been certified in accordance with § 40B(e) as having a lifecycle greenhouse gas emissions reduction percentage of at least 50 percent. Section 40B(e) defines the term *lifecycle greenhouse gas emissions reduction percentage* to mean, with respect to any sustainable aviation fuel, the percentage reduction in lifecycle greenhouse gas emissions achieved by such fuel as compared with petroleum-based jet fuel, as defined in accordance with (i) the most recent Carbon Offsetting and Reduction Scheme for International Aviation (CORSA) that has been adopted by the International Civil Aviation Organization (ICAO) with the agreement of the United States and is set out in Annex 16 - Environmental Protection: Carbon Offsetting and Reduction Scheme for International Aviation (CORSA) (2018), <https://elibrary.icao.int/home/product-details/229739>, and related documents, or (2) any similar methodology that satisfies the criteria under § 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H)), as in effect on August 16, 2022. See section 4.04 of this notice for a safe harbor to calculate the lifecycle greenhouse gas emissions reduction percentage.

.02 *Qualified mixture*.

(1) *Requirements*. Under § 40B(c), a *qualified mixture* means a mixture of sustainable aviation fuel and kerosene, but only if— (1) such mixture is produced by the taxpayer in the United States (defined in § 7701(a)(9) of the Code to mean the states and the District of Columbia); (2) such mixture is used by the taxpayer (or sold by the taxpayer for use) in an aircraft; (3) such sale or use is in the ordinary course of a trade or business of the taxpayer; and (4) the transfer of such mixture to the fuel tank of such aircraft occurs in the United States.

A qualified mixture may be produced by either mixing a SAF synthetic blending component with kerosene (to produce a

SAF qualified mixture; see section 3.02(2) of this notice) or by co-processing SAF FT hydrocarbons with petroleum to produce a co-processed liquid fuel (which is a SAF co-processed qualified mixture; see section 3.02(3) of this notice).

(2) *SAF qualified mixture*. A SAF qualified mixture means a mixture of a SAF synthetic blending component (within the meaning of section 3.01 of this notice) with ASTM D1655 kerosene (as defined in section 3.02(2)(a) of this notice) that meets the requirements of ASTM D7566 (as defined in section 3.02(2)(b) of this notice) and which may be regarded as ASTM D1655 compliant SAF.

(a) *ASTM D1655 kerosene and ASTM D1655 compliant SAF*. The term *ASTM D1655 kerosene* means petroleum-based kerosene that meets the specifications set forth in ASTM D1655 and does not include liquid fuel co-processed with FT hydrocarbons or the addition of a synthetic blending component.

The term *ASTM D1655 compliant SAF* means ASTM D1655 kerosene that has been blended with a SAF synthetic blending component described in a specific ASTM D7566 Annex and meets the batch specifications described in ASTM D7566, Table 1. It also means kerosene produced by co-processing SAF FT hydrocarbons with petroleum under ASTM D1655 Annex A1. Once the mixture meets those batch specifications or is produced under ASTM D1655 Annex A1, the mixture may be regarded as jet fuel under ASTM D1655. ASTM D1655 compliant SAF is fully fungible with ASTM D1655 kerosene.

The terms *ASTM D1655 kerosene* and *ASTM D1655 compliant SAF* are not ASTM designations, but rather are used in this notice to distinguish between two types of fuel (for federal excise tax purposes) that qualify as jet fuel under the ASTM D1655 specifications for jet fuel.

(b) *ASTM D7566*. The term *ASTM D7566* means the batch specifications set forth under ASTM D7566, Table 1, which includes the blending requirements for each synthetic blending component and the overall specifications and requirements for the blended mixture to be regarded as ASTM D1655 compliant SAF. Blending percentage requirements for various synthetic blending components

with ASTM D1655 kerosene are listed in section 6 of ASTM D7566 and range from 10 to 50 percent.

(3) *SAF co-processed qualified mixture*. A *SAF co-processed qualified mixture* means a co-processed liquid fuel that meets the requirements of ASTM D1655 Annex A1 (within the meaning of section 3.01(1)(b) of this notice) and in which the biomass used to create the FT hydrocarbons satisfies the requirements of section 3.01(2) through (4) of this notice.

ASTM D1655 Annex A1 provides a pathway for producing a liquid fuel by co-processing FT hydrocarbons with petroleum that results in a qualified mixture if the producer uses SAF FT hydrocarbons. This process is functionally different from mixing two distinct products, such as a synthetic blending component and kerosene, to create a qualified mixture. Here, petroleum-based hydrocarbons and up to five percent of SAF FT hydrocarbons are processed together to produce kerosene, a portion of which was derived from sustainable sources. Before processing, neither the petroleum-based hydrocarbons nor the SAF FT hydrocarbons qualify as kerosene.

As a result, a SAF co-processed qualified mixture must be produced in the United States. A co-processed liquid fuel that is imported into the United States is ineligible for the SAF credit. The requirement that the SAF co-processed qualified mixture be produced in the United States is not met by mixing co-processed liquid fuel with additional ASTM D1655 kerosene or ASTM D1655 compliant SAF (as defined in section 3.02(2)(a) of this notice) in the United States.

Only the portion of the SAF co-processed qualified mixture attributable to the SAF FT hydrocarbons (derived from biomass) qualifies for the SAF credit. Conversely, no portion of the kerosene derived from a petroleum-based source in a SAF co-processed qualified mixture qualifies for the SAF credit.

.03 *Taxation of sustainable aviation fuels and qualified mixtures*.

(1) *In general*.

(a) *Taxable fuel*. Section 4081(a)(1) imposes an excise tax on certain removals, entries, and sales of taxable fuel. Section 4083(a) defines *taxable fuel* as gasoline, diesel fuel, and kerosene. The term *kero-*

sene, for the purpose of kerosene-type jet fuel, means any liquid covered by ASTM D1655 or military specification MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8).

(b) *Blended taxable fuel*. Section 4081(b)(1) imposes an excise tax on taxable fuel removed or sold by the “blender” thereof, subject to certain credits provided in § 4081(b)(2). Section 48.4081-1(b) defines *blender* as any person that produces *blended taxable fuel*. Section 48.4081-1(c) (1)(i) generally defines the term *blended taxable fuel* as any taxable fuel that is produced outside the bulk transfer/terminal system by mixing (A) taxable fuel with respect to which tax has been imposed under § 4041(a)(1) or 4081(a) (other than taxable fuel for which a credit or payment has been allowed) and (B) any other liquid on which tax has not been imposed under § 4081.

(2) *SAF synthetic blending component*.

A SAF synthetic blending component will not be treated as a taxable fuel for purposes of the excise tax imposed on taxable fuel under § 4081. A liquid fuel produced under the ASTM D7566 Annexes cannot, by definition, meet the specifications of ASTM D1655 until it is blended with kerosene. Accordingly, a SAF synthetic blending component is not treated as a taxable fuel for purposes of § 4081(a). However, the SAF synthetic blending component is taxable under § 4041(a) or (c) if it is used in a diesel-powered highway vehicle or a diesel-powered train, or as fuel in aviation.

