INTERNAL REVENUE
BULLETIN

IRS

Bulletin No. 2020–26
June 22, 2020

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

Rev. Rul. 2020-13, page 965.

Interest rates: underpayments and overpayments. The rates for interest determined under Section 6621 of the code for the calendar quarter beginning July 1, 2020, will be 3 percent for overpayments (2 percent in the case of a corporation), 3 percent for underpayments, and 5 percent for large corporate underpayments. The rate of interest paid on the portion of a corporate overpayment exceeding $10,000 will be 0.5 percent.

EMPLOYEE PLANS

Notice 2020-42, page 986.

Notice 2020-42 provides participants, beneficiaries, and administrators of qualified retirement plans and other tax-favored retirement arrangements with temporary relief from the physical presence requirement in § 1.401(a)-21(d)(6) for any participant election (1) witnessed by a notary public in a state that permits remote notarization, or (2) witnessed by a plan representative using certain safeguards. The guidance accommodates local shutdowns and social distancing practices and is intended to facilitate the payment of coronavirus-related distributions and plan loans to qualified individuals, as permitted by CARES Act.

EXCISE TAX

Notice 2020-44, page 989.

Sections 4375 and 4376, added to the Code by the Affordable Care Act, impose a fee on issuers of specified health insurance policies and plan sponsors of applicable self-insured health plans to help fund the Patient-Centered Outcomes Research Trust Fund (PCORTF). This notice addresses the recent extension of the fee by the Further Consolidated Appropriations Act, 2020, Public Law 116-94, and provides relief for calculating the average number of lives for policy years and plan years that end on or after October 1, 2019, and before October 1, 2020. This notice provides that the adjusted applicable dollar amount that applies for determining the PCORTF fee for policy years and plan years ending on or after October 1, 2019 and before October 1, 2020 is equal to $2.54. This adjusted applicable dollar amount has been determined using the percentage increase in the projected per capita amount of the National Health Expenditures published by HHS in February 2019.

INCOME TAX

Notice 2020-39, page 984.

This notice provides relief under section 7508A(a) of the Internal Revenue Code (Code) for qualified opportunity funds (QOFs) and their investors in response to the ongoing Coronavirus Disease 2019 (COVID-19) pandemic. This notice also addresses the application of certain relief provisions in the Income Tax Regulations under section 1400Z-2 of the Code (section 1400Z-2 regulations).

REG-109755-19, page 994.

These proposed regulations provide guidance under section 213 of the Internal Revenue Code regarding the treatment of amounts paid for certain medical care arrangements, including direct primary care arrangements, health care sharing ministries, and certain government-sponsored health care programs. The proposed regulations affect individuals who pay for these arrangements or programs and

Finding Lists begin on page ii.

want to deduct the amounts paid as medical expenses under section 213.

Rev. Proc. 2020-34, page 990.

This revenue procedure grants temporary relief to trusts which are, or have tenants who are, experiencing financial hardship as a result of COVID-19, to allow them to make certain modifications to their mortgage loans and their lease agreements, and to accept additional cash contributions without jeopardizing their tax status as grantor trusts. The revenue procedure indicates that a cash contribution from one or more new trust interest holders to acquire a trust interest or a non-pro rata cash contribution from one or more current trust interest holders must be treated as a purchase and sale under § 1001 of a portion of each non-contributing (or lesser contributing) trust interest holder's proportionate interest in the trust's assets.

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.

Part I

Section 6621.—Determination of Rate of Interest

26 CFR 301.6621-1: Interest rate.

Rev. Rul. 2020-13

Section 6621 of the Internal Revenue Code establishes the interest rates on overpayments and underpayments of tax. Under section 6621(a)(1), the overpayment rate is the sum of the federal short-term rate plus 3 percentage points (2 percentage points in the case of a corporation), except the rate for the portion of a corporate overpayment of tax exceeding $10,000 for a taxable period is the sum of the federal short-term rate plus 0.5 of a percentage point. Under section 6621(a)(2), the underpayment rate is the sum of the federal short-term rate plus 3 percentage points.

Section 6621(c) provides that for purposes of interest payable under section 6601 on any large corporate underpayment, the underpayment rate under section 6621(a)(2) is determined by substituting "5 percentage points" for "3 percentage points." See section 6621(c) and section 301.6621-3 of the Regulations on Procedure and Administration for the definition of a large corporate underpayment and for the rules for determining the applicable date. Section 6621(c) and section 301.6621-3 are generally effective for periods after December 31, 1990.

Section 6621(b)(1) provides that the Secretary will determine the federal short-term rate for the first month in each calendar quarter. Section 6621(b)(2)(A) provides that the federal short-term rate determined under section 6621(b)(1) for any month applies during the first calendar quarter beginning after that month. Section 6621(b)(3) provides that the federal short-term rate for any month is the federal short-term rate determined during that month by the Secretary in accordance with section 1274(d), rounded to the nearest full percent (or, if a multiple of 1/2 of 1 percent, the rate is increased to the next highest full percent).

Notice 88-59, 1988-1 C.B. 546, announced that in determining the quarterly interest rates to be used for overpayments and underpayments of tax under section 6621, the Internal Revenue Service will use the federal short-term rate based on daily compounding because that rate is most consistent with section 6621 which, pursuant to section 6622, is subject to daily compounding.

The federal short-term rate determined in accordance with section 1274(d) during April 2020 is the rate published in Revenue Ruling 2020-11, 2020-19 IRB 776, to take effect beginning May 1, 2020. The federal short-term rate, rounded to the nearest full percent, based on daily compounding determined during the month of April 2020 is 0 percent. Accordingly, an overpayment rate of 3 percent (2 percent in the case of a corporation) and an underpayment rate of 3 percent are established for the calendar quarter beginning July 1, 2020. The overpayment rate for the portion of a corporate overpayment exceeding $10,000 for the calendar quarter beginning July 1, 2020 is 0.5 percent. The underpayment rate for large corporate underpayments for the calendar quarter beginning July 1, 2020, is 5 percent. These rates apply to amounts bearing interest during that calendar quarter.

Sections 6654(a)(1) and 6655(a)(1) provide that the underpayment rate established under section 6621 applies in determining the addition to tax under sections 6654 and 6655 for failure to pay estimated tax for any taxable year. Thus, the 3 percent rate also applies to estimated tax underpayments for the third calendar quarter beginning July 1, 2020. In addition, pursuant to section 6603(d)(4), the rate of interest on section 6603 deposits is 0 percent for the third calendar quarter in 2020.

Interest factors for daily compound interest for annual rates of 0.5 percent are published in Appendix A of this Revenue Ruling. Interest factors for daily compound interest for annual rates of 2 percent, 3 percent and 5 percent are published in Tables 57, 59, and 63 of Rev. Proc. 95-17, 1995-1 C.B. 611, 613, and 617.

Annual interest rates to be compounded daily pursuant to section 6622 that apply for prior periods are set forth in the tables accompanying this revenue ruling.

DRAFTING INFORMATION

The principal author of this revenue ruling is Casey R. Conrad of the Office of the Associate Chief Counsel (Procedure and Administration). For further information regarding this revenue ruling, contact Mr. Conrad at (202) 317-6844 (not a toll-free number).

APPENDIX A

365 Day Year

0.5% Compound Rate 184 Days

Days	Factor	Days	Factor	Days	Factor
1	0.000013699	63	0.000863380	125	0.001713784
2	0.000027397	64	0.000877091	126	0.001727506
3	0.000041096	65	0.000890801	127	0.001741228
4	0.000054796	66	0.000904512	128	0.001754951
5	0.000068495	67	0.000918223	129	0.001768673
6	0.000082195	68	0.000931934	130	0.001782396
7	0.000095894	69	0.000945646	131	0.001796119
8	0.000109594	70	0.000959357	132	0.001809843
9	0.000123294	71	0.000973069	133	0.001823566
10	0.000136995	72	0.000986781	134	0.001837290
11	0.000150695	73	0.001000493	135	0.001851013
12	0.000164396	74	0.001014206	136	0.001864737
13	0.000178097	75	0.001027918	137	0.001878462
14	0.000191798	76	0.001041631	138	0.001892186
15	0.000205499	77	0.001055344	139	0.001905910
16	0.000219201	78	0.001069057	140	0.001919635
17	0.000232902	79	0.001082770	141	0.001933360
18	0.000246604	80	0.001096484	142	0.001947085
19	0.000260306	81	0.001110197	143	0.001960811
20	0.000274008	82	0.001123911	144	0.001974536
21	0.000287711	83	0.001137625	145	0.001988262
22	0.000301413	84	0.001151339	146	0.002001988
23	0.000315116	85	0.001165054	147	0.002015714
24	0.000328819	86	0.001178768	148	0.002029440
25	0.000342522	87	0.001192483	149	0.002043166
26	0.000356225	88	0.001206198	150	0.002056893
27	0.000369929	89	0.001219913	151	0.002070620
28	0.000383633	90	0.001233629	152	0.002084347
29	0.000397336	91	0.001247344	153	0.002098074
30	0.000411041	92	0.001261060	154	0.002111801
31	0.000424745	93	0.001274776	155	0.002125529
32	0.000438449	94	0.001288492	156	0.002139257
33	0.000452154	95	0.001302208	157	0.002152985
34	0.000465859	96	0.001315925	158	0.002166713
35	0.000479564	97	0.001329641	159	0.002180441
36	0.000493269	98	0.001343358	160	0.002194169
37	0.000506974	99	0.001357075	161	0.002207898
38	0.000520680	100	0.001370792	162	0.002221627
39	0.000534386	101	0.001384510	163	0.002235356
40	0.000548092	102	0.001398227	164	0.002249085
41	0.000561798	103	0.001411945	165	0.002262815

42	0.000575504	104	0.001425663	166	0.002276544
43	0.000589211	105	0.001439381	167	0.002290274
44	0.000602917	106	0.001453100	168	0.002304004
45	0.000616624	107	0.001466818	169	0.002317734
46	0.000630331	108	0.001480537	170	0.002331465
47	0.000644039	109	0.001494256	171	0.002345195
48	0.000657746	110	0.001507975	172	0.002358926
49	0.000671454	111	0.001521694	173	0.002372657
50	0.000685161	112	0.001535414	174	0.002386388
51	0.000698869	113	0.001549133	175	0.002400120
52	0.000712578	114	0.001562853	176	0.002413851
53	0.000726286	115	0.001576573	177	0.002427583
54	0.000739995	116	0.001590293	178	0.002441315
55	0.000753703	117	0.001604014	179	0.002455047
56	0.000767412	118	0.001617734	180	0.002468779
57	0.000781121	119	0.001631455	181	0.002482511
58	0.000794831	120	0.001645176	182	0.002496244
59	0.000808540	121	0.001658897	183	0.002509977
60	0.000822250	122	0.001672619	184	0.002523710
61	0.000835960	123	0.001686340		
62	0.000849670	124	0.001700062		

366 Day Year

0.5% Compound Rate 184 Days

Days	Factor	Days	Factor	Days	Factor
1	0.000013661	63	0.000861020	125	0.001709097
2	0.000027323	64	0.000874693	126	0.001722782
3	0.000040984	65	0.000888366	127	0.001736467
4	0.000054646	66	0.000902040	128	0.001750152
5	0.000068308	67	0.000915713	129	0.001763837
6	0.000081970	68	0.000929387	130	0.001777522
7	0.000095632	69	0.000943061	131	0.001791208
8	0.000109295	70	0.000956735	132	0.001804893
9	0.000122958	71	0.000970409	133	0.001818579
10	0.000136620	72	0.000984084	134	0.001832265
11	0.000150283	73	0.000997758	135	0.001845951
12	0.000163947	74	0.001011433	136	0.001859638
13	0.000177610	75	0.001025108	137	0.001873324
14	0.000191274	76	0.001038783	138	0.001887011
15	0.000204938	77	0.001052459	139	0.001900698
16	0.000218602	78	0.001066134	140	0.001914385
17	0.000232266	79	0.001079810	141	0.001928073
18	0.000245930	80	0.001093486	142	0.001941760
19	0.000259595	81	0.001107162	143	0.001955448
20	0.000273260	82	0.001120839	144	0.001969136
21	0.000286924	83	0.001134515	145	0.001982824
22	0.000300590	84	0.001148192	146	0.001996512
23	0.000314255	85	0.001161869	147	0.002010201
24	0.000327920	86	0.001175546	148	0.002023889
25	0.000341586	87	0.001189223	149	0.002037578
26	0.000355252	88	0.001202900	150	0.002051267
27	0.000368918	89	0.001216578	151	0.002064957
28	0.000382584	90	0.001230256	152	0.002078646
29	0.000396251	91	0.001243934	153	0.002092336
30	0.000409917	92	0.001257612	154	0.002106025
31	0.000423584	93	0.001271291	155	0.002119715
32	0.000437251	94	0.001284969	156	0.002133405
33	0.000450918	95	0.001298648	157	0.002147096
34	0.000464586	96	0.001312327	158	0.002160786
35	0.000478253	97	0.001326006	159	0.002174477
36	0.000491921	98	0.001339685	160	0.002188168
37	0.000505589	99	0.001353365	161	0.002201859
38	0.000519257	100	0.001367044	162	0.002215550
39	0.000532925	101	0.001380724	163	0.002229242
40	0.000546594	102	0.001394404	164	0.002242933
41	0.000560262	103	0.001408085	165	0.002256625
42	0.000573931	104	0.001421765	166	0.002270317

43	0.000587600	105	0.001435446	167	0.002284010
44	0.000601269	106	0.001449127	168	0.002297702
45	0.000614939	107	0.001462808	169	0.002311395
46	0.000628608	108	0.001476489	170	0.002325087
47	0.000642278	109	0.001490170	171	0.002338780
48	0.000655948	110	0.001503852	172	0.002352473
49	0.000669618	111	0.001517533	173	0.002366167
50	0.000683289	112	0.001531215	174	0.002379860
51	0.000696959	113	0.001544897	175	0.002393554
52	0.000710630	114	0.001558580	176	0.002407248
53	0.000724301	115	0.001572262	177	0.002420942
54	0.000737972	116	0.001585945	178	0.002434636
55	0.000751643	117	0.001599628	179	0.002448331
56	0.000765315	118	0.001613311	180	0.002462025
57	0.000778986	119	0.001626994	181	0.002475720
58	0.000792658	120	0.001640678	182	0.002489415
59	0.000806330	121	0.001654361	183	0.002503110
60	0.000820003	122	0.001668045	184	0.002516806
61	0.000833675	123	0.001681729		
62	0.000847348	124	0.001695413		

TABLE OF INTEREST RATES
PERIODS BEFORE JUL. 1, 1975 - PERIODS ENDING DEC. 31, 1986
OVERPAYMENTS AND UNDERPAYMENTS

PERIOD					RATE	In 1995-1 C.B. DAILY RATE TABLE			
Before		Jul.	1,	1975	6%	Table	2,	pg.	557
Jul.	1,	1975–Jan.	31,	1976	9%	Table	4,	pg.	559
Feb.	1,	1976–Jan.	31,	1978	7%	Table	3,	pg.	558
Feb.	1,	1978–Jan.	31,	1980	6%	Table	2,	pg.	557
Feb.	1,	1980–Jan.	31,	1982	12%	Table	5,	pg.	560
Feb.	1,	1982–Dec.	31,	1982	20%	Table	6,	pg.	560
Jan.	1,	1983–Jun.	30,	1983	16%	Table	37,	pg.	591
Jul.	1,	1983–Dec.	31,	1983	11%	Table	27,	pg.	581
Jan.	1,	1984–Jun.	30,	1984	11%	Table	75,	pg.	629
Jul.	1,	1984–Dec.	31,	1984	11%	Table	75,	pg.	629
Jan.	1,	1985–Jun.	30,	1985	13%	Table	31,	pg.	585
Jul.	1,	1985–Dec.	31,	1985	11%	Table	27,	pg.	581
Jan.	1,	1986–Jun.	30,	1986	10%	Table	25,	pg.	579
Jul.	1,	1986–Dec.	31,	1986	9%	Table	23,	pg.	577

TABLE OF INTEREST RATES
FROM JAN. 1, 1987 - Dec. 31, 1998

PERIOD					OVERPAYMENTS 1995-1 C.B.			UNDERPAYMENTS 1995-1 C.B. RATE		
					RATE	TABLE	PG	RATE	TABLE	PG
Jan.	1,	1987–Mar.	31,	1987	8%	21	575	9%	23	577
Apr.	1,	1987–Jun.	30,	1987	8%	21	575	9%	23	577
Jul.	1,	1987–Sep.	30,	1987	8%	21	575	9%	23	577
Oct.	1,	1987–Dec.	31,	1987	9%	23	577	10%	25	579
Jan.	1,	1988–Mar.	31,	1988	10%	73	627	11%	75	629
Apr.	1,	1988–Jun.	30,	1988	9%	71	625	10%	73	627
Jul.	1,	1988–Sep.	30,	1988	9%	71	625	10%	73	627
Oct.	1,	1988–Dec.	31,	1988	10%	73	627	11%	75	629
Jan.	1,	1989–Mar.	31,	1989	10%	25	579	11%	27	581
Apr.	1,	1989–Jun.	30,	1989	11%	27	581	12%	29	583
Jul.	1,	1989–Sep.	30,	1989	11%	27	581	12%	29	583
Oct.	1,	1989–Dec.	31,	1989	10%	25	579	11%	27	581
Jan.	1,	1990–Mar.	31,	1990	10%	25	579	11%	27	581
Apr.	1,	1990–Jun.	30,	1990	10%	25	579	11%	27	581
Jul.	1,	1990–Sep.	30,	1990	10%	25	579	11%	27	581

Oct.	1,	1990–Dec.	31,	1990	10%	25	579	11%	27	581
Jan.	1,	1991–Mar.	31,	1991	10%	25	579	11%	27	581
Apr.	1,	1991–Jun.	30,	1991	9%	23	577	10%	25	579
Jul.	1,	1991–Sep.	30,	1991	9%	23	577	10%	25	579
Oct.	1,	1991–Dec.	31,	1991	9%	23	577	10%	25	579
Jan.	1,	1992–Mar.	31,	1992	8%	69	623	9%	71	625
Apr.	1,	1992–Jun.	30,	1992	7%	67	621	8%	69	623
Jul.	1,	1992–Sep.	30,	1992	7%	67	621	8%	69	623
Oct.	1,	1992–Dec.	31,	1992	6%	65	619	7%	67	621
Jan.	1,	1993–Mar.	31,	1993	6%	17	571	7%	19	573
Apr.	1,	1993–Jun.	30,	1993	6%	17	571	7%	19	573
Jul.	1,	1993–Sep.	30,	1993	6%	17	571	7%	19	573
Oct.	1,	1993–Dec.	31,	1993	6%	17	571	7%	19	573
Jan.	1,	1994–Mar.	31,	1994	6%	17	571	7%	19	573
Apr.	1,	1994–Jun.	30,	1994	6%	17	571	7%	19	573
Jul.	1,	1994–Sep.	30,	1994	7%	19	573	8%	21	575
Oct.	1,	1994–Dec.	31,	1994	8%	21	575	9%	23	577
Jan.	1,	1995–Mar.	31,	1995	8%	21	575	9%	23	577
Apr.	1,	1995–Jun.	30,	1995	9%	23	577	10%	25	579
Jul.	1,	1995–Sep.	30,	1995	8%	21	575	9%	23	577
Oct.	1,	1995–Dec.	31,	1995	8%	21	575	9%	23	577
Jan.	1,	1996–Mar.	31,	1996	8%	69	623	9%	71	625
Apr.	1,	1996–Jun.	30,	1996	7%	67	621	8%	69	623
Jul.	1,	1996–Sep.	30,	1996	8%	69	623	9%	71	625
Oct.	1,	1996–Dec.	31,	1996	8%	69	623	9%	71	625
Jan.	1,	1997–Mar.	31,	1997	8%	21	575	9%	23	577
Apr.	1,	1997–Jun.	30,	1997	8%	21	575	9%	23	577
Jul.	1,	1997–Sep.	30,	1997	8%	21	575	9%	23	577
Oct.	1,	1997–Dec.	31,	1997	8%	21	575	9%	23	577
Jan.	1,	1998–Mar.	31,	1998	8%	21	575	9%	23	577
Apr.	1,	1998–Jun.	30,	1998	7%	19	573	8%	21	575
Jul.	1,	1998–Sep.	30,	1998	7%	19	573	8%	21	575
Oct.	1,	1998–Dec.	31,	1998	7%	19	573	8%	21	575

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 - PRESENT
NONCORPORATE OVERPAYMENTS AND UNDERPAYMENTS

					RATE	1995-1 C.B. TABLE	PAGE
					RATE	1995-1 C.B. TABLE	PAGE
Jan.	1,	1999–Mar.	31,	1999	7%	19	573
Apr.	1,	1999–Jun.	30,	1999	8%	21	575
Jul.	1,	1999–Sep.	30,	1999	8%	21	575
Oct.	1,	1999–Dec.	31,	1999	8%	21	575
Jan.	1,	2000–Mar.	31,	2000	8%	69	623
Apr.	1,	2000–Jun.	30,	2000	9%	71	625
Jul.	1,	2000–Sep.	30,	2000	9%	71	625
Oct.	1,	2000–Dec.	31,	2000	9%	71	625
Jan.	1,	2001–Mar.	31,	2001	9%	23	577
Apr.	1,	2001–Jun.	30,	2001	8%	21	575
Jul.	1,	2001–Sep.	30,	2001	7%	19	573
Oct.	1,	2001–Dec.	31,	2001	7%	19	573
Jan.	1,	2002–Mar.	31,	2002	6%	17	571
Apr.	1,	2002–Jun.	30,	2002	6%	17	571
Jul.	1,	2002–Sep.	30,	2002	6%	17	571
Oct.	1,	2002–Dec.	31,	2002	6%	17	571
Jan.	1,	2003–Mar.	31,	2003	5%	15	569
Apr.	1,	2003–Jun.	30,	2003	5%	15	569
Jul.	1,	2003–Sep.	30,	2003	5%	15	569
Oct.	1,	2003–Dec.	31,	2003	4%	13	567
Jan.	1,	2004–Mar.	31,	2004	4%	61	615
Apr.	1,	2004–Jun.	30,	2004	5%	63	617
Jul.	1,	2004–Sep.	30,	2004	4%	61	615
Oct.	1,	2004–Dec.	31,	2004	5%	63	617
Jan.	1,	2005–Mar.	31,	2005	5%	15	569
Apr.	1,	2005–Jun.	30,	2005	6%	17	571
Jul.	1,	2005–Sep.	30,	2005	6%	17	571
Oct.	1,	2005–Dec.	31,	2005	7%	19	573
Jan.	1,	2006–Mar.	31,	2006	7%	19	573
Apr.	1,	2006–Jun.	30,	2006	7%	19	573
Jul.	1,	2006–Sep.	30,	2006	8%	21	575
Oct.	1,	2006–Dec.	31,	2006	8%	21	575
Jan.	1,	2007–Mar.	31,	2007	8%	21	575
Apr.	1,	2007–Jun.	30,	2007	8%	21	575
Jul.	1,	2007–Sep.	30,	2007	8%	21	575
Oct.	1,	2007–Dec.	31,	2007	8%	21	575
Jan.	1,	2008–Mar.	31,	2008	7%	67	621
Apr.	1,	2008–Jun.	30,	2008	6%	65	619

Jul.	1,	2008–Sep.	30,	2008	5%	63	617
Oct.	1,	2008–Dec.	31,	2008	6%	65	619
Jan.	1,	2009–Mar.	31,	2009	5%	15	569
Apr.	1,	2009–Jun.	30,	2009	4%	13	567
Jul.	1,	2009–Sep.	30,	2009	4%	13	567
Oct.	1,	2009–Dec.	31,	2009	4%	13	567
Jan.	1,	2010–Mar.	31,	2010	4%	13	567
Apr.	1,	2010–Jun.	30,	2010	4%	13	567
Jul.	1,	2010–Sep.	30,	2010	4%	13	567
Oct.	1,	2010–Dec.	31,	2010	4%	13	567
Jan.	1,	2011–Mar.	31,	2011	3%	11	565
Apr.	1,	2011–Jun.	30,	2011	4%	13	567
Jul.	1,	2011–Sep.	30,	2011	4%	13	567
Oct.	1,	2011–Dec.	31,	2011	3%	11	565
Jan.	1,	2012–Mar.	31,	2012	3%	59	613
Apr.	1,	2012–Jun.	30,	2012	3%	59	613
Jul.	1,	2012–Sep.	30,	2012	3%	59	613
Oct.	1,	2012–Dec.	31,	2012	3%	59	613
Jan.	1,	2013–Mar.	31,	2013	3%	11	565
Apr.	1,	2013–Jun.	30,	2013	3%	11	565
Jul.	1,	2013–Sep.	30,	2013	3%	11	565
Oct.	1,	2013–Dec.	31,	2013	3%	11	565
Jan.	1,	2014–Mar.	31,	2014	3%	11	565
Apr.	1,	2014–Jun.	30,	2014	3%	11	565
Jul.	1,	2014–Sep.	30,	2014	3%	11	565
Oct.	1,	2014–Dec.	31,	2014	3%	11	565
Jan.	1,	2015–Mar.	31,	2015	3%	11	565
Apr.	1,	2015–Jun.	30,	2015	3%	11	565
Jul.	1,	2015–Sep.	30,	2015	3%	11	565
Oct.	1.	2015–Dec.	31,	2015	3%	11	565
Jan.	1,	2016–Mar.	31,	2016	3%	59	613
Apr.	1,	2016–Jun.	30,	2016	4%	61	615
Jul.	1,	2016–Sep.	30,	2016	4%	61	615
Oct.	1,	2016–Dec.	31,	2016	4%	61	615
Jan.	1,	2017–Mar.	31,	2017	4%	13	567
Apr.	1,	2017–Jun.	30,	2017	4%	13	567
Jul.	1,	2017–Sep.	30,	2017	4%	13	567
Oct.	1,	2017–Dec.	31,	2017	4%	13	567
Jan.	1,	2018–Mar.	31,	2018	4%	13	567
Apr.	1,	2018–Jun.	30,	2018	5%	15	569
Jul.	1,	2018–Sep.	30,	2018	5%	15	569
Oct.	1,	2018–Dec.	31,	2018	5%	15	569
Jan.	1,	2019–Mar.	31,	2019	6%	17	571
Apr.	1,	2019–Jun.	30,	2019	6%	17	571
Jul.	1,	2019–Sep.	30,	2019	5%	15	569