(3) *SAF qualified mixture*. After a SAF qualified mixture is produced, the entire mixture is taxable under § 4081. The SAF qualified mixture is taxable under § 4081(a) if produced within the bulk transfer/terminal system. Alternatively, the SAF qualified mixture is taxable under § 4081(b) if it is produced with previously-taxed kerosene outside the bulk transfer/terminal system (subject to the credit for previously-taxed fuel under § 4081(b) (2)).

(4) *Co-processed liquid fuel and SAF co-processed qualified mixture*. Both co-processed liquid fuel and a SAF co-processed qualified mixture meet the specifications of ASTM D1655 and are therefore kerosene. As a result, any product produced under ASTM D1655 An-

nex A1 is a taxable fuel for purposes of § 4081(a).

SECTION 4. LIFECYCLE GREENHOUSE GAS EMISSIONS REDUCTION PERCENTAGE AND APPLICABLE SUPPLEMENTARY AMOUNT

.01 *Applicability*. The methods of determining the lifecycle greenhouse gas emissions reduction percentage and the applicable supplementary amount under section 4 of this notice apply only to a SAF qualified mixture.

.02 *In general*. The SAF synthetic blending component must be certified, in accordance with § 40B(e), as having a lifecycle greenhouse gas emissions reduction percentage of at least 50 percent. See section 4.04 of this notice. This requirement also applies to § 6426(k). See § 6426(k)(2).

Once the SAF synthetic blending component meets the minimum 50 percent reduction threshold, the lifecycle greenhouse gas emissions reduction percentage is then used to calculate the applicable supplementary amount of the SAF credit under § 40B(b) or 6426(k). The applicable supplementary amount increases the \$1.25 base credit by \$0.01 for each whole percentage point by which the lifecycle greenhouse gas emissions reduction percentage with respect to such fuel exceeds 50 percent. The applicable supplementary amount determined under §§ 40B(b) and 6426(k) is calculated in \$0.01 increments and cannot exceed \$0.50.

.03 *Lifecycle greenhouse gas emissions of petroleum-based jet fuel*. Until further notice, for purposes of calculating the lifecycle greenhouse gas emissions reduction percentage, the IRS will treat the lifecycle greenhouse gas emissions of petroleum-based jet fuel as equal to 89 grams of carbon dioxide equivalent per megajoule of energy or 89 gCO₂e/MJ as the baseline. This is the standard adopted by the ICAO. See Annex 16 - Environmental Protection: Carbon Offsetting and Reduction Scheme for International Aviation (CORSA) (2018), <https://elibrary.icao.int/home/product-details/229739>.

.04 *Calculating the lifecycle greenhouse gas emissions reduction percentage; safe harbor*. The IRS will accept a

lifecycle greenhouse gas emissions reduction percentage calculated from the ICAO's most recent publication of the *CORSIA Default Life Cycle Emissions Values for CORSIA Eligible Fuels*. At the time of publication of this notice, the most recently published version (Fourth Edition, June 2022) is available at: <https://www.icao.int/environmental-protection/CORSIA/Pages/CORSIA-Eligible-Fuels.aspx>.

The IRS will also accept a lifecycle greenhouse gas emissions reduction percentage calculated from the ICAO's most recent publication of the *CORSIA Methodology for Calculating Actual Life Cycle Emissions Values*. At the time of publication of this notice, the most recently published version (Third Edition, June 2022) is available at: <https://www.icao.int/environmental-protection/CORSIA/Pages/CORSIA-Eligible-Fuels.aspx>.

The *lifecycle greenhouse gas emissions reduction percentage* is calculated by multiplying a fraction, the numerator of which is the baseline for the lifecycle greenhouse gas emissions of petroleum-based jet fuel (LC) minus the lifecycle emissions value (LSf), and the denominator of which is the baseline (LC), by 100 percent ($[(LC - LSf) / LC] \times 100\%$ = lifecycle greenhouse gas emissions reduction percentage). The lifecycle greenhouse gas emissions reduction percentage must be rounded down to the nearest whole percent.

The registered producer or importer of the SAF synthetic blending component must record the lifecycle greenhouse gas emissions reduction percentage on the Certificate for SAF Synthetic Blending Component. *See* section 7.02 of this notice.

.05 *Calculating the applicable supplementary amount.* To calculate the applicable supplementary amount for purposes of §§ 40B(b) and 6426(k), subtract 50 from the lifecycle greenhouse gas emissions reduction percentage, then multiply that number by the applicable rate for the supplementary amount (currently \$0.01) ($[(\text{lifecycle greenhouse gas emissions reduction percentage} - 50) \times \text{applicable rate for the supplementary amount}]$). The applicable supplementary amount under §§ 40B(b) and 6426(k) must be calculated using the same methodology used to determine the lifecycle greenhouse gas emissions reduction percentage under § 40B(e).

The registered producer or importer of the SAF synthetic blending component must record the applicable supplementary amount on the Certificate for SAF Synthetic Blending Component. *See* section 7.02 of this notice.

.06 *Example.* A blender used 100,000 gallons of a SAF synthetic blending component to produce a SAF qualified mixture. The SAF synthetic blending component was produced via a pathway that has a lifecycle carbon dioxide emission equivalent of 28.9 grams per megajoule of energy. To calculate the amount of the credit, first calculate the lifecycle greenhouse gas emissions reduction percentage (rounding down to the nearest whole percent): $[(89 \text{ gCO}_2\text{e/MJ} - 28.9 \text{ gCO}_2\text{e/MJ}) / 89 \text{ gCO}_2\text{e/MJ}] \times 100\% = 67.5\%$, rounded down to 67%.

Because the lifecycle greenhouse gas emissions reduction percentage is at least 50 percent, the SAF synthetic blending component qualifies for the \$1.25/gallon credit. Additionally, the SAF synthetic blending component qualifies for the applicable supplementary amount, which is calculated by subtracting 50 from the lifecycle greenhouse gas emissions reduction percentage (67), and then multiplying by the applicable rate (\$0.01): $(67 - 50) \times \$0.01 = \0.17 per gallon.

The SAF credit is calculated as follows: $100,000 \text{ gallons} \times (\$1.25 + \$0.17) = \$142,000.00$.

SECTION 5. REGISTRATION; SUSTAINABLE AVIATION FUEL; BLENDEES OF SAF SYNTHETIC BLENDING COMPONENTS; PRODUCERS OF SAF CO-PROCESSED QUALIFIED MIXTURES

.01 *Registration.*

(1) *In general.* Section 4101(a)(1) provides that every person producing or importing sustainable aviation fuel must register with the Secretary at such time, in such form and manner, and subject to such terms and conditions, as the Secretary may by regulations prescribe. Section 48.4101-1 provides the registration requirements for fuel registrants.

Section 40B(f) provides that no SAF credit is allowed with respect to any sustainable aviation fuel unless the producer

or importer of such fuel is registered with the Secretary under § 4101, and provides such information with respect to such fuel as the Secretary may require for purposes of carrying out § 40B, including certification (in such form and manner as the Secretary prescribes) from an unrelated party demonstrating compliance with— (1) any general requirements, supply chain traceability requirements, and information transmission requirements established under the CORSIA described in § 40B(e)(1), or (2) in the case of any methodology established under § 40B(e)(2), requirements similar to the requirements described in § 40B(f)(2)(A)(i). *See also* § 6426(k)(3).

Until further notice, the IRS will treat the producer or importer of a SAF synthetic blending component and the United States producer of a SAF co-processed qualified mixture as the persons required to register under § 4101. The IRS will not register an importer of a co-processed liquid fuel or an importer of a SAF qualified mixture as an importer of sustainable aviation fuel due to the requirement that a qualified mixture be produced in the United States. *See* § 40B(c)(1).

(2) *Procedure for registering.* Application for registration is made on Form 637, *Application for Registration (For Certain Excise Tax Activities)*, under Activity Letter "SA," in accordance with the instructions for that form. The IRS is revising Form 637 to add Activity Letter "SA." Until the revised Form 637 is released, applicants may use the current Form 637 by writing in "Activity Letter SA" and providing the following:

- (a) The annual volume of the sustainable aviation fuel the applicant produces;
- (b) The locations and a description of the applicant's production facilities;
- (c) The feedstocks and sources of feedstocks used to produce the sustainable aviation fuel;
- (d) A statement indicating whether the applicant produces sustainable aviation fuel under an ASTM D7566 Annex or ASTM D1655 Annex A1, and if applicable, the specific ASTM D7566 Annex under which the SAF synthetic blending component is produced;
- (e) A sample Certificate of Analysis (as defined in section 6.04(3) of this notice) for the type of sustainable aviation fuel the applicant produces, demonstrating confor-

mance with either an ASTM D7566 Annex or ASTM D1655 Annex A1;

(f) Certification from the International Sustainability and Carbon Certification (ISCC), Roundtable on Sustainable Biomaterials (RSB), or other unrelated party demonstrating compliance with— (i) any general requirements, supply chain traceability requirements, and information transmission requirements established under CORSIA, which has been adopted by the ICAO with the agreement of the United States, or (ii) any similar methodology that satisfies the criteria under section 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H)), as in effect on August 16, 2022;

(g) Certification in accordance with § 40B(e) that the SAF synthetic blending component has a lifecycle greenhouse gas emissions reduction percentage of at least 50 percent;

(h) The names and addresses of any person(s) acting for the applicant as an agent or broker in buying, selling, or transporting any sustainable aviation fuel;

(i) The business entities to which the applicant sells sustainable aviation fuel;

(j) The business entities from or with which the applicant buys, trades, transfers, or exchanges any sustainable aviation fuel; and

(k) The annual volume of the sustainable aviation fuel the applicant buys, sells, trades, transfers, or exchanges.

(3) *Requirements.* The IRS will register an applicant with Activity Letter “SA” only if the IRS— (A) concludes that the applicant is engaged as a producer or importer of a SAF synthetic blending component or the producer of a SAF co-processed qualified mixture, or is likely to become so engaged within a reasonable time after being registered under § 4101; and (B) is satisfied with the filing, deposit, payment, reporting, and claim history for all federal taxes of the applicant and any related person (as defined in § 48.4101-1(b)(5)).

The IRS will not consider an applicant likely to become engaged in the business of producing or importing a SAF synthetic blending component or producing a SAF co-processed qualified mixture unless the producer or importer (as applicable) can provide certification from an unrelated party demonstrating compliance with § 40B(d)(1)(D) and (f)(2)(A).

(4) *Certification demonstrating compliance with § 40B(f)(2)(A); safe harbor.* The IRS will consider a producer or importer of a SAF synthetic blending component or the producer of a SAF co-processed qualified mixture to meet the requirements of § 40B(f)(2)(A), relating to the sustainability requirements of CORSIA, if the producer or importer (as applicable) has a valid, relevant certificate from ISCC, RSB, or other ICAO-approved sustainability certification scheme. At the time of publication of this notice, the most recently published version (First Edition, November 2020) of *CORSIA Approved Sustainability Certification Schemes*, which lists ICAO-approved sustainability certification schemes, is available at <https://www.icao.int/environmental-protection/CORSIA/Pages/CORSIA-Eligible-Fuels.aspx>.

.02 *Blenders of SAF synthetic blending components and ASTM D1655 kerosene used to produce SAF qualified mixtures.* Section 4101 and § 48.4101-1 require any person who produces taxable fuel to be registered. Section 4083(a)(1) defines taxable fuel to include kerosene, which for jet fuel means ASTM D1655 kerosene (and ASTM D7566 and D1655 compliant SAF). The person who blends the SAF synthetic blending component with ASTM D1655 kerosene to produce a SAF qualified mixture produces ASTM D1655 compliant SAF, which meets the specifications of ASTM D1655 and is a taxable fuel.

As a result, the blender is required to be registered either under Activity Letter “S” if the blending occurs within the bulk transfer/terminal system (that is, above the rack) or under Activity Letter “M” if the blending occurs outside the bulk transfer/terminal system (that is, below the rack).

Pursuant to § 48.4101-1(h)(1)(v), each registrant must notify the IRS of any change in the information the registrant submitted in connection with its application for registration within 10 days after the change occurs. A previously-registered “S” registrant or a previously-registered “M” registrant that begins producing SAF qualified mixtures must inform the IRS of this change by contacting the IRS office with which the registrant is registered.

.03 *Producers of SAF co-processed qualified mixtures and co-processed liq-*

uid fuel. As stated above, § 4101 and § 48.4101-1 require any person who produces taxable fuel to be registered. The person who produces a SAF co-processed qualified mixture is also producing kerosene, a taxable fuel under § 4083(a)(1). As a result, the producer is required to be registered under Activity Letter “S” in addition to Activity Letter “SA.”

A person who produces co-processed liquid fuel (regardless of whether it qualifies for the SAF credit or as a SAF co-processed liquid fuel) is also producing kerosene. As a result, the producer is required to be registered under Activity Letter “S.”

In addition, a previously-registered “S” registrant that begins producing co-processed liquid fuel or a SAF co-processed qualified mixture must inform the IRS of this change by contacting the IRS office with which the registrant is registered.

SECTION 6. CLAIMS; MAKING A CLAIM; CLAIM REQUIREMENTS

.01 *In general.* In order to qualify for a SAF credit, the claimant must produce, then use or sell for use, a qualified mixture that meets all requirements set forth in this notice. The producer or importer of the sustainable aviation fuel must also be registered under § 4101. *See also* §§ 40B(f)(1), 6426(k)(3). *See* section 6.04 of this notice for the claim requirements applicable to a SAF qualified mixture produced under ASTM D7566.