Oct.	1,	2019–Dec.	31,	2019	5%	15	569
Jan.	1,	2020–Mar.	31,	2020	5%	63	617
Apr.	1,	2020–Jun.	30,	2020	5%	63	617
Jul.	1,	2020–Sep.	30,	2020	3%	59	613

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 - PRESENT
CORPORATE OVERPAYMENTS AND UNDERPAYMENTS

					OVERPAYMENTS 1995-1 C.B.			UNDERPAYMENTS 1995-1 C.B.		
					RATE	TABLE	PG	RATE	TABLE	PG
Jan.	1,	1999–Mar.	31,	1999	6%	17	571	7%	19	573
Apr.	1,	1999–Jun.	30,	1999	7%	19	573	8%	21	575
Jul.	1,	1999–Sep.	30,	1999	7%	19	573	8%	21	575
Oct.	1,	1999–Dec.	31,	1999	7%	19	573	8%	21	575
Jan.	1,	2000–Mar.	31,	2000	7%	67	621	8%	69	623
Apr.	1,	2000–Jun.	30,	2000	8%	69	623	9%	71	625
Jul.	1,	2000–Sep.	30,	2000	8%	69	623	9%	71	625
Oct.	1,	2000–Dec.	31,	2000	8%	69	623	9%	71	625
Jan.	1,	2001–Mar.	31,	2001	8%	21	575	9%	23	577
Apr.	1,	2001–Jun.	30,	2001	7%	19	573	8%	21	575
Jul.	1,	2001–Sep.	30,	2001	6%	17	571	7%	19	573
Oct.	1,	2001–Dec.	31,	2001	6%	17	571	7%	19	573
Jan.	1,	2002–Mar.	31,	2002	5%	15	569	6%	17	571
Apr.	1,	2002–Jun.	30,	2002	5%	15	569	6%	17	571
Jul.	1,	2002–Sep.	30,	2002	5%	15	569	6%	17	571
Oct.	1,	2002–Dec.	31,	2002	5%	15	569	6%	17	571
Jan.	1,	2003–Mar.	31,	2003	4%	13	567	5%	15	569
Apr.	1,	2003–Jun.	30,	2003	4%	13	567	5%	15	569
Jul.	1,	2003–Sep.	30,	2003	4%	13	567	5%	15	569
Oct.	1,	2003–Dec.	31,	2003	3%	11	565	4%	13	567
Jan.	1,	2004–Mar.	31,	2004	3%	59	613	4%	61	615
Apr.	1,	2004–Jun.	30,	2004	4%	61	615	5%	63	617
Jul.	1,	2004–Sep.	30,	2004	3%	59	613	4%	61	615
Oct.	1,	2004–Dec.	31,	2004	4%	61	615	5%	63	617
Jan.	1,	2005–Mar.	31,	2005	4%	13	567	5%	15	569
Apr.	1,	2005–Jun.	30,	2005	5%	15	569	6%	17	571
Jul.	1,	2005–Sep.	30,	2005	5%	15	569	6%	17	571
Oct.	1,	2005–Dec.	31,	2005	6%	17	571	7%	19	573
Jan.	1,	2006–Mar.	31,	2006	6%	17	571	7%	19	573
Apr.	1,	2006–Jun.	30,	2006	6%	17	571	7%	19	573
Jul.	1,	2006–Sep.	30,	2006	7%	19	573	8%	21	575
Oct.	1,	2006–Dec.	31,	2006	7%	19	573	8%	21	575
Jan.	1,	2007–Mar.	31,	2007	7%	19	573	8%	21	575
Apr.	1,	2007–Jun.	30,	2007	7%	19	573	8%	21	575
Jul.	1,	2007–Sep.	30,	2007	7%	19	573	8%	21	575
Oct.	1,	2007–Dec.	31,	2007	7%	19	573	8%	21	575
Jan.	1,	2008–Mar.	31,	2008	6%	65	619	7%	67	621
Apr.	1,	2008–Jun.	30,	2008	5%	63	617	6%	65	619
Jul.	1,	2008–Sep.	30,	2008	4%	61	615	5%	63	617

Oct.	1,	2008–Dec.	31,	2008	5%	63	617	6%	65	619
Jan.	1,	2009–Mar.	31,	2009	4%	13	567	5%	15	569
Apr.	1,	2009–Jun.	30,	2009	3%	11	565	4%	13	567
Jul.	1,	2009–Sep.	30,	2009	3%	11	565	4%	13	567
Oct.	1,	2009–Dec.	31,	2009	3%	11	565	4%	13	567
Jan.	1,	2010–Mar.	31,	2010	3%	11	565	4%	13	567
Apr.	1,	2010–Jun.	30,	2010	3%	11	565	4%	13	567
Jul.	1,	2010–Sep.	30,	2010	3%	11	565	4%	13	567
Oct.	1,	2010–Dec.	31,	2010	3%	11	565	4%	13	567
Jan.	1,	2011–Mar.	31,	2011	2%	9	563	3%	11	565
Apr.	1,	2011–Jun.	30,	2011	3%	11	565	4%	13	567
Jul.	1,	2011–Sep.	30,	2011	3%	11	565	4%	13	567
Oct.	1,	2011–Dec.	31,	2011	2%	9	563	3%	11	565
Jan.	1,	2012–Mar.	31,	2012	2%	57	611	3%	59	613
Apr.	1,	2012–Jun.	30,	2012	2%	57	611	3%	59	613
Jul.	1,	2012–Sep.	30,	2012	2%	57	611	3%	59	613
Oct.	1,	2012–Dec.	31,	2012	2%	57	611	3%	59	613
Jan.	1,	2013–Mar.	31,	2013	2%	9	563	3%	11	565
Apr.	1,	2013–Jun.	30,	2013	2%	9	563	3%	11	565
Jul.	1,	2013–Sep.	30,	2013	2%	9	563	3%	11	565
Oct.	1,	2013–Dec.	31,	2013	2%	9	563	3%	11	565
Jan.	1,	2014–Mar.	31,	2014	2%	9	563	3%	11	565
Apr.	1,	2014–Jun.	30,	2014	2%	9	563	3%	11	565
Jul.	1,	2014–Sep.	30,	2014	2%	9	563	3%	11	565
Oct.	1,	2014–Dec.	31,	2014	2%	9	563	3%	11	565
Jan.	1,	2015–Mar.	31,	2015	2%	9	563	3%	11	565
Apr.	1,	2015–Jun.	30,	2015	2%	9	563	3%	11	565
Jul.	1,z	2015–Sep.	30,	2015	2%	9	563	3%	11	565
Oct.	1,	2015–Dec.	31,	2015	2%	9	563	3%	11	565
Jan.	1,	2016–Mar.	31,	2016	2%	57	611	3%	59	613
Apr.	1,	2016–Jun.	30,	2016	3%	59	613	4%	61	615
Jul.	1,	2016–Sep.	30,	2016	3%	59	613	4%	61	615
Oct.	1,	2016–Dec.	31,	2016	3%	59	613	4%	61	615
Jan.	1,	2017–Mar.	31,	2017	3%	11	565	4%	13	567
Apr.	1,	2017–Jun.	30,	2017	3%	11	565	4%	13	567
Jul.	1,	2017–Sep.	30,	2017	3%	11	565	4%	13	567
Oct.	1,	2017–Dec.	31,,	2017	3%	11	565	4%	13	567
Jan.	1,	2018–Mar.	31,	2018	3%	11	565	4%	13	567
Apr.	1,	2018–Jun.	30,	2018	4%	13	567	5%	15	569
Jul.	1,	2018–Sep.	30,	2018	4%	13	567	5%	15	569
Oct.	1,	2018–Dec.	31,	2018	4%	13	567	5%	15	569
Jan.	1,	2019–Mar.	31,	2019	5%	15	569	6%	17	571
Apr.	1,	2019–Jun.	30,	2019	5%	15	569	6%	17	571
Jul.	1,	2019–Sep.	30,	2019	4%	13	567	5%	15	569

Oct.	1,	2019–Dec.	31,	2019	4%	13	567	5%	15	569
Jan.	1,	2020–Mar.	31,	2020	4%	61	615	5%	63	617
Apr.	1,	2020–Jun.	30,	2020	4%	61	615	5%	63	617
Jul.	1,	2020–Sep.	30,	2020	2%	57	611	3%	59	613

TABLE OF INTEREST RATES
FOR LARGE CORPORATE UNDERPAYMENTS
FROM JANUARY 1, 1991 - PRESENT

						1995-1 C.B.	
					RATE	TABLE	PG
Jan.	1,	1991–Mar.	31,	1991	13%	31	585
Apr.	1,	1991–Jun.	30,	1991	12%	29	583
Jul.	1,	1991–Sep.	30,	1991	12%	29	583
Oct.	1,	1991–Dec.	31,	1991	12%	29	583
Jan.	1,	1992–Mar.	31,	1992	11%	75	629
Apr.	1,	1992–Jun.	30,	1992	10%	73	627
Jul.	1,	1992–Sep.	30,	1992	10%	73	627
Oct.	1,	1992–Dec.	31,	1992	9%	71	625
Jan.	1,	1993–Mar.	31,	1993	9%	23	577
Apr.	1,	1993–Jun.	30,	1993	9%	23	577
Jul.	1,	1993–Sep.	30,	1993	9%	23	577
Oct.	1,	1993–Dec.	31,	1993	9%	23	577
Jan.	1,	1994–Mar.	31,	1994	9%	23	577
Apr.	1,	1994–Jun.	30,	1994	9%	23	577
Jul.	1,	1994–Sep.	30,	1994	10%	25	579
Oct.	1,	1994–Dec.	31,	1994	11%	27	581
Jan.	1,	1995–Mar.	31,	1995	11%	27	581
Apr.	1,	1995–Jun.	30,	1995	12%	29	583
Jul.	1,	1995–Sep.	30,	1995	11%	27	581
Oct.	1,	1995–Dec.	31,	1995	11%	27	581
Jan.	1,	1996–Mar.	31,	1996	11%	75	629
Apr.	1,	1996–Jun.	30,	1996	10%	73	627
Jul.	1,	1996–Sep.	30,	1996	11%	75	629
Oct.	1,	1996–Dec.	31,	1996	11%	75	629
Jan.	1,	1997–Mar.	31,	1997	11%	27	581
Apr.	1,	1997–Jun.	30,	1997	11%	27	581
Jul.	1,	1997–Sep.	30,	1997	11%	27	581
Oct.	1,	1997–Dec.	31,	1997	11%	27	581
Jan.	1,	1998–Mar.	31,	1998	11%	27	581
Apr.	1,	1998–Jun.	30,	1998	10%	25	579
Jul.	1,	1998–Sep.	30,	1998	10%	25	579
Oct.	1,	1998–Dec.	31,	1998	10%	25	579
Jan.	1,	1999–Mar.	31,	1999	9%	23	577
Apr.	1,	1999–Jun.	30,	1999	10%	25	579
Jul.	1,	1999–Sep.	30,	1999	10%	25	579
Oct.	1,	1999–Dec.	31,	1999	10%	25	579
Jan.	1,	2000–Mar.	31,	2000	10%	73	627
Apr.	1,	2000–Jun.	30,	2000	11%	75	629

Jul.	1,	2000–Sep.	30,	2000	11%	75	629
Oct.	1,	2000–Dec.	31,	2000	11%	75	629
Jan.	1,	2001–Mar.	31,	2001	11%	27	581
Apr.	1,	2001–Jun.	30,	2001	10%	25	579
Jul.	1,	2001–Sep.	30,	2001	9%	23	577
Oct.	1,	2001–Dec.	31,	2001	9%	23	577
Jan.	1,	2002–Mar.	31,	2002	8%	21	575
Apr.	1,	2002–Jun.	30,	2002	8%	21	575
Jul.	1,	2002–Sep.	30,	2002	8%	21	575
Oct.	1,	2002–Dec.	31,	2002	8%	21	575
Jan.	1,	2003–Mar.	31,	2003	7%	19	573
Apr.	1,	2003–Jun.	30,	2003	7%	19	573
Jul.	1,	2003–Sep.	30,	2003	7%	19	573
Oct.	1,	2003–Dec.	31,	2003	6%	17	571
Jan.	1,	2004–Mar.	31,	2004	6%	65	619
Apr.	1,	2004–Jun.	30,	2004	7%	67	621
Jul.	1,	2004–Sep.	30,	2004	6%	65	619
Oct.	1,	2004–Dec.	31,	2004	7%	67	621
Jan.	1,	2005–Mar.	31,	2005	7%	19	573
Apr.	1,	2005–Jun.	30,	2005	8%	21	575
Jul.	1,	2005–Sep.	30,	2005	8%	21	575
Oct.	1,	2005–Dec.	31,	2005	9%	23	577
Jan.	1,	2006–Mar.	31,	2006	9%	23	577
Apr.	1,	2006–Jun.	30,	2006	9%	23	577
Jul.	1,	2006–Sep.	30,	2006	10%	25	579
Oct.	1,	2006–Dec.	31,	2006	10%	25	579
Jan.	1,	2007–Mar.	31,	2007	10%	25	579
Apr.	1,	2007–Jun.	30,	2007	10%	25	579
Jul.	1,	2007–Sep.	30,	2007	10%	25	579
Oct.	1,	2007–Dec.	31,	2007	10%	25	579
Jan.	1,	2008–Mar.	31,	2008	9%	71	625
Apr.	1,	2008–Jun.	30,	2008	8%	69	623
Jul.	1,	2008–Sep.	30,	2008	7%	67	621
Oct.	1,	2008–Dec.	31,	2008	8%	69	623
Jan.	1,	2009–Mar.	31,	2009	7%	19	573
Apr.	1,	2009–Jun.	30,	2009	6%	17	571
Jul.	1,	2009–Sep.	30,	2009	6%	17	571
Oct.	1,	2009–Dec.	31,	2009	6%	17	571
Jan.	1,	2010–Mar.	31,	2010	6%	17	571
Apr.	1,	2010–Jun.	30,	2010	6%	17	571
Jul.	1,	2010–Sep.	30,	2010	6%	17	571
Oct.	1,	2010–Dec.	31,	2010	6%	17	571
Jan.	1,	2011–Mar.	31,	2011	5%	15	569
Apr.	1,	2011–Jun.	30,	2011	6%	17	571
Jul.	1,	2011–Sep.	30,	2011	6%	17	571