.02 *Claimant.* The person eligible to claim the SAF credit is the person who produces the qualified mixture, assuming all other statutory requirements are met. With respect to a SAF qualified mixture, the person who produces the SAF qualified mixture does not have to be the same person that produced or imported the SAF synthetic blending component. With respect to a SAF co-processed qualified mixture, the person who produces the SAF co-processed qualified mixture is the proper claimant.

.03 *Making a claim.*

(1) *Excise tax claims under §§ 6426(k) and 6427(e)(1); refundable income tax claims under § 34(a)(3).*

(a) *In general.* First, the claimant must claim an excise tax SAF credit under § 6426(k), along with any credit under § 6426(c) or (e) against its § 4081 excise tax

liability. To the extent that the SAF credit under § 6426(k) (along with the sum of any credit under § 6426(c) or (e)) exceeds the claimant's § 4081 liability for a particular quarter, the claimant may claim a payment under § 6427(e)(1) or a refundable income tax credit under § 34(a)(3). A claimant may only make one claim for each gallon of sustainable aviation fuel used in a qualified mixture. A claimant may not make a claim under § 6427(e)(1) or § 34(a)(3) for an amount that will be claimed or is required to be claimed under § 6426(k).

(b) *Procedure for making a claim.* A claimant claiming an excise tax SAF credit under § 6426(k) must first make the claim on a Form 720, *Quarterly Federal Excise Tax Return*, if reporting excise tax liability, in accordance with the instructions for that form. For federal income tax purposes, a claimant's expense for the § 4081 excise tax, whether taken as a deduction or as a component of cost of goods sold, is reduced by the amount of the excise tax credit under § 6426(k). *See generally Exxon Mobil Corp. v. United States*, 43 F.4th 424 (5th Cir. 2022).

The payment under § 6427(e)(1) is claimed on Form 720 or Form 8849, Schedule 3, *Certain Fuel Mixtures and the Alternative Fuel Credit*, in accordance with the instructions for those forms. A person may not make a claim on a Form 8849, Schedule 3 for an amount that is claimed (or will be claimed) on Form 720, Form 720X, *Amended Quarterly Federal Excise Tax Return*, or Form 4136, *Credit for Federal Tax Paid on Fuels*.

The § 34(a)(3) refundable income tax credit is claimed on Form 4136 in accordance with the instructions for that form, for amounts otherwise allowable under § 6427(e)(1), but that were not claimed on Form 720 or Form 8849, Schedule 3.

Although the SAF credit applies to fuel sold or used after December 31, 2022, a claimant will be ineligible to make a claim immediately after the credit goes into effect due to the registration requirements imposed by §§ 40B and 6426(k). In general, a claimant will be able to file an amended return (Form 720X) to claim a credit under § 6426(k) with respect to qualified mixtures produced beginning on January 1, 2023, once the appropriate persons are registered and the other requirements of

this notice are met. Similarly, a claimant will be able to use § 34(a)(3) to claim a refundable income tax credit, which it would otherwise be eligible to claim as a payment under § 6427(e)(1).

(2) *Nonrefundable income tax credit.* The § 40B credit is a § 38 general business credit. A claimant may make this claim on Form 8864, *Biodiesel, Renewable Diesel, and Sustainable Aviation Fuels Credit*, in accordance with the instructions for that form.

Section 87 provides that gross income includes the SAF credit determined with respect to the taxpayer for the taxable year under § 40B(a). Therefore, a claimant must include the amount of the § 40B credit in its gross income.

The amount of the credit determined under § 40B with respect to any sustainable aviation fuel must be properly reduced to take into account any benefit provided with respect to such sustainable aviation fuel solely by reason of the application of § 6426(k) or 6427(e)(1). *See* § 40B(g). In addition, for purposes of § 40A (biodiesel and renewable diesel used as fuel), the term *biodiesel* shall not include any liquid with respect to which a credit may be determined under § 40 or 40B.

A claimant will be ineligible to make a claim immediately after the credit goes into effect due to the registration requirements; however, a claimant generally will be able to file a Form 8864 with an amended income tax return to claim a credit under § 40B once the appropriate persons are registered and the other requirements of this notice are met.

.04 *Claim requirements.*

(1) *Applicability.* The claim requirements under section 6.04 of this notice apply only to claims made with respect to a SAF qualified mixture produced under ASTM D7566.

(2) *Certificate for SAF Synthetic Blending Component.* Each claim for a credit or payment under § 34(a)(3), 40B, 6426(k), or 6427(e)(1) with respect to a SAF qualified mixture must contain an original Certificate for SAF Synthetic Blending Component described in section 7.02 of this notice and, if applicable, the Statement(s) of SAF Synthetic Blending Component Reseller described in section 7.03 of this notice. However, in the case of

a certificate and statement that support a claim made on more than one claim form, the certificate and statement are to be included with the first claim and the claimant is to provide information related to the certificate on any subsequent claim in accordance with the instructions applicable to the claim form.

(3) *Declaration for SAF Qualified Mixture.* Each claim for a credit or payment under § 34(a)(3), 40B, 6426(k), or 6427(e)(1) with respect to a SAF qualified mixture must contain a Declaration for SAF Qualified Mixture. The declaration consists of a statement that is signed under penalties of perjury by a person with authority to bind the claimant, is substantially in the same form as the model declaration in Appendix A of this notice, and contains all the information necessary to complete such declaration.

The declaration must contain the Certificate of Analysis (COA) reference number for the COA associated with the SAF qualified mixture, as well as the COA reference numbers for the SAF synthetic blending component and the D1655 kerosene that the claimant blended to produce the SAF qualified mixture. A COA is a document from an unrelated party used to verify the type and quality of fuel used as jet fuel. Separate COAs are generated for each synthetic blending component, for the kerosene used to mix with the synthetic blending component, and for the SAF qualified mixture. The COA reference number for the SAF synthetic blending component must match the COA reference number for the SAF synthetic blending component on the Certificate for SAF Synthetic Blending Component.

SECTION 7. CERTIFICATES AND STATEMENTS

.01 *Applicability.* This section describes the certificate and reseller statement applicable only to SAF synthetic blending components.

.02 *Certificate for SAF Synthetic Blending Component.* The Certificate for SAF Synthetic Blending Component required by section 6.04(2) of this notice consists of (i) a statement that is signed under penalties of perjury by a person with authority to bind the producer or importer of a SAF synthetic blending component, (ii)

is substantially in the same form as the model certificate in Appendix B of this notice, and (iii) contains all the information necessary to complete the certificate. The certificate identification number is determined by the producer or importer and must be unique to each certificate.

A producer or importer may, with respect to a particular sale of a SAF synthetic blending component, provide multiple separate certificates, each applicable to a portion of the total volume of the SAF synthetic blending component sold. Thus, for example, a producer or importer that sells 5,000 gallons of a SAF synthetic blending component may provide its buyer with five certificates for 1,000 gallons each. The multiple certificates may be provided to the buyer at or after the time of sale or to a reseller in the circumstances described in section 7.03(1) of this notice.

.03 Statement of SAF Synthetic Blending Component Reseller.