Oct.	1,	2011–Dec.	31,	2011	5%	15	569
Jan.	1,	2012–Mar.	31,	2012	5%	63	617
Apr.	1,	2012–Jun.	30,	2012	5%	63	617
Jul.	1,	2012–Sep.	30,	2012	5%	63	617
Oct.	1,	2012–Dec.	31,	2012	5%	63	617
Jan.	1,	2013–Mar.	31,	2013	5%	15	569
Apr.	1,	2013–Jun.	30,	2013	5%	15	569
Jul.	1,	2013–Sep.	30,	2013	5%	15	569
Oct.	1,	2013–Dec.	31,	2013	5%	15	569
Jan.	1,	2014–Mar.	31,	2014	5%	15	569
Apr.	1,	2014–Jun.	30,	2014	5%	15	569
Jul.	1,	2014–Sep.	30,	2014	5%	15	569
Oct.	1,	2014–Dec.	31,	2014	5%	15	569
Jan.	1,	2015–Mar.	31,	2015	5%	15	569
Apr.	1,	2015–Jun.	30,	2015	5%	15	569
Jul.	1,	2015–Sep.	30,	2015	5%	15	569
Oct.	1,	2015–Dec.	31,	2015	5%	15	569
Jan.	1,	2016–Mar.	31,	2016	5%	63	617
Apr.	1,	2016–Jun.	30,	2016	6%	65	619
Jul.	1,	2016–Sep.	30,	2016	6%	65	619
Oct.	1,	2016–Dec.	31,	2016	6%	65	619
Jan.	1,	2017–Mar.	31,	2017	6%	17	571
Apr.	1,	2017–Jun.	30,	2017	6%	17	571
Jul.	1,	2017–Sep.	30,	2017	6%	17	571
Oct.	1,	2017–Dec.	31,	2017	6%	17	571
Jan.	1,	2018–Mar.	31,	2018	6%	17	571
Apr.	1,	2018–Jun.	30,	2018	7%	19	573
Jul.	1,	2018–Sep.	30,	2018	7%	19	573
Oct.	1,	2018–Dec.	31,	2018	7%	19	573
Jan.	1,	2019–Mar.	31,	2019	8%	21	575
Apr.	1,	2019–Jun.	30,	2019	8%	21	575
Jul.	1,	2019–Sep.	30,	2019	7%	19	573
Oct.	1,	2019–Dec.	31,	2019	7%	19	573
Jan.	1,	2020–Mar.	31,	2020	7%	67	621
Apr.	1,	2020–Jun.	30,	2020	7%	67	621
Jul.	1,	2020–Sep.	30,	2020	5%	63	617

TABLE OF INTEREST RATES FOR CORPORATE
OVERPAYMENTS EXCEEDING $10,000
FROM JANUARY 1, 1995 – PRESENT

						1995-1 C.B.	
					RATE	TABLE	PG
Jan.	1,	1995–Mar.	31,	1995	6.5%	18	572
Apr.	1,	1995–Jun.	30,	1995	7.5%	20	574
Jul.	1,	1995–Sep.	30,	1995	6.5%	18	572
Oct.	1,	1995–Dec.	31,	1995	6.5%	18	572
Jan.	1,	1996–Mar.	31,	1996	6.5%	66	620
Apr.	1,	1996–Jun.	30,	1996	5.5%	64	618
Jul.	1,	1996–Sep.	30,	1996	6.5%	66	620
Oct.	1,	1996–Dec.	31,	1996	6.5%	66	620
Jan.	1,	1997–Mar.	31,	1997	6.5%	18	572
Apr.	1,	1997–Jun.	30,	1997	6.5%	18	572
Jul.	1,	1997–Sep.	30,	1997	6.5%	18	572
Oct.	1,	1997–Dec.	31,	1997	6.5%	18	572
Jan.	1,	1998–Mar.	31,	1998	6.5%	18	572
Apr.	1,	1998–Jun.	30,	1998	5.5%	16	570
Jul.	1.	1998–Sep.	30,	1998	5.5%	16	570
Oct.	1,	1998–Dec.	31,	1998	5.5%	16	570
Jan.	1,	1999–Mar.	31,	1999	4.5%	14	568
Apr.	1,	1999–Jun.	30,	1999	5.5%	16	570
Jul.	1,	1999–Sep.	30,	1999	5.5%	16	570
Oct.	1,	1999–Dec.	31,	1999	5.5%	16	570
Jan.	1,	2000–Mar.	31,	2000	5.5%	64	618
Apr.	1,	2000–Jun.	30,	2000	6.5%	66	620
Jul.	1,	2000–Sep.	30,	2000	6.5%	66	620
Oct.	1,	2000–Dec.	31,	2000	6.5%	66	620
Jan.	1,	2001–Mar.	31,	2001	6.5%	18	572
Apr.	1,	2001–Jun.	30,	2001	5.5%	16	570
Jul.	1,	2001–Sep.	30,	2001	4.5%	14	568
Oct.	1,	2001–Dec.	31,	2001	4.5%	14	568
Jan.	1,	2002–Mar.	31,	2002	3.5%	12	566
Apr.	1,	2002–Jun.	30,	2002	3.5%	12	566
Jul.	1,	2002–Sep.	30,	2002	3.5%	12	566
Oct.	1,	2002–Dec.	31,	2002	3.5%	12	566
Jan.	1,	2003–Mar.	31,	2003	2.5%	10	564
Apr.	1,	2003–Jun.	30,	2003	2.5%	10	564
Jul.	1,	2003–Sep.	30,	2003	2.5%	10	564
Oct.	1,	2003–Dec.	31,	2003	1.5%	8	562
Jan.	1,	2004–Mar.	31,	2004	1.5%	56	610
Apr.	1,	2004–Jun.	30,	2004	2.5%	58	612

Jul.	1,	2004–Sep.	30,	2004	1.5%	56	610
Oct.	1,	2004–Dec.	31,	2004	2.5%	58	612
Jan.	1,	2005–Mar.	31,	2005	2.5%	10	564
Apr.	1,	2005–Jun.	30,	2005	3.5%	12	566
Jul.	1,	2005–Sep.	30,	2005	3.5%	12	566
Oct.	1,	2005–Dec.	31,	2005	4.5%	14	568
Jan.	1,	2006–Mar.	31,	2006	4.5%	14	568
Apr.	1,	2006–Jun.	30,	2006	4.5%	14	568
Jul.	1,	2006–Sep.	30,	2006	5.5%	16	570
Oct.	1,	2006–Dec.	31,	2006	5.5%	16	570
Jan.	1,	2007–Mar.	31,	2007	5.5%	16	570
Apr.	1,	2007–Jun.	30,	2007	5.5%	16	570
Jul.	1,	2007–Sep.	30,	2007	5.5%	16	570
Oct.	1,	2007–Dec.	31,	2007	5.5%	16	570
Jan.	1,	2008–Mar.	31,	2008	4.5%	62	616
Apr.	1,	2008–Jun.	30,	2008	3.5%	60	614
Jul.	1,	2008–Sep.	30,	2008	2.5%	58	612
Oct.	1,	2008–Dec.	31,	2008	3.5%	60	614
Jan.	1,	2009–Mar.	31,	2009	2.5%	10	564
Apr.	1,	2009–Jun.	30,	2009	1.5%	8	562
Jul.	1,	2009–Sep.	30,	2009	1.5%	8	562
Oct.	1,	2009–Dec.	31,	2009	1.5%	8	562
Jan.	1,	2010–Mar.	31,	2010	1.5%	8	562
Apr.	1,	2010–Jun.	30,	2010	1.5%	8	562
Jul.	1,	2010–Sep.	30,	2010	1.5%	8	562
Oct.	1,	2010–Dec.	31,	2010	1.5%	8	562
Jan.	1,	2011–Mar.	31,	2011	0.5%*		
Apr.	1,	2011–Jun.	30,	2011	1.5%	8	562
Jul.	1,	2011–Sep.	30,	2011	1.5%	8	562
Oct.	1,	2011–Dec.	31,	2011	0.5%*		
Jan.	1,	2012–Mar.	31,	2012	0.5%*		
Apr.	1,	2012–Jun.	30,	2012	0.5%*		
Jul.	1,	2012–Sep.	30,	2012	0.5%*		
Oct.	1,	2012–Dec.	31,	2012	0.5%*		
Jan.	1,	2013–Mar.	31,	2013	0.5%*		
Apr.	1,	2013–Jun.	30,	2013	0.5%*		
Jul.	1,	2013–Sep.	30,	2013	0.5%*		
Oct.	1,	2013–Dec.	31,	2013	0.5%*		
Jan.	1,	2014–Mar.	31,	2014	0.5%*		
Apr.	1,	2014–Jun.	30,	2014	0.5%*		
Jul.	1,	2014–Sep.	30,	2014	0.5%*		

Oct.	1,	2014–Dec.	31,	2014	0.5%*		
Jan.	1,	2015–Mar.	31,	2015	0.5%*		
Apr.	1,	2015–Jun.	30,	2015	0.5%*		
Jul.	1,	2015–Sep.	30,	2015	0.5%*		
Oct.	1,	2015–Dec.	31,	2015	0.5%*		
Jan.	1,	2016–Mar.	31,	2016	0.5%*		
Apr.	1,	2016–Jun.	30,	2016	1.5%	56	610
Jul.	1,	2016–Sep.	30,	2016	1.5%	56	610
Oct.	1,	2016–Dec.	31,	2016	1.5%	56	610
Jan.	1,	2017–Mar.	31,	2017	1.5%	8	562
Apr.	1,	2017–Jun.	30,	2017	1.5%	8	562
Jul.	1,	2017–Sep.	30,	2017	1.5%	8	562
Oct.	1,	2017–Dec.	31,	2017	1.5%	8	562
Jan.	1,	2018–Mar.	31,	2018	1.5%	8	562
Apr.	1,	2018–Jun.	30,	2018	2.5%	10	564
Jul.	1,	2018–Sep.	30,	2018	2.5%	10	564
Oct.	1,	2018–Dec.	31,	2018	2.5%	10	564
Jan.	1,	2019–Mar.	31,	2019	3.5%	12	566
Apr.	1,	2019–Jun.	30,	2019	3.5%	12	566
Jul.	1,	2019–Sep.	30,	2019	2.5%	10	564
Oct.	1,	2019–Dec.	31,	2019	2.5%	10	564
Jan.	1,	2020–Mar.	31,	2020	2.5%	58	612
Apr.	1,	2020–Jun.	30,	2020	2.5%	58	612
Jul.	1,	2020–Sep.	30,	2020	0.5%*		

* The asterisk reflects the interest factors for daily compound interest for annual rates of 0.5 percent published in Appendix A of this Revenue Ruling.

Part III

Relief for Qualified Opportunity Funds and Investors Affected by Ongoing Coronavirus Disease 2019 Pandemic

Notice 2020-39

I. PURPOSE

This notice provides relief under section 7508A(a) of the Internal Revenue Code (Code) for qualified opportunity funds (QOFs) and their investors in response to the ongoing Coronavirus Disease 2019 (COVID-19) pandemic. This notice also addresses the application of certain relief provisions in the Income Tax Regulations under section 1400Z-2 of the Code (section 1400Z-2 regulations). Part III of this notice (i) provides relief for certain failures by a QOF to meet the 90-percent investment standard and (ii) postpones the time periods for satisfying certain other requirements. Part IV of this notice confirms that (i) the 24-month extension for the working capital safe harbor and (ii) the 12-month extension for QOFs to reinvest certain proceeds, both as provided under the section 1400Z-2 regulations, are available to otherwise qualifying QOFs and qualified opportunity zone businesses.