(1) *In general.* A person that receives a Certificate for SAF Synthetic Blending Component, and subsequently sells the SAF synthetic blending component without producing a SAF qualified mixture, must provide to its buyer the certificate, and a statement that is substantially in the same form as the model statement in Appendix C of this notice. The statement must contain all of the information necessary to complete the model statement in Appendix C and be attached to the original Certificate for SAF Synthetic Blending Component.

A reseller cannot make multiple copies of a Certificate for SAF Synthetic Blending Component in order to use it for multiple buyers. If a single certificate applies to a SAF synthetic blending component that a reseller expects to sell to multiple buyers, then the reseller should return the certificate (together with any statements provided by intervening resellers) to the producer or importer. The producer or importer may reissue multiple Certificates for SAF Synthetic Blending Component to the reseller that reflect the appropriate volumes. The reissued certificates must include the certificate identification number from the certificate that was returned.

(2) *Withdrawal of the right to provide a statement.* The IRS may withdraw the right of a buyer of a SAF synthetic blending component to provide the buyer's Cer-

tificate for SAF Synthetic Blending Component and Statement of SAF Synthetic Blending Component Reseller under this section 7 if the IRS cannot verify the accuracy of the buyer's statements.

SECTION 8. REQUEST FOR COMMENTS

.01 General comments. The Treasury Department and the IRS request comments on whether any issues related to the SAF credit provided in this notice require clarification or additional guidance. The IRS anticipates issuing additional guidance on the SAF credit.

.02 Comments on specific questions. The Treasury Department and IRS invite specific comments in response to the following questions:

(1) Section 40B(e)(2) provides that "any similar methodology, which satisfies the criteria under § 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H)), as in effect on the date of enactment of this section" may be used to determine the reduction in lifecycle greenhouse gas emissions. What methods exist that could qualify as a "similar methodology"? Do the lifecycle emissions values that have been developed by the Environmental Protection Agency for the Renewable Fuel Standard qualify as a "similar methodology"? Does the Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation (GREET) model developed by the Argonne National Laboratory qualify as a "similar methodology"?

(2) Section 40B(f)(2)(A)(ii) (concerning general requirements, supply chain traceability requirements, and information requirements established under CORSIA) provides that in the case of any methodology established under § 40B(e)(2) (concerning any similar methodology, which satisfies the criteria § 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H))), requirements similar to the requirements described in section 40B(e)(1) apply. What CORSIA requirements are needed to ensure supply chain traceability of information related to lifecycle greenhouse gas emissions and what unrelated party or parties are qualified to demonstrate compliance?

(3) Are any SAF co-processed qualified mixtures currently being produced in

the United States? Are any SAF FT hydrocarbons currently being produced in the United States?

(4) With respect to the registration requirements under § 4101, this notice treats the person who produces a SAF co-processed qualified mixture as a sustainable aviation fuel producer. Is it more appropriate to treat the producer of the SAF FT hydrocarbons as the sustainable aviation fuel producer?

(5) What types of verification exist to show what portion of a SAF co-processed qualified mixture is attributable to FT hydrocarbons versus petroleum? Are carbon dating or mass balancing appropriate types of verification?

(6) What entities are capable of providing the certifications required by § 40B(d)(1)(D) (relating to a lifecycle greenhouse gas emissions reduction percentage of at least 50 percent) and (f)(2)(A) (concerning general requirements, supply chain traceability requirements, and information requirements established under CORSIA or a similar methodology under the Clean Air Act) with respect to SAF co-processed qualified mixtures?

(7) Section 40B(c)(4) requires that the transfer of the qualified mixture into an aircraft occur in the United States. What types of verification exist to show that the qualified mixture is transferred to the fuel tank of an aircraft in the United States?

SECTION 9. SUBMISSION OF COMMENTS

.01 Written comments should be submitted by February 17, 2023. The subject line for the comments should include a reference to Notice 2023-06. Comments may be submitted in one of two ways:

(1) electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (type IRS-2022-0036 in the search field on the regulations.gov homepage to find this notice and submit comments); or

(2) alternatively, by mail to: Internal Revenue Service, CC:PA:LPD:PR (Notice 2023-06), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

.02 All commenters are strongly encouraged to submit comments electronically. The Treasury Department and the

IRS will publish for public availability any comment submitted electronically, or on paper, to its public docket on www.regulations.gov.

SECTION 10. PAPERWORK REDUCTION ACT

Sections 5 and 6.04 of this notice set forth collections of information to be provided to the IRS with Form 637, and to determine whether a claimant qualifies for a SAF credit. The collections of

information will be reflected in the submission to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act (44 U.S.C. 3507(c)) that is associated with Form 637 (OMB control number 1545-1835). This submission will be updated in the ordinary course. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

SECTION 11. DRAFTING INFORMATION

The principal author of this notice is Elisabeth Shellan of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, call the energy security guidance contact number at (202) 317-5254 (not a toll-free number).

Appendix A – *Model Declaration for SAF Qualified Mixture*
DECLARATION FOR SAF QUALIFIED MIXTURE

(To support a claim related to sustainable aviation fuel (SAF)
under the Internal Revenue Code)

The undersigned blender of a SAF qualified mixture (“Claimant”) hereby declares the following:

1. _____

Claimant’s name, address, and employer identification number (EIN)

2. Claimant declares that the SAF qualified mixture to which this declaration relates:

(A) Is a mixture of SAF synthetic blending component and kerosene;

(1) The SAF synthetic blending component used to create the mixture meets the requirements of an ASTM D7566 Annex (the certificate of analysis reference number demonstrating conformance with such standard is _____, dated _____ and the Certificate for SAF Synthetic Blending Component, for the SAF synthetic blending component used to create the mixture, certificate identification number is _____, dated _____);

(2) The kerosene used to create the mixture meets the requirements of ASTM D1655 (the certificate of analysis reference number demonstrating conformance with such standard is _____, dated _____);

(3) The SAF qualified mixture meets the requirements of ASTM D7566 (the certificate of analysis reference number demonstrating conformance with such standard is _____, dated _____);

(B) The mixture was produced by Claimant in the United States;

(C) The mixture was used by Claimant (or sold by Claimant) for use in an aircraft;

(D) Such sale or use was in the ordinary course of the trade or business of the Claimant;

(E) The transfer of such mixture to the fuel tank of such aircraft occurred in the United States.

3. Claimant is registered under activity letter M or S or both with registration number(s) _____. Claimant’s registration has not been suspended or revoked by the Internal Revenue Service.

Under penalties of perjury, I, _____ declare that I have examined this declaration, and to the best of my knowledge and belief, it is true, correct, and complete.

Printed or typed name of person signing this declaration

Title of person signing

Signature and date signed

Appendix B – *Model Certificate for SAF Synthetic Blending Component*
CERTIFICATE FOR SAF SYNTHETIC BLENDING COMPONENT

Certificate Identification Number: _____

(To support a claim related to sustainable aviation fuel (SAF)
under the Internal Revenue Code)

The undersigned producer or importer of a SAF synthetic blending component (“Producer”) hereby certifies the following under penalties of perjury:

1. _____

Producer’s name, address, and employer identification number (EIN)

2. _____

Name, address, and EIN of person buying the SAF synthetic blending component from Producer.

3. _____

Name and address of the unrelated party certifying compliance with the general requirements, supply chain traceability requirements, and information transmission requirements established under the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) or similar requirements for methodologies established under section 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H)).

4. _____

Date and location of sale to buyer

5. This certificate applies to _____ gallons of a SAF synthetic blending component.

6. Producer certifies that the SAF synthetic blending component to which this certificate relates:

(A) Meets the requirements of an ASTM D7566 Annex (the certificate of analysis reference number demonstrating conformance with such standard is _____, dated _____);

(B) Is not derived from co-processing an applicable material (monoglycerides, diglycerides, triglycerides, free fatty acids, or fatty acid esters) or materials derived from an applicable material with a feedstock that is not biomass (as defined in section 45K(c)(3));

(C) Is not derived from palm fatty acid distillates or petroleum; and

(D) Has been certified in accordance with section 40B(e) as having a lifecycle greenhouse gas emissions reduction percentage of at least 50 percent.

7. The lifecycle greenhouse gas emissions reduction percentage of the SAF synthetic blending component to which this certificate relates is _____. (This percent must be rounded down to the nearest whole percent.)

(Check one)

_____ The lifecycle greenhouse gas emissions reduction percentage is calculated from the “Default Life Cycle Emissions Values for CORSIA Eligible Fuels” in the most recently published version by the International Civil Aviation Organization (ICAO).

_____ The lifecycle greenhouse gas emissions reduction percentage is calculated from the “CORSIA Methodology for Calculating Actual Life Cycle Emission Values” in the most recently published version by the ICAO.

_____ The lifecycle greenhouse gas emissions reduction percentage is calculated according to a methodology that satisfies the criteria of section 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H)). Describe method: _____

8. The applicable supplementary amount with respect to the SAF synthetic blending component to which this certificate relates is _____. In no event can the applicable supplementary amount exceed \$0.50.

9. This certificate applies to the following sale:

_____ Invoice or delivery ticket number

_____ Total number of gallons of the SAF synthetic blending component sold under that invoice or delivery ticket number (including SAF synthetic blending component not covered by this certificate)

_____ Total number of certificates issued for that invoice or delivery ticket number

10. _____

Name, address, and EIN of reseller to whom certificate is issued (only in the case of certificates reissued to a reseller after the return of the original certificate)

11. _____ Original Certificate Identification Number (only in the case of certificates reissued to a reseller after return of the original certificate)
12. Producer is registered as a sustainable aviation fuel (activity letter SA) producer or importer with registration number _____. Producer's registration has not been suspended or revoked by the Internal Revenue Service.

Producer understands that the fraudulent use of this certificate may subject Producer and all parties making any fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Printed or typed name of person signing this certificate

Title of person signing

Signature and date signed

Note: In the case of a claimant that is also the producer or importer of the SAF synthetic blending component, the information required on lines 2, 4, and 10 of the model certificate is not applicable and those lines do not need to be completed.

Appendix C – Model Statement of SAF Synthetic Blending Component Reseller
STATEMENT OF SAF SYNTHETIC BLENDING COMPONENT RESELLER

(To support a claim related to sustainable aviation fuel (SAF)
under the Internal Revenue Code)

The undersigned SAF synthetic blending component reseller (“Reseller”) hereby certifies the following under penalties of perjury:

1. _____

Reseller’s name, address, and employer identification number (EIN)

2. _____

Name, address, and EIN of Reseller’s buyer

3. _____

Date and location of sale to buyer

4. _____ Volume of the SAF synthetic blending component sold

5. _____ Certificate Identification Number on the Certificate for SAF Synthetic Blending
Component

Reseller has bought the SAF synthetic blending component described in the accompanying Certificate for SAF Synthetic Blending Component and reseller has no reason to believe that any information in the certificate is false.

Reseller has not been notified by the Internal Revenue Service that its right to provide a certificate and a statement has been withdrawn.

Reseller understands that the fraudulent use of this statement may subject Reseller and all parties making any fraudulent use of this statement to a fine or imprisonment, or both, together with the costs of prosecution.

Printed or typed name of person signing this certificate

Title of person signing

Signature and date signed

Additional Guidance Related to Transfers of Publicly Traded Partnership Interests under Section 1446(f)

Notice 2023-8

I. PURPOSE

This notice provides additional guidance for brokers to comply with the provisions of the final regulations under section 1446(f) (and certain provisions of the final regulations that apply to section 1446(a)) (final regulations) that relate to withholding on the transfer of an interest in a publicly traded partnership (PTP interest). The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to issue proposed regulations that would amend the final regulations to implement this additional guidance.

II. BACKGROUND

Sections 864(c)(8) and 1446(f) were added to the Code by the Tax Cuts and Jobs Act, Pub. L. 115-97, on December 22, 2017. Section 864(c)(8) generally provides that gain or loss of a foreign person on the sale or exchange of an interest in a partnership engaged in a U.S. trade or business is treated as effectively connected gain or loss and, therefore, is subject to U.S. tax. Section 1446(f)(1) requires a transferee of an interest in a partnership to withhold 10 percent of the amount realized if any portion of the gain on the disposition would be treated under section 864(c)(8) as effectively connected with the conduct of a trade or business within the United States (unless an exception applies).

On November 30, 2020, the Treasury Department and the IRS published the final regulations (TD 9926) in the Federal Register (85 FR 76910, as corrected at 86 FR 13191), primarily relating to withholding and information reporting under section 1446(f). The final regulations include withholding requirements under section 1446(f)(1) that generally require a broker that effects a transfer of a PTP interest on

behalf of a transferor to withhold on the payment of an amount realized made to the transferor. However, a broker is not required to withhold, or may withhold at a reduced rate, if it can rely on (i) a certification from the transferor that claims an exception or reduction to withholding (generally provided on a valid Form W-8 or W-9) or (ii) a representation made by the publicly traded partnership (PTP) on a qualified notice indicating that the exception under §1.1446(f)-4(b)(3)(ii) applies (ten-percent exception). A broker is also not required to withhold when it makes the payment of an amount realized to a qualified intermediary (QI), or a U.S. branch treated as a U.S. person, that assumes primary withholding responsibility under section 1446(f)(1).

The provisions of the final regulations that relate to a broker's obligation to withhold on the transfer of a PTP interest apply to transfers that occur on or after January 1, 2022. However, on September 7, 2021, the Treasury Department and the IRS released Notice 2021-51, 2021-36 I.R.B. 361, deferring the applicability date of these provisions to transfers that occur on or after January 1, 2023. On May 16, 2022, the Treasury Department and the IRS released Notice 2022-23, 2022-20 I.R.B. 1062, proposing changes to the qualified intermediary agreement (QI agreement), including rules that will apply to QIs required to withhold on the transfer of a PTP interest under section 1446(f) starting January 1, 2023. Subsequently, the Treasury Department and the IRS released Revenue Procedure 2022-43, 2022-52 I.R.B. 570, which provides the final QI agreement effective as of January 1, 2023.