II. BACKGROUND

A. Emergency Declaration and Prior Grants of Relief

On March 13, 2020, the President of the United States issued an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C. 5121 et seq.) in response to the ongoing COVID-19 pandemic (Emergency Declaration[1]). The Emergency Declaration instructed the Secretary of the Treasury "to provide relief from tax deadlines to Americans who have been adversely affected by the COVID-19 emergency, as appropriate, pursuant to 26 U.S.C. 7508A(a)." Subsequent to the Emergency Declaration, the President issued major disaster declarations under the authority of the Stafford Act with respect to all 50 states, the District of Columbia, and 5 territories (Major Disaster Declarations).[2] The Major Disaster Declarations declared that, beginning on January 20, 2020, major disasters existed in each of these jurisdictions, within which is located every population census tract designated as a qualified opportunity zone under section 1400Z-1 of the Code. *See* Notice 2018-48, 2018-28 I.R.B. 9 (Nov. 21, 2018), and Notice 2019-42, 2019-29 I.R.B. 352 (October 10, 2019) (which collectively list every designated qualified opportunity zone).

Section 7508A provides the Secretary of the Treasury or his delegate (Secretary) with authority to postpone the time for performing certain acts under the internal revenue laws for a taxpayer determined by the Secretary to be affected by a Federally declared disaster, as defined in section 165(i)(5)(A) of the Code. *See* section 165(i)(5)(A) (defining "Federally declared disaster" to mean "any disaster subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act"). Pursuant to section 7508A(a), a period of up to one year may be disregarded in determining whether the performance of certain acts is timely under the internal revenue laws.

On April 9, 2020, the Department of the Treasury and the Internal Revenue Service issued Notice 2020-23 to provide relief under section 7508A(a) to taxpayers affected by the COVID-19 emergency by postponing due dates with respect to certain taxpayer and government acts. *See generally* Part III of Notice 2020-23 (providing relief for certain time-sensitive actions due to be performed on or after April 1, 2020, and before July 15, 2020), *amplifying* Notice 2020-20, 2020-16 I.R.B. 660 (April 13, 2020) and Notice 2020-18, 2020-15 I.R.B. 590 (April 6, 2020), and *modifying* Rev. Proc. 2014-42, 2014-29 I.R.B. 192 (July 1, 2014).

B. 180-Day Investment Requirement for QOF Investors

Section 1400Z-2(a)(1)(A) provides that, if a taxpayer has "gain from the sale to, or exchange with, an unrelated person of any property held by the taxpayer" the taxpayer may elect to exclude from gross income for the taxable year "so much of such gain as does not exceed the aggregate amount invested by the taxpayer in a [QOF] during the 180-day period beginning on the date of such sale or exchange" (180-day investment requirement). Section 1.1400Z2(a)-1 provides definitions and rules to implement the 180-day investment requirement.

One of the time-sensitive acts postponed by Notice 2020-23 was the making of "an investment at the election of a taxpayer due to be made during the 180-day period described in section 1400Z-2(a)(1)(A) of the Code" (180-day investment period). *See* Notice 2020-23, Part III.A and C. Specifically, Notice 2020-23 postponed to July 15, 2020, any deadline for the 180-day investment requirement that otherwise would have occurred on or after April 1, 2020 and before July 15, 2020. *See id*., Part III.C.

C. 90-Percent Investment Standard for QOFs

Section 1400Z-2(d)(1) defines a QOF as any investment vehicle organized as a corporation or a partnership for the purpose of investing in qualified opportunity zone property (other than another QOF). This definition also requires a QOF to hold at least 90 percent of its assets in qualified opportunity zone property, determined by the average of the percentage

[1] See March 13, 2020, letter from the President to Secretaries of the Departments of Homeland Security, the Treasury, and Health and Human Services and the Administrator of the Federal Emergency Management Agency, available at https://www.whitehouse.gov/wp-content/uploads/2020/03/LetterFromThePresident.pdf.
[2] See https://www.fema.gov/coronavirus/disaster-declarations.

of qualified opportunity zone property held by that QOF as measured (i) on the last day of the first 6-month period of the taxable year of the QOF, and (ii) on the last day of the taxable year of the QOF. *See* section 1400Z-2(d)(1). The requirement that the average percentages of the QOF's qualified opportunity zone property on these two dates (semi-annual testing dates) must equal at least 90 percent of the QOF's assets is referred to as the 90-percent investment standard. *See* section 1400Z-2(f). Section 1.1400Z2(d)-1 provides definitions and rules to implement the 90-percent investment standard.

If the average of the percentages of the qualified opportunity zone property held by a QOF on these semi-annual testing dates fails to meet the 90-percent investment standard, section 1400Z-2(f)(1) provides a general rule that the QOF must pay a penalty for each month that the QOF fails to meet that standard. However, section 1400Z-2(f)(3) provides that no such penalty is imposed "with respect to any failure if it is shown that such failure is due to reasonable cause."

D. Working Capital Safe Harbor for Qualified Opportunity Zone Businesses

An entity must meet certain requirements to be a qualified opportunity zone business, including the requirement of section 1397C(b)(8) that less than 5 percent of the average of the aggregate unadjusted bases of the entity's property be attributable to nonqualified financial property, as defined in section 1397C(e). Section 1397C(e) excludes from nonqualified financial property reasonable amounts of working capital that are held in cash, cash equivalents, or debt instruments with a term of 18 months or less. *See* § 1.1400Z2(d)-1(d)(3)(iv).

The section 1400Z-2 regulations provide qualified opportunity zone businesses with a safe harbor for treating an amount of working capital as reasonable for purposes of section 1397C(e) if certain requirements are satisfied (working capital safe harbor). *See* § 1.1400Z2(d)-1(d)(3)(v) (providing the scope of the working capital safe harbor and conditions for eligibility). One of those requirements is that there is a written schedule consistent with the ordinary start-up of a trade or business for the expenditure of the working capital assets within 31 months of the receipt by the business of the assets. *See* § 1.1400Z2(d)-1(d)(3)(v)(B). A qualified opportunity zone business may extend the working capital safe harbor period to a maximum 62-month period under § 1.1400Z2(d)-1(d)(3)(vi) if certain additional requirements are met.

If such qualified opportunity zone business is located in a qualified opportunity zone within a Federally declared disaster (as defined in section 165(i)(5)(A)), the qualified opportunity zone business may receive not more than an additional 24 months to expend its working capital assets, as long as the qualified opportunity zone business otherwise meets the requirements of the working capital safe harbor. *See* § 1.1400Z2(d)-1(d)(3)(v)(D). Therefore, a qualified opportunity zone business may, if each applicable requirement of § 1.1400Z2(d)-1(d)(3)(v) and (vi) is satisfied, have up to a maximum 86-months to expend working capital assets if the qualified opportunity zone business is located in a qualified opportunity zone within a Federally declared disaster.

E. 30-Month Substantial Improvement Period for QOFs

Section 1400Z-2(d)(2)(D)(i) provides that tangible property is treated as qualified opportunity zone business property if the tangible property is used in a trade or business of the QOF and satisfies three general requirements. One of these requirements is that the original use of post-2017 acquired tangible property in the qualified opportunity zone must begin with the QOF (referred to as the "original use requirement"), or the QOF must substantially improve that property (substantial improvement requirement). *See* section 1400Z-2(d)(2)(D)(i)(II). The substantial improvement requirement is met only if, during any 30-month period beginning after the date of acquisition of the post-2017 acquired tangible property, there are "additions to basis with respect to such property" held by the QOF that, in the aggregate, exceed the QOF's adjusted basis of that property as of the beginning of that 30-month period (30-month substantial improvement period). *See* section 1400Z-2(d)(2)(D)(ii). Section 1.1400Z2(d)-2(b)(4) provides rules to implement the substantial improvement requirement.

F. 12-Month Reinvestment Period for QOFs

The section 1400Z-2 regulations provide generally that, if (i) a QOF sells or disposes of some or all of its qualified opportunity zone property or if a distribution with respect to the QOF's qualified opportunity zone stock is treated as a return of capital in the QOF's hands, and if (ii) the QOF reinvests some or all of the proceeds in qualified opportunity zone property by the last day of the 12-month period beginning on the date of the distribution, sale, or disposition, then the proceeds, to the extent that they are so reinvested, are treated as qualified opportunity zone property for purposes of the 90-percent investment standard. *See* § 1.1400Z2(f)-1(b)(1). This treatment is available to a QOF only to the extent that, prior to the reinvestment in qualified opportunity zone property, the reinvested proceeds are continuously held in cash, cash equivalents, or debt instruments with a term of 18 months or less. *See id*.

If the QOF's plan to reinvest some or all of the above-described proceeds in qualified opportunity zone property is delayed due to a Federally declared disaster (as defined in section 165(i)(5)(A)), the QOF may receive not more than an additional 12 months to reinvest the proceeds, provided that the QOF invests the proceeds in the manner originally intended before the disaster. *See* § 1.1400Z2(f)-1(b)(2).

III. GRANTS OF RELIEF FOR QOF INVESTORS AND QOFS

A. 180-Day Investment Requirement for QOF Investors

If the last day of the 180-day investment period within which a taxpayer must make an investment in a QOF in order to satisfy the 180-day investment requirement falls on or after April 1, 2020, and before December 31, 2020, the last day of that 180-day investment period is postponed to December 31, 2020. This relief is automatic; taxpayers do not have to call the IRS or send letters or other documents

to the IRS to receive this relief. However, a taxpayer will still need to make a valid deferral election in accordance with the instructions to Form 8949, complete Form 8997, and file the completed Form 8949 and Form 8997 with a timely filed Federal income tax return (including extensions) or amended Federal income tax return for the taxable year in which the gain would be recognized if section 1400Z-2(a)(1) did not apply to defer recognition of the gain. For additional information, see https://www.irs.gov/form8949https://www.irs.gov/form8997.

B. 90-Percent Investment Standard for QOFs

In the case of a QOF whose (i) last day of the first 6-month period of the taxable year *or* (ii) last day of the taxable year falls within the period beginning on April 1, 2020, and ending on December 31, 2020, any failure by that QOF to satisfy the 90-percent investment standard for that taxable year of the QOF is—

(1) due to reasonable cause under section 1400Z-2(f)(3); and

(2) disregarded for purposes of determining whether the QOF or any otherwise qualifying investments in that QOF satisfy the requirements of section 1400Z-2 and the section 1400Z-2 regulations for any taxable year of the QOF.

This relief is automatic; QOFs do not have to call the IRS or send letters or other documents to the IRS to receive this relief. However, a QOF must accurately complete all lines on Form 8996 filed with respect to each affected taxable year EXCEPT that the QOF should place a "0" in Part IV, Line 8 (Penalty). The accurately completed Form 8996 must be filed with the QOF's timely filed Federal income tax return (including extensions) for the affected taxable year(s). For additional information, see https://www.irs.gov/form8996

C. 30-Month Substantial Improvement Period for QOFs and Qualified Opportunity Zone Businesses

For purposes of the substantial improvement requirement with respect to property held by a QOF or qualified opportunity zone business, the period beginning on April 1, 2020, and ending on December 31, 2020, is disregarded in determining any 30-month substantial improvement period (that is, the 30-month substantial improvement period is tolled during the period beginning on April 1, 2020, and ending on December 31, 2020).

IV. REGULATORY EXTENSIONS FOR WORKING CAPITAL SAFE HARBOR AND QOF REINVESTMENT PERIOD DUE TO FEDERALLY DECLARED DISASTERS

A. Working Capital Safe Harbor for Qualified Opportunity Zone Businesses

As a result of the Emergency Declaration (that is, the declaration of a Federally declared disaster for purposes of section 165(i)(5)(A)), all qualified opportunity zone businesses holding working capital assets intended to be covered by the working capital safe harbor before December 31, 2020, receive not more than an additional 24 months to expend the working capital assets of the qualified opportunity zone business, as long as the qualified opportunity zone business otherwise meets the requirements of § 1.1400Z2(d)-1(d)(3)(v) (that is, the requirements to qualify for the working capital safe harbor). *See* § 1.1400Z2(d)-1(d)(3)(v)(D) (providing such 24-month extension due to a Federally declared disaster).

B. 12-Month Reinvestment Period for QOFs

If any QOF's 12-month reinvestment period includes January 20, 2020 (that is, the date of the disaster identified in the Major Disaster Declarations), that QOF receives up to an additional 12 months to reinvest in qualified opportunity zone property some or all of the proceeds received by the QOF from the return of capital or the sale or disposition of some or all of the QOF's qualified opportunity zone property, provided that the QOF satisfies the requirements of § 1.1400Z2(f)-1(b)(1) and invests the proceeds in the manner originally intended before January 20, 2020. *See* § 1.1400Z2(f)-1(b)(2) (providing such 12-month extension due to a Federally declared disaster).

V. EFFECT ON OTHER DOCUMENTS

Notice 2020-23 is modified.

VI. DRAFTING INFORMATION

The principal author of this notice is Kyle C. Griffin of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this notice, you may call the COVID-19 Disaster Relief Hotline at (202) 317-5436 (not a toll-free number). For further information regarding the application of this notice to section 1400Z-2 and the section 1400Z-2 regulations, please contact Mr. Griffin at (202) 317-4718 (not a toll-free number).

Temporary Relief from the Physical Presence Requirement for Spousal Consents Under Qualified Retirement Plans

Notice 2020-42

I. PURPOSE

In response to the unprecedented public health emergency caused by the Coronavirus Disease 2019 (COVID-19) pandemic, and the related social distancing that has been implemented, this notice provides temporary relief from the physical presence requirement in Treasury Regulations § 1.401(a)-21(d)(6) for participant elections required to be witnessed by a plan representative or a notary public, including a spousal consent required under § 417 of the Internal Revenue Code (Code). While this temporary relief, which covers the period from January 1, 2020, through December 31, 2020, is intended to facilitate the payment of coronavirus-related distributions and plan loans to qualified individuals, as permitted by section 2202 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136, 134 Stat. 281 (2020) (CARES Act), the temporary relief applies to any participant election that requires the signature of an individual to be witnessed in the physical presence of a plan representative or notary.

II. BACKGROUND

On March 13, 2020, the President determined that the COVID-19 pandemic was of sufficient severity and magnitude to warrant an emergency determination under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207. Providing alternative procedures for notarization and consent related to plan distributions that do not require physical presence is an appropriate emergency protective measure during this declared emergency period and is consistent with the physical distancing procedures implemented by the states.

As part of the response to the COVID-19 pandemic, Congress passed the CARES Act to allow participants greater access to their retirement benefits. Section 2202(a) of the CARES Act permits certain individuals to receive up to $100,000 for a coronavirus-related distribution from an eligible retirement plan (as defined in § 402(c)(8)(B) of the Code). A coronavirus-related distribution is defined as any distribution from an eligible retirement plan to a qualified individual made on or after January 1, 2020, and before December 31, 2020. A distribution is not subject to the 10% additional tax under § 72(t) to the extent it meets the requirements of a coronavirus-related distribution. In addition, the coronavirus-related distribution may be included in gross income ratably over the 3-year period beginning with the taxable year of the distribution and may be recontributed to an applicable eligible retirement plan in which the taxpayer is a beneficiary and to which a rollover can be made.

Section 2202(b)(1) of the CARES Act provides that in the case of any loan from a qualified employer plan (as defined under § 72(p)(4) of the Code) to a qualified individual made during the 180-day period beginning on the date of enactment of the CARES Act, the $50,000 aggregate loan limit in § 72(p)(2)(A)(i) of the Code is increased to $100,000. In addition, the rule in § 72(p)(2)(A)(ii) limiting the aggregate amount of the loans to one-half of the present value of the vested accrued benefit of the employee is increased to 100 percent of the employee's vested accrued benefit under the plan.

Section 1.401(a)-21 sets forth standards for the use of an electronic medium to provide applicable notices to recipients or to make participant elections with respect to a retirement plan, an employee benefit arrangement, or an individual retirement plan. Section 1.401(a)-21(e)(6) defines a participant election as any consent, election, request, agreement, or similar communication made by or from a participant, beneficiary, alternate payee, or an individual entitled to benefits under a retirement plan, employee benefit arrangement, or individual retirement plan. Section 1.401(a)-21(d) sets forth the following conditions for participant elections:

(1) The individual must be effectively able to access the electronic medium used to make the participant election;

(2) The electronic system must be reasonably designed to preclude any person other than the appropriate individual from making the participant election;

(3) The electronic system must provide the individual making the participant election with a reasonable opportunity to review, confirm, modify, or rescind the terms of the election before it becomes effective; and

(4) The individual making the participant election, within a reasonable time, must receive confirmation of the election through either a written paper document or an electronic medium under a system that satisfies the applicable notice requirements under § 1.401(a)-21.

The participant election rules in § 1.401(a)-21(d) apply to plans that are subject to the qualified joint and survivor (QJSA) requirements of § 417. Accordingly, for a plan subject to the QJSA requirements, a participant's consent to a distribution may be provided through the use of electronic media if the plan complies with the standards described in § 1.401(a)-21(d), provided that the participant also obtains a valid spousal consent, if applicable.

Section 417 requires spousal consent to a waiver of a QJSA, which includes the waiver of a QJSA as part of a request for a plan distribution or a plan loan. Section 417 further requires that the spousal consent be witnessed by a plan representative or a notary public. Section 1.401(a)-21(d)(6)(i) provides that, in the case of a participant election that is required to be witnessed by a plan representative or a notary public (such as a spousal consent to a waiver of a QJSA under § 417), the signature of the individual making the participant election must be witnessed in the physical presence of a plan representative or a notary public. Section 1.401(a)-21(d)(6)(ii) provides that, if the signature is witnessed in the physical presence of a notary public, an electronic signature acknowledging the signature (in accordance with section 101(g) of the Electronic Signatures in Global and National Commerce Act, Pub. L. 106-229, 114 Stat. 464 (2000) (E-SIGN),[1] and applicable state law for notaries public) will not be denied legal effect.

Section 1.401(a)-21(d)(6)(iii) provides that the Commissioner may provide in guidance published in the Internal Revenue Bulletin that the use of procedures under an electronic system is deemed to satisfy the physical presence requirement, but only if those procedures with respect to the electronic system provide the same safeguards for participant elections as are provided through the physical presence requirement.

Section 1.401(a)-21(d) permits electronic notarization of participant elections. However, the physical presence requirement in § 1.401(a)-21(d)(6) would preclude the use of remote notarizations of participant elections, including spousal consents.

Remote electronic notarizations differ from electronic notarizations in that remote electronic notarizations generally are conducted remotely over the internet using digital tools and live audio-video technologies, whereas electronic notarizations can be signed electronically but still require that certain signatures be witnessed in the physical presence of a

[1] Section 101(g) of E-SIGN provides that "[i]f a statute, regulation, or other rule of law requires a signature or record relating to a transaction in or affecting interstate or foreign commerce to be notarized, acknowledged, verified, or made under oath, that requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable statute, regulation, or rule of law, is attached to or logically associated with the signature or record."

notary public or plan representative. The Department of the Treasury and the Internal Revenue Service have received several requests from stakeholders to permit remote electronic notarization of spousal consents for plan loans and distributions during the COVID-19 pandemic. These stakeholders state that due to the social distancing measures with respect to the COVID-19 pandemic, the physical presence requirement in § 1.401(a)-21(d)(6) makes it difficult, if not impossible, for a participant to receive a plan distribution or plan loan (or for a qualified individual to receive a coronavirus-related distribution or plan loan) for which spousal consent is required. While recognizing the need for relief, one stakeholder requested that any relief take into account spousal protections, including limiting the relief solely to the physical presence requirement and making the relief temporary.

Remote electronic notarization is not uniformly applied by the states. In the majority of states, remote electronic notarization is either permanently or temporarily permitted by law, but in some states remote electronic notarization is not currently permitted.

III. GRANT OF RELIEF

For the period from January 1, 2020, through December 31, 2020, if the related requirements in subsection A or B of this Section III are satisfied, this notice provides the following temporary relief from the physical presence requirement in § 1.401(a)-21(d)(6):

(1) temporary relief from the physical presence requirement for any participant election witnessed by a notary public of a state that permits remote electronic notarization, and

(2) temporary relief from the physical presence requirement for any participant election witnessed by a plan representative.

A. Temporary Relief from the Physical Presence Requirement for any Participant Election Witnessed by a Notary Public

In the case of a participant election witnessed by a notary public, for the period from January 1, 2020, through December 31, 2020, the physical presence requirement in § 1.401(a)-21(d)(6) is deemed satisfied for an electronic system that uses remote notarization if executed via live audio-video technology that otherwise satisfies the requirements of participant elections under § 1.401(a)-21(d)(6) and is consistent with state law requirements that apply to the notary public.

B. Temporary Relief from the Physical Presence Requirement for any Participant Election Witnessed by a Plan Representative

In the case of a participant election witnessed by a plan representative, for the period from January 1, 2020, through December 31, 2020, the physical presence requirement in § 1.401(a)-21(d)(6) is deemed satisfied for an electronic system if the electronic system using live audio-video technology satisfies the following requirements:

(1) The individual signing the participant election must present a valid photo ID to the plan representative during the live audio-video conference, and may not merely transmit a copy of the photo ID prior to or after the witnessing;

(2) The live audio-video conference must allow for direct interaction between the individual and the plan representative (for example, a pre-recorded video of the person signing is not sufficient);

(3) The individual must transmit by fax or electronic means a legible copy of the signed document directly to the plan representative on the same date it was signed; and

(4) After receiving the signed document, the plan representative must acknowledge that the signature has been witnessed by the plan representative in accordance with the requirements of this notice and transmit the signed document, including the acknowledgement, back to the individual under a system that satisfies the applicable notice requirements under § 1.401(a)-21(c).

IV. PAPERWORK REDUCTION ACT

The collection of information contained in this notice has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–1632. 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.

The collection of information is in Section III.B of this notice. One of the conditions for receiving temporary relief from the physical presence requirement in § 1.401(a)-21(d) is that the plan representative acknowledge that he or she has witnessed the signature and transmit the signed document, including the acknowledgement, back to the person under a system that satisfies the applicable notice requirements under § 1.401(a)-21. This condition is similar to the confirmation requirement for participant elections in § 1.401(a)-21(d), requiring that the individual making a participant election, within a reasonable time, receive a confirmation of the election through either a written paper document or an electronic medium under a system that satisfies the applicable notice requirements under § 1.401(a)-21(c). It has been determined that the plan representative's acknowledgment that he or she witnessed the signature of the participant election is a minor modification to the control number 1545–1632 and should not result in any additional paperwork burden.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

V. DRAFTING INFORMATION

The principal authors of this notice are Arslan Malik and Pamela R. Kinard of the Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For further information regarding this notice, contact Arslan Malik at (202) 317-6700 and Pamela R. Kinard at (202) 317-6000 (not toll-free numbers).

Sections 4375 & 4376 – Insured and Self-Insured Health Plans

Adjusted Applicable Dollar Amount for Fee Imposed by §§ 4375 and 4376

Notice 2020-44

I. PURPOSE

This notice provides the adjusted applicable dollar amount to be multiplied by the average number of covered lives for purposes of calculating the fee imposed by §§ 4375 and 4376 of the Internal Revenue Code for policy years and plan years that end on or after October 1, 2019, and before October 1, 2020. This notice also provides transition relief for calculating the average number of covered lives as part of calculating the applicable fee for policy years and plan years that end on or after October 1, 2019, and before October 1, 2020.

II. BACKGROUND

Prior to the December 20, 2019 enactment of the Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94, 133 Stat. 2534 (the Act), § 4375 imposed a fee on the issuer of a specified health insurance policy for each policy year ending after September 30, 2012, and before October 1, 2019, and § 4376 imposed a fee on the plan sponsor of an applicable self-insured health plan for each plan year ending after September 30, 2012, and before October 1, 2019. The fee imposed by §§ 4375 and 4376 helps to fund the Patient-Centered Outcomes Research Trust Fund (PCORTF) and is calculated using the average number of lives covered under the policy or plan and the applicable dollar amount for that policy year or plan year. The Act extended the termination dates to provide that §§ 4375 and 4376 will not apply to policy and plan years ending after September 30, 2029, rather than policy and plan years ending after September 30, 2019.

Under §§ 4375(a) and 4376(a), the applicable dollar amount is $2 for policy and plan years ending on or after October 1, 2013, and before October 1, 2014.[1] Treas. Reg. §§ 46.4375-1(c)(4) and 46.4376-1(c)(3). Under §§ 4375(d) and 4376(d) and Treas. Reg. §§ 46.4375-1(c)(4) and 46.4376-1(c)(3), the applicable dollar amount for policy years and plan years ending in any Federal fiscal year beginning on or after October 1, 2014, is increased based on increases in the projected per capita amount of National Health Expenditures. Specifically, the applicable dollar amount is the sum of –

(i) The applicable dollar amount for the policy year or plan year ending in the previous Federal fiscal year; plus

(ii) The amount equal to the product of –

  (A) The applicable dollar amount for the policy year or plan year ending in the previous Federal fiscal year; and

  (B) The percentage increase in the projected per capita amount of the National Health Expenditures most recently released by the Department of Health and Human Services (HHS) before the beginning of the Federal fiscal year.

Notice 2018-85, 2018-48, I.R.B. 788, provides that the adjusted applicable dollar amount for policy years and plan years that end on or after October 1, 2018, and before October 1, 2019, is $2.45.

The Act amended §§ 4375(e) and 4376(e) to provide that §§ 4375 and 4376 will no longer apply beginning with policy and plan years ending after September 30, 2029. Therefore, the fee under §§ 4375 and 4376 applies to any specified health insurance policy and any applicable self-insured health plan with a policy or plan year ending after September 30, 2012, and before September 30, 2029, including any policy or plan year ending after September 30, 2019. The Department of the Treasury and the IRS anticipate amending the regulations at §§ 46.4375-1, 46.4376-1, and 46.4377-1 to reflect the statutory change in the termination dates.