III. SALES OF INTERESTS IN FOREIGN PUBLICLY TRADED PARTNERSHIPS

Following the publication of the final regulations, taxpayers and other stakeholders raised concerns regarding the difficulty of brokers to determine, for withholding under section 1446(f), whether entities organized outside of the United States are classified as PTPs for U.S. tax purposes. Because the final regulations generally require withholding on the sale of a PTP interest unless the PTP represents on a qualified notice that the ten-percent ex-

ception applies, or the transferor provides a certification claiming another exception to withholding under §1.1446(f)-4(b)), a broker that is unable to determine the classification of an entity may be required to withhold on each sale of an interest in such entity. The view of these stakeholders was that it is impractical to identify a complete list of entities organized outside of the United States that are classified as partnerships for U.S. tax purposes and that are traded on a foreign established securities market or foreign secondary market. These stakeholders requested that a broker be able to presume that an entity organized outside of the United States is not a PTP unless it has actual knowledge to the contrary, and that a PTP organized outside of the United States is presumed to not have effectively connected income unless it represents otherwise on a qualified notice.

The Treasury Department and the IRS have determined that the burden on brokers to determine whether a foreign entity that trades on a foreign market is a PTP for U.S. tax purposes would likely be disproportionate to the amount of gain subject to section 864(c)(8) on transfers of interests in such entities. The Treasury Department and the IRS intend to issue proposed regulations that would amend the final regulations to provide withholding relief to brokers on the sale of an interest in an entity that is organized outside of the United States and that trades solely on a foreign established securities market or foreign secondary market (foreign-traded entity). This proposed amendment would allow a broker that effects a sale of an interest in a foreign-traded entity to presume that the entity is not a PTP for U.S. tax purposes unless the broker has actual knowledge otherwise.

However, the Treasury Department and the IRS have determined that it is inappropriate to allow a broker that knows that a foreign-traded entity is a PTP for U.S. tax purposes to presume that the PTP does not have effectively connected income, and therefore do not intend to include such a presumption in the proposed regulations. Thus, in such a case, a broker would be required to withhold under section 1446(f) on the sale of an interest in the PTP unless the PTP has indicated on a qualified notice that the ten-percent exception applies

or the broker receives a certification from the transferor claiming another exception or reduction to withholding.

IV. RELIANCE ON LATE CERTIFICATIONS

Under the final regulations, a broker may rely on a certification from a transferor that claims an exception or reduction to withholding. However, a broker may not rely on a certification if it is received earlier than 30 days before a transfer (unless an allowance applies in the final regulations to allow a broker to rely on documentation that it already possesses) or at any time after a transfer. Taxpayers and other stakeholders have requested an allowance for brokers to rely on late certifications that claim an exception or reduction to withholding on the transfer of a PTP interest. These stakeholders noted that for other types of payments, brokers that are withholding agents are allowed to rely on late documentation for purposes of reducing withholding (for example, under the regulations under sections 1441 and 1471), and thus requested that the final regulations be amended to provide that those same provisions apply for purposes of applying section 1446(f) on the transfer of a PTP interest.

The Treasury Department and the IRS have determined that it is appropriate to allow brokers to rely on late certifications for purposes of withholding under section 1446(f) in order to reduce over-withholding and claims for refund and to better coordinate with the documentation rules under sections 1441 and 1471. The Treasury Department and the IRS intend to issue proposed regulations that would amend the final regulations to allow brokers to rely on late certifications when certain requirements are met. A broker would be permitted to rely on a valid certification that it receives within 30 days of the date of payment. If the certification is received more than 30 days after the date of payment but within one year of the date of the payment, a broker would be permitted to rely on the certification if it contains a signed affidavit stating that the information and representations on the certification were accurate as of the time of payment. If a certification is received more than one year after the date of pay-

ment, the broker would be permitted to rely on the certification if it contains the signed affidavit and, in the case of a claim for treaty benefits under §1.1446(f)-4(b)(5), documentary evidence described in §1.1441-6(c)(4)(i) or (ii) to support the treaty claim made on the certificate.

The allowance for late certifications would apply to any certification used to claim an exception or reduction to withholding on the transfer of a PTP interest under §1.1446(f)-4. For example, a broker may rely on a late Form W-8IMY from a foreign partnership to claim a modified amount realized pursuant to §1.1446(f)-4(c)(2)(ii) if the form meets the requirements for late certifications. A broker may also rely on any underlying certifications provided by the foreign partnership on behalf of its partners to establish a claim of non-foreign status or a claim of treaty benefits to the extent that those certifications separately meet the requirements for late certifications.

The Treasury Department and the IRS also intend to issue proposed regulations that would amend the final regulations that relate to withholding under section 1446(a) to provide the same allowance for late certifications that are received by nominees treated as withholding agents under §1.1446-4 on PTP distributions subject to section 1446(a).

V. SHORT SALES OF PTP INTERESTS

The Treasury Department and the IRS have received requests for clarity on the application of section 1446(f) to transactions described by requestors as short sales of PTP interests (PTP shorts). In a PTP short, a taxpayer obtains a PTP interest from a third party (original PTP interest owner), subject to an obligation to deliver an identical PTP interest to the original PTP interest owner in the future. The taxpayer immediately sells the PTP interest to an unrelated market participant for cash (sale to market). To satisfy its obligation to deliver an identical PTP interest to the original PTP interest owner, the taxpayer may buy a replacement PTP interest and deliver it to the original PTP interest owner. As an economic matter, the taxpayer will profit from the transaction if the value of the PTP interest has declined during the term of the PTP short. Alternatively, the

taxpayer may instead deliver a PTP interest that it holds at that time to the original PTP interest owner. In the latter case, the taxpayer may have owned the PTP interest when it enters into the PTP short, or it may have acquired the PTP interest during the term of the PTP short. Taxpayers typically carry out these transactions through a broker, who has the legal relationship with both the taxpayer and the original PTP interest owner.

Taxpayers and other stakeholders have requested that guidance be issued to the effect that no withholding applies to PTP shorts. In response, the Treasury Department and the IRS intend to issue proposed regulations that would amend the final regulations to provide an exception to withholding under section 1446(f) on a PTP short (PTP short exception). The PTP short exception would apply to a PTP short effected by a broker on behalf of a taxpayer that obtained the PTP interest from another party (including the broker or a customer of the broker) for sale to market. No withholding would be required on the sale to market of the PTP interest or on the later transfer by the taxpayer of an identical PTP interest to the original PTP interest owner. The proposed regulations would not address the treatment of the PTP short to the original PTP interest owner.