III. TRANSITION RELIEF

Prior to enactment of the Act, due to the anticipated termination of the fee under § 4375 for policy years ending after September 30, 2019, issuers of specified health insurance policies for policy years ending on or after October 1, 2019, and before October 1, 2020, may not have anticipated the need to identify the number of covered lives for this period. Issuers may continue to use one of the following four methods specified in the regulations under § 4375 to calculate the average number of covered lives for purposes of the fee imposed by § 4375: the actual count method, the snapshot method, the member months method, and the state form method. *See* Treas. Reg. § 46.4375-1(c)(2)(i). In addition, for policy years ending on or after October 1, 2019, and before October 1, 2020, issuers may use any reasonable method for calculating the average number of covered lives. If an issuer uses a reasonable method to calculate the average number of covered lives for policy years ending on or after October 1, 2019, and before October 1, 2020, then that reasonable method must be applied consistently for the duration of the year and the issuer must use the same method for all policies for which a liability is reported on Form 720 for that year.

Similarly, prior to enactment of the Act, due to the anticipated termination of the fee under § 4376 for plan years ending after September 30, 2019, plan sponsors of applicable self-insured health plans for plan years ending on or after October 1, 2019, and before October 1, 2020, may not have anticipated the need to identify the number of covered lives for this period. Plan sponsors may continue to use one of the following three methods specified in the regulations under § 4376 to calculate the average number of covered lives for purposes of the fee imposed by § 4376: the actual count method, the snapshot method, and the Form 5500 method. *See* Treas. Reg. § 46.4376-1(c)(2)(i). In addition, for plan years ending on or after October 1, 2019, and before October 1, 2020, plan sponsors may use any reasonable method for calculating the average number of covered lives. If a plan sponsor uses a reasonable method to calculate the average number of covered lives for plan years ending on or after October 1, 2019, and before October 1, 2020, then that reasonable method must be applied consistently for the duration of the plan year.

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

IV. ADJUSTED APPLICABLE DOLLAR AMOUNT

The applicable dollar amount that must be used to calculate the fee imposed by §§ 4375 and 4376 for policy years and plan years that end on or after October 1, 2019, and before October 1, 2020, is $2.54. The increase from the prior amount is calculated by multiplying the adjusted applicable dollar amount for policy years and plan years ending in the previous Federal fiscal year, $2.45, by the percentage increase of the projected per capita amount of National Health Expenditures published by HHS on February 19, 2019. See: https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsProjected,Table 3. The percentage increase is calculated after adjustment to reflect updates to the data used to calculate the prior amount, $2.45, which was based on the per capita amounts of National Health Expenditures for 2018 and 2019 published by HHS on February 14, 2018.

V. EFFECTIVE DATE

This notice is effective for policy years and plan years ending on or after October 1, 2019.

VI. DRAFTING INFORMATION

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

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26 CFR 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.
(Also Part I, §§ 1001; 301.7701–2, 301.7701–3, 301.7701–4.)

Rev. Proc. 2020-34

SECTION 1. PURPOSE

In response to the Coronavirus Disease 2019 (COVID-19) emergency, this revenue procedure describes temporary safe harbors for the purpose of determining the Federal tax status of certain arrangements that hold real property as trusts. Under the safe harbors, certain modifications to mortgage loans, certain modifications to leases, and certain additional capital contributions are not treated under § 301.7701–4(c) of the Procedure and Administration Regulations as manifesting a power to vary.

SECTION 2. BACKGROUND—TRUSTS

.01 Section 301.7701–2(a) defines a "business entity" as any entity recognized for Federal tax purposes (including an entity with a single owner that may be disregarded as an entity separate from its owner under § 301.7701–3) that is not properly classified as a trust under § 301.7701–4 or otherwise subject to special treatment under the Internal Revenue Code (Code).

.02 Section 301.7701–4(a) provides that, generally speaking, an arrangement is treated as a trust if the purpose of the arrangement is to vest in trustees responsibility for the protection and conservation of property for beneficiaries who cannot share in the discharge of this responsibility and, therefore, are not associates in a joint enterprise for the conduct of business for profit.

.03 Section 301.7701–4(c) provides that an "investment" trust is not classified as a trust if there is a power under the trust agreement to vary the investment of the certificate holders. An investment trust with a single class of ownership interests, representing undivided beneficial interests in the assets of the trust, is classified as a trust if there is no power under the trust agreement to vary the investments of the certificate holders.

.04 Under § 677(a) of the Code, the grantor of a trust is treated as the owner of any portion of a trust whose income, without the approval or consent of any adverse party is, or, in the discretion of the grantor or a non-adverse party, or both, may be distributed, held, or accumulated for future distribution to the grantor or the grantor's spouse.

.05 A person that is treated as the owner of an undivided fractional interest of a trust under subpart E of part I, subchapter J of chapter 1 of the Code (§§ 671 and following), is considered to own the trust assets attributable to that undivided fractional interest of the trust for Federal income tax purposes. See Rev. Rul. 88-103, 1988-2 C.B. 304; Rev. Rul. 85-45, 1985-1 C.B. 183; and Rev. Rul. 85-13, 1985-1 C.B. 184. See also § 1.1001-2(c), Example 5 of the Income Tax Regulations.

SECTION 3. REVENUE RULING 2004-86

.01 Rev. Rul. 2004-86, 2004-2 C.B. 191, holds that a Delaware statutory trust (Trust) formed to hold real property subject to a lease under the trust agreement described in the ruling is an arrangement that is classified as a trust for Federal tax purposes under § 301.7701-4(c). Each of Trust's owners is treated, by reason of § 677, as an owner of a pro rata portion of Trust. Because an owner of an undivided fractional interest in Trust owns for Federal tax purposes the assets of Trust attributable to that interest, each owner is considered to own for those purposes an undivided fractional interest in the rental real property held by Trust. Accordingly, under § 1031 of the Code, a taxpayer may exchange an interest in real property for an interest in Trust without recognition of gain or loss, if the other requirements of § 1031 are satisfied.

.02 Under the facts of Rev. Rul. 2004-86, an individual borrows money from a bank and signs a 10-year note bearing adequate stated interest. On the same day, the individual uses the proceeds of the loan to purchase Blackacre, rental real property. The note is secured by Blackacre and is nonrecourse to the individual. Immediately after this purchase, the individual enters into a net lease with a tenant (Tenant) for a term of 10 years.

.03 Under the terms of the lease, Tenant must pay all taxes, assessments, fees, or other charges imposed on Blackacre by Federal, state, or local authorities. In addition, Tenant must pay all insurance, maintenance, ordinary repairs, and utilities relating to Blackacre. Tenant may sublease Blackacre. Tenant's rent is fixed. The revenue ruling indicates that Tenant's rent qualifies as fixed even if the lease agreement includes automatic periodic adjustments to the rent that are based on a fixed rate or on an objective index, such as

an escalator clause based on the consumer price index. No adjustments are within the control of any of the parties of the lease. The amount of rent is not contingent on the tenant's ability to lease the property, on the tenant's gross sales, or on net profits derived from the property.

.04 On the same day that the lease was executed, the individual forms Trust and contributes Blackacre to Trust. Upon the transfer of Blackacre, Trust assumes the rights and obligations of the individual as to the note with the bank and the lease with Tenant.

.05 The terms of Trust provide for the following—

(1) A single class of trust interests, each representing an undivided interest in the assets of Trust (in this case, Blackacre, which is subject to both the lease and the note);

(2) Authorization for the trustee to establish a reasonable reserve for expenses that are associated with Trust's holding Blackacre and that are payable out of trust funds;

(3) Required quarterly distributions of all available cash, less reserves, to each beneficial owner of Trust in proportion to that owner's relative interest in Trust;

(4) The right of each beneficial owner to an in-kind distribution of that owner's proportionate share of trust property;

(5) A requirement that Trust invest all cash that it holds in either—

(a) Short term obligations of (or guaranteed by) the United States, or any agency or instrumentality thereof; or

(b) Certificates of deposit of a bank or trust company having a minimum stated surplus and capital;

(6) Requirements that the trustee both invest only in obligations maturing prior to the next distribution date and hold those obligations until maturity;

(7) A limitation on the activities of the trustee to collection and distribution of income;

(8) A prohibition against the trustee—

(a) Exchanging Blackacre for other property;

(b) Purchasing assets other than the short-term investments described above;

(c) Accepting additional contributions of assets (including money) to Trust;

(d) Renegotiating the terms of the debt used to acquire Blackacre; and

(e) Renegotiating the lease with Tenant except in the case of Tenant's bankruptcy or insolvency;

(9) The termination of Trust at the earlier of 10 years or the disposition of Blackacre.

.06 The ruling states that Trust would have been treated as a business entity and not a trust if Trust's trustee had a power under the trust agreement to, among other things, renegotiate the lease with its tenant, to enter into leases with other tenants, or to renegotiate or refinance the mortgage loan whose proceeds were used to purchase Blackacre.

SECTION 4. COVID-19 EMERGENCY AND REVENUE PROCEDURE 2020-26

.01 On March 13, 2020, the President of the United States issued an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in response to the ongoing Coronavirus Disease 2019 (COVID-19) pandemic (Emergency Declaration). The Emergency Declaration instructed the Secretary of the Treasury "to provide relief from tax deadlines to Americans who have been adversely affected by the COVID-19 emergency, as appropriate, pursuant to 26 U.S.C. 7508A(a)."[1]

.02 To provide additional relief, on March 27, 2020, Congress and the President enacted the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (CARES Act).

.03 On April 13, 2020, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) issued safe harbors in Rev. Proc. 2020-26, 2020-18 I.R.B. 753. These safe harbors apply for determining the Federal income tax status of certain securitization vehicles that hold mortgage loans. Under the safe harbors, certain modifications of mortgage loans in connection with forbearance programs described in that guidance are not treated as replacing the unmodified obligation with a newly issued obligation, as giving rise to prohibited transactions, or as manifesting a power to vary.

.04 In the case of mortgage loans held by real estate mortgage investment conduits (REMICs) and investment trusts, Rev. Proc. 2020-26 applies to—

(1) Forbearance (and all related modifications) of a Federally backed mortgage loan or a Federally backed multifamily mortgage loan, if the forbearance is provided under section 4022 or 4023, respectively, of the CARES Act (CARES Act Forbearances); and

(2) Forbearances (and all related modifications) that are not CARES Act Forbearances, that are agreed to by the borrower of any Federally backed or non-Federally backed mortgage loan, and that are provided by a holder or servicer of the loan under a forbearance program for borrowers experiencing a financial hardship due, directly or indirectly, to the COVID-19 emergency. The forbearance programs covered are those—

(a) Which are identical or similar to those described in section 2.07 of Rev. Proc. 2020-26; and

(b) Pursuant to which, between March 27, 2020, and December 31, 2020, inclusive, the borrower requests or agrees to the forbearance (and all related modifications).

.05 Section 6.01 of Rev. Proc. 2020-26 provides that for mortgage loans held by REMICs, forbearances (and all related modifications) described in section 5.01 of Rev. Proc. 2020-26 are not treated as resulting in a newly issued mortgage loan for purposes of § 1.860G-2(b)(1), are not prohibited transactions under § 860F(a)(2) of the Code, and do not result in a deemed reissuance of the REMIC regular interests.

.06 Under section 6.02 of Rev. Proc. 2020-26, in the case of mortgage loans held by investment trusts, certain transactions do not manifest a power to vary the investment of the certificate holders. These transactions are—

(1) CARES Act forbearances (and all related modifications); and

(2) Forbearances (and all related modifications) that are described in section 2.07 of Rev. Proc. 2020-26, that are requested, or agreed to, between March 27, 2020, and December 31, 2020, and that are granted as a result of a borrower experiencing a

[1] https://www.whitehouse.gov/wp-content/uploads/2020/03/LetterFromThePresident.pdf

financial hardship due to the COVID-19 emergency.

SECTION 5. COMMENTS RECEIVED

.01 The Treasury Department and the IRS received comments addressing arrangements organized as trusts under § 301.7701-4(c) and Rev. Rul. 2004-86 that hold rental real property. The commenters reported that many of these arrangements and their tenants are experiencing financial hardship due, directly or indirectly, to the COVID-19 emergency.

.02 These comments indicate that, in order to respond appropriately to these challenges, trustees may find it necessary to—

(1) Respond to the COVID-19 financial hardship of their tenants by modifying the trust's real property leases with the tenants to defer or waive rent payments;

(2) Request relief under various forbearance programs with respect to debt service on the mortgage loan secured by the trust's real property; and

(3) Accept additional cash contributions in order to avoid default on the trust's loan obligations, to satisfy lender demands on which receiving a loan modification may be contingent, to pay trust expenses, or to bolster trust reserves for the payment of expenses and loan payments. Depending on the circumstances for a particular trust, these contributions may come pro rata from current trust interest holders, non-pro rata from these current interest holders, or from outside investors.

SECTION 6. SCOPE

.01 This revenue procedure applies to arrangements that are trusts under § 301.7701-4(c) and Rev. Rul. 2004-86[2] and that hold real property and engage in one or more of the actions described in sections 6.02, 6.03, or 6.04 of this revenue procedure.

.02 Modification of one or more mortgage loans that secure the trust's real property in—

(1) A CARES Act Forbearance (and all related modifications); or

(2) A forbearance (and all related modifications)—

(a) That are described in section 2.07 of Rev. Proc. 2020-26;

(b) That the trust requested, or agreed to, between March 27, 2020, and December 31, 2020; and

(c) That were granted as a result of the trust experiencing a financial hardship due to the COVID-19 emergency.