The Treasury Department and the IRS have determined that the PTP short exception should not apply in certain situations in which there may be gain arising from the PTP short that is subject to section 864(c)(8). Therefore, the PTP short exception would not apply if on the date that the sale to market is entered on the books of the broker (i) the taxpayer holds substantially identical property (within the meaning of section 1233) in an account with the broker or (ii) the broker has actual knowledge that the taxpayer holds substantially identical property in an account with another broker. In such cases, the taxpayer may realize gain from delivery of such substantially identical property to the original PTP interest owner or from a constructive sale under section 1259. Because any such gain would be attributable, in whole or in part, to the taxpayer's ownership in the substantially identical PTP interest, it is inappropriate to provide relief from withholding under section 1446(f). This limitation to the PTP short exception would

apply regardless of whether the taxpayer delivers to the original PTP interest owner the substantially identical PTP interest held on the date of the sale to market or a PTP interest acquired during the term of the PTP short.

The proposed regulations would also clarify existing guidance to brokers regarding withholding and reporting associated with PTP shorts that do not qualify for the PTP short exception. The date of transfer for purposes of withholding and reporting on a PTP short under §1.1446(f)-4 would be the date on which the sale to market of the PTP interest is entered on the books of the broker, but the broker would not be required to satisfy its withholding liability until payment is made. This would allow

a broker to withhold from the proceeds of the sale to market when it knows that the PTP short exception does not apply because it holds (or knows that another broker holds) substantially identical property for the taxpayer at the time of such sale. A broker would be required to deposit any withheld amounts with the IRS in accordance with §1.6302-2.

VI. APPLICABILITY DATE AND TAXPAYER RELIANCE

The proposed regulations would apply to transfers or distributions made on or after January 1, 2023. Before the promulgation of the proposed regulations, a broker required to withhold under sec-

tion 1446(a) or 1446(f) may rely on the provisions of this Notice regarding the proposed regulations described in sections III through V. A QI applying the provisions of the QI agreement (as in effect on January 1, 2023) may also rely on the provisions of this Notice regarding the proposed regulations described in sections III through V.

VII. DRAFTING INFORMATION

The principal author of this notice is Subin Seth of the Office of Associate Chief Counsel (International). For further information regarding this notice, contact Mr. Seth at (202) 317-5003 (not a toll-free number).

Part IV

Transitional guidance under sections 6045 and 6045A with respect to the reporting of information on digital assets by brokers.

Announcement 2023-2

Section 80603 of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, 1339 (2021) (Infrastructure Act) clarifies and expands the rules regarding the reporting of information on digital assets by brokers under sections 6045 and 6045A of the Internal Revenue Code. This announcement provides transitional guidance under sections 6045 and 6045A with respect to the reporting of information on digital assets.

Section 6045(a) provides that every person doing business as a broker shall make a return showing the name and address of each customer, with such details regarding gross proceeds and such other information as the Secretary of the Treasury or her delegate (Secretary) may by forms or regulations require with respect to such business. These rules apply when required by the Secretary and in accordance with regulations prescribed by the Secretary. Other subsections of section 6045 require a broker to furnish a payee statement to customers, define the term “broker,” require basis reporting for specified securities that are also covered securities, and provide other applicable rules.

A person doing business as a broker is required to file information returns and furnish payee statements in accordance with existing regulations under section 6045 for each customer for whom the broker has sold stocks, certain commodities, and other specified categories of assets in exchange for cash. The information returns and payee statements are required to show each customer’s name and address, details regarding gross proceeds, the adjusted basis of certain categories of assets sold, and certain other information. Brokers must furnish payee statements to customers by February 15 of the year following the calendar year of the sale. Bro-

kers must file information returns on Form 1099-B, Proceeds From Broker and Barter Exchange Transactions, with the Internal Revenue Service (IRS) by February 28 (or March 31 if filing electronically) of the year following the calendar year of the sale. The existing regulations under section 6045 do not specifically address the extent to which these requirements apply to sales or exchanges of digital assets and do not specifically include digital assets as a specified security subject to basis reporting.

Section 6045A(a) generally requires a broker who transfers to another broker securities that are covered securities in the hands of the transferring broker to furnish to the receiving broker a written statement setting forth information required by the regulations. The existing regulations under section 6045A require transfer statements to include specified information about the customer, the brokers involved, and the original acquisition information about the covered security. Brokers must furnish the transfer statements required under section 6045A(a) not later than 15 days after the date of the transfer. Section 6045A(c). The existing regulations under section 6045A do not specifically address the extent to which these requirements apply to transfers of digital assets.

Section 80603 clarifies and expands the rules regarding how digital assets should be reported by brokers under sections 6045 and 6045A to improve tax administration and tax compliance with respect to trading and investing in digital assets. First, section 80603(a) clarifies the definition of broker in section 6045(c)(1) to include any person who, for consideration, is responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person. Second, section 80603(b)(1) modifies the definition of specified securities subject to basis reporting under section 6045(g) to explicitly include digital assets and to provide that these specified securities are treated as covered securities for purposes of basis reporting if they are acquired on or after January 1, 2023. Third, section 80603(b)(1)(B) defines a digital asset to mean any digital representation of value

which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary, except as otherwise provided by the Secretary. Fourth, section 80603(b)(2) clarifies that transfer statement reporting under section 6045A(a) applies to transfers between brokers of covered securities that are digital assets and adds a new information reporting provision for certain transfers under section 6045A(d). Under this new provision, brokers must report to the IRS transfers during a calendar year of digital assets that are covered securities, provided the transfer is not part of a sale or exchange and is not to an account maintained by a person that the broker knows or has reason to know is also a broker. Finally, section 80603(c) provides that these amendments apply to returns required to be filed, and statements required to be furnished, after December 31, 2023.

The Department of the Treasury (Treasury Department) and the IRS intend to implement section 80603 of the Infrastructure Act by publishing regulations specifically addressing the application of sections 6045 and 6045A to digital assets and providing forms and instructions for broker reporting. A notice of proposed rulemaking will be published that sets forth proposed regulatory text, explains the proposed rules, solicits public comments, and announces a public hearing. This process will allow the Treasury Department and the IRS to accept comments from affected taxpayers, industries, and other interested parties and enable the public to meaningfully participate in the regulatory process. After careful consideration of all public comments received and all testimony at the public hearing, final regulations will be published.

Until the Treasury Department and the IRS issue new final regulations pursuant to section 80603 under section 6045, a broker may report gross proceeds and basis as required under existing law and regulations as of December 23, 2022. In addition, until the Treasury Department and the IRS issue new final regulations pursuant to section 80603 under section 6045A, a broker may furnish statements

on transfers of covered securities as required under existing law and regulations as of December 23, 2022. Brokers will not be required to report or furnish additional information with respect to

dispositions of digital assets under section 6045, or issue additional statements under section 6045A, or file any returns with the IRS on transfers of digital assets under section 6045A(d) until those new

final regulations under sections 6045 and 6045A are issued.

The principal author of this announcement is the Office of the Associate Chief Counsel (Procedure & Administration).

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.

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¹A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2022–27 through 2022–52 is in Internal Revenue Bulletin 2022–52, dated December 27, 2022.

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¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2022–27 through 2022–52 is in Internal Revenue Bulletin 2022–52, dated December 27, 2022.

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