.03 Modifications of one or more real property leases (including modifications to the specific allocations of fixed rent in the lease agreements as described in § 467 of the Code and the regulations under § 467; see section 9.01 of this revenue procedure). The lease must have been entered into by the trust on or before March 13, 2020, and the modifications must have been requested and agreed to on or after March 27, 2020, and on or before December 31, 2020. The reason for the modifications must be—

(1) To coordinate the lease cash flows with the cash flows that result from one or more transactions described in section 6.02 of this revenue procedure; or

(2) To defer or waive one or more tenants' rental payments for any period between March 27, 2020, and December 31, 2020 (and all related modifications), because the tenants are experiencing a financial hardship due to the COVID-19 emergency.

.04 Acceptance of cash contributions that are made between March 27, 2020, and December 31, 2020, as a result of the trust experiencing financial hardship due to the COVID-19 emergency, provided the contribution must be needed to increase permitted trust reserves, to maintain trust property, to fulfill obligations under mortgage loans, or to fulfill obligations under real property leases. See section 10 of this revenue procedure regarding the tax treatment of non-pro rata contributions or contributions from new investors for an interest in the trust.

SECTION 7. SAFE HARBOR

For the purpose of determining whether the arrangement is treated as a trust under § 301.7701-4(c) and Revenue Ruling 2004-86, the actions described in section 6 of this revenue procedure are not manifestations of a power to vary.

SECTION 8. NO INFERENCE

.01 No inferences should be drawn about whether similar consequences would obtain if an arrangement takes actions that fall outside the limited scope of this revenue procedure.

.02 Thus, an arrangement's qualification as a trust under § 301.7701-4(c) may be affected by a waiver or deferral of rent (and related modifications) that is inconsistent with section 3.03 of this revenue procedure and the lease arrangement described in Rev. Rul. 2004-86.

.03 Similarly, contributions that are not described in section 6.04 of this revenue procedure are outside the scope of the safe harbor in section 7 of this revenue procedure. For example, the scope of the safe harbor does not include additional contributions to the trust that are used to make more than minor, non-structural modifications to the trust's real property. Additionally, contributions of property other than cash generally manifest a power to vary.

SECTION 9. GUIDANCE ON MODIFICATIONS OF REAL PROPERTY LEASES

.01 The regulations under § 467 include rules for determining the income and deductions required to be taken into account in connection with § 467 rental agreements (generally, rental agreements with increasing or decreasing rents, or deferred or prepaid rents, as described in § 1.467-1). The fixed rent under a § 467 rental agreement is included in the income of the lessor and deducted by the lessee in accordance with the allocations of fixed rent provided in the rental agreement. See § 1.467-1(d)(2)(iii). For agreements with no specific allocation of fixed rent as described in § 1.467-1(c)(2)(ii), rent is included in the lessor's income and deducted by the lessee in accordance with the agreement's rent payment schedule. For agreements with a specific allocation of rent, the specific allocation of rent is used

[2] Although Rev. Rul. 2004–86 describes a trust that had been formed under a specific Delaware statute, the SCOPE of this revenue procedure includes trusts formed under the equivalent law (if any) of other states or the District of Columbia.

to determine the income and deductions under the agreement.

.02 For § 467 rental agreements that have a specific allocation of fixed rent, if the payment terms under the rental agreement are modified under this revenue procedure because the tenant is experiencing a financial hardship due to the COVID-19 emergency, amendments are also permitted to the agreement's specific allocation of fixed rent. In addition, any amendments to the rental agreement must be given appropriate tax effect under the applicable provisions of the Code and regulations, including the provisions in § 1.467-1(f) relating to substantial modifications of § 467 rental agreements.

SECTION 10. GUIDANCE ON TAX TREATMENT OF NON-PRO RATA CONTRIBUTIONS FROM CURRENT TRUST INTEREST HOLDERS AND CONTRIBUTIONS FROM NEW INVESTORS.

A cash contribution from one or more new trust interest holders to acquire a trust interest or a non-pro rata cash contribution from one or more current trust interest holders must be treated as a purchase and sale under § 1001 of the Code of a portion of each non-contributing (or lesser contributing) trust interest holder's proportionate interest in the trust's assets.

SECTION 11. DRAFTING INFORMATION

The principal author of this revenue procedure is Christiaan Cleary of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information, contact Christiaan Cleary at (202) 317-6850 (not a toll-free number).

Part IV

Notice of Proposed Rulemaking

Certain Medical Care Arrangements

REG-109755-19

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to section 213 of the Internal Revenue Code (Code) regarding the treatment of amounts paid for certain medical care arrangements, including direct primary care arrangements, health care sharing ministries, and certain government-sponsored health care programs. The proposed regulations affect individuals who pay for these arrangements or programs and want to deduct the amounts paid as medical expenses under section 213.

DATES: Written or electronic comments and requests for a public hearing must be received by **August 10, 2020**. Requests for a public hearing must be submitted as prescribed in the "**Comments and Requests for a Public Hearing**" section.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at www.regulations.gov (indicate IRS and REG-109755-19) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The IRS expects to have limited personnel available to process public comments that are submitted on paper through mail. Until further notice, any comments submitted on paper will be considered to the extent practicable. The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) will publish for public availability any comment submitted electronically, and to the extent practicable on paper, to its public docket. Send paper submissions to: CC:PA:LPD:PR (REG-109755-19), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, call Richard C. Gano IV of the Office of Associate Chief Counsel (Income Tax and Accounting), (202) 317-7011 (not a toll-free call); concerning the preamble discussion of health reimbursement arrangements or health savings accounts, call William Fischer of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), (202) 317-5500 (not a toll-free call); concerning the submission of comments and/or requests for public hearing, call Regina Johnson, (202) 317-5177 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

1. *Executive Order 13877*

On June 24, 2019, President Trump issued Executive Order 13877, "Improving Price and Quality Transparency in American Healthcare to Put Patients First" (84 FR 30849 (June 27, 2019)). The Executive Order states that it is the policy of the Federal Government to ensure that patients are engaged with their healthcare decisions and have the information requisite for choosing the healthcare they want and need. In furtherance of that policy, section 6(b) of the Executive Order directs the Secretary of the Treasury, to the extent consistent with law, to "propose regulations to treat expenses related to certain types of arrangements, potentially including direct primary care arrangements and healthcare sharing ministries, as eligible medical expenses under Section 213(d)" of the Code. The proposed regulations have been developed in response to this Executive Order.

2. *Deduction for Medical Expenses*

Section 213(a) allows a deduction for expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, or the taxpayer's dependent (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) of section 152), to the extent the expenses exceed 10 percent of adjusted gross income (AGI) (7.5 percent of AGI for a taxable year beginning before January 1, 2021).[1] A section 213 deduction is allowable only with respect to medical expenses actually paid during the taxable year, regardless of when the incident or event that occasioned the expenses occurred, and regardless of the method of accounting used by the taxpayer for filing income tax returns. Section 1.213-1(a)(1) of the Income Tax Regulations.

3. *Definition of Medical Care under Section 213(d)(1)*

For purposes of determining whether medical expenses are deductible under section 213, section 213(d)(1) defines "medical care" as amounts paid for (A) the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body (referred to in this preamble as "medical care under section 213(d)(1)(A)"); (B) transportation primarily for and essential to obtaining medical care referred to in (A); (C) qualified long-term care services; or (D) insurance covering medical care and transportation as described in (A) and (B), respectively (referred to in this preamble as "medical insurance"), including supplementary medical insurance for

[1] Section 103 of the Taxpayer Certainty and Disaster Tax Relief Act of 2019, enacted as part of the Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94, 133 Stat. 2534, Div. Q, Title I (2019)), amending section 213(f) to reduce the threshold for the deduction to 7.5 percent of AGI for tax years beginning before January 1, 2021.

the aged (Medicare Part B), and any qualified long-term care insurance contract. *See also* §1.213-1(e).

A. *Medical Care under Section 213(d)(1)(A)*

Deductions for amounts paid for medical care under section 213(d)(1)(A) are confined strictly to expenses incurred primarily for the prevention or alleviation of a physical or mental defect or illness and for operations or treatment affecting any portion of the body. Section 1.213-1(e)(1)(ii). Thus, payments for the following are payments for medical care under section 213(d)(1)(A): hospital services; nursing services; medical, laboratory, surgical, dental and other diagnostic and healing services; obstetrical expenses, expenses of therapy, and X-rays; prescribed drugs or insulin; and artificial teeth or limbs. Section 213(b) and §1.213-1(e)(1)(ii). However, an expenditure which is merely beneficial to the general health of an individual, such as an expenditure for a vacation, is not an expenditure for medical care. Section 1.213-1(e)(1)(ii). Amounts paid for illegal operations or treatments are not deductible. *Id.*

B. *Medical Insurance under Section 213(d)(1)(D)*

Expenditures for medical insurance described in section 213(d)(1)(D) are amounts paid for medical care only to the extent such amounts are paid for insurance covering the diagnosis, cure, mitigation, treatment, or prevention of disease; for the purpose of affecting any structure or function of the body; or for transportation primarily for and essential to medical care. Section 1.213-1(e)(4)(i)(*a*). Amounts are considered payable for other than medical care under a contract if the contract provides for the waiver of premiums upon the occurrence of an event. *Id.* In the case of an insurance contract under which amounts are payable for other than medical care (as, for example, a policy providing an indemnity for loss of income or for loss of life, limb, or sight), (1) no amount may be treated as paid for medical insurance unless the charge for such insurance is either separately stated in the contract or furnished to the policyholder by the insurer in a separate statement, (2) the amount treated as paid for medical insurance may not exceed such charge, and (3) no amount may be treated as paid for medical insurance if the amount specified in the contract (or furnished to the policyholder by the insurer in a separate statement) as the charge for such insurance is unreasonably large in relation to the total charges under the contract (considering the relationship of the coverages under the contract together with all the facts and circumstances). *Id.*

In determining whether a contract constitutes an "insurance" contract for purposes of section 213, it is irrelevant whether the benefits are payable in cash or in services. Section 1.213-1(e)(4)(i)(*a*). For example, amounts paid for hospitalization insurance, for membership in an association furnishing cooperative or so-called free-choice medical service, or for group hospitalization and clinical care are payments for medical insurance. *Id*. In addition, premiums paid for Medicare Part B are amounts paid for medical insurance. *Id*.

Explanation of Provisions

In developing the proposed regulations, the Treasury Department and the IRS considered how to carry out the objectives of Executive Order 13877 in a way permitted by law and supported by sound policy. The Treasury Department and the IRS undertook a review of direct primary care arrangements and health care sharing ministries by meeting with practitioners and individuals who operate the arrangements to analyze the facts of those arrangements. After gathering information on those arrangements and considering the relevant legal authorities, the Treasury Department and the IRS propose that expenditures for direct primary care arrangements and health care sharing ministry memberships are amounts paid for medical care as defined in section 213(d), and that amounts paid for those arrangements may be deductible medical expenses under section 213(a). The proposed regulations also clarify that amounts paid for certain arrangements and programs, such as health maintenance organizations (HMO) and certain government-sponsored health care programs, are amounts paid for medical insurance under section 213(d)(1)(D).[2] These proposed regulations do not affect the tax treatment of any medical care arrangement that currently qualifies as medical care under section 213(d).

1. *Definition of Direct Primary Care Arrangement*

The proposed regulations define a "direct primary care arrangement" as a contract between an individual and one or more primary care physicians under which the physician or physicians agree to provide medical care (as defined in section 213(d)(1)(A)) for a fixed annual or periodic fee without billing a third party. The proposed regulations define a "primary care physician" as an individual who is a physician (as described in section 1861(r)(1) of the Social Security Act (SSA)) who has a primary specialty designation of family medicine, internal medicine, geriatric medicine, or pediatric medicine. The definition is adopted from paragraph (I) of the definition of "primary care practitioner" in section 1833(x)(2)(A)(i) of the SSA. The Treasury Department and the IRS request comments on the definition of primary care physician and on the definition of direct primary care arrangement.

The Treasury Department and the IRS also request comments on whether to expand the definition of a direct primary care arrangement to include a contract between an individual and a nurse practi-

[2] The proposed regulations and this preamble do not address any issues under Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA) that are within the interpretive and regulatory jurisdiction of the U.S. Department of Labor. For example, the proposed regulations and this preamble do not address whether any particular arrangement or payment constitutes, or is part of, an employee welfare benefit plan within the meaning of ERISA section 3(1). Rather, the Department of Labor advised the Treasury Department and the IRS that an employer's funding of a benefit arrangement, in most circumstances, is sufficient to treat an arrangement that provides health benefits to employees as an ERISA-covered plan. Compare 29 CFR 2510.3-1(l), which provides a safe harbor from ERISA-coverage for certain reimbursements for non-group health insurance premiums solely for individual health insurance coverage as defined in 29 CFR 2590.701-2 that does not consist solely of excepted benefits as defined in 29 CFR 2590.732(c).

tioner, clinical nurse specialist, or physician assistant (as those terms are defined in section 1861(aa)(5) of the SSA) who provides primary care services under the contract. The Treasury Department and the IRS request comments on how to define primary care services provided by a non-physician practitioner, including whether the definition of primary care services in section 1833(x)(2)(B) of the SSA is appropriate.

In addition, the Treasury Department and the IRS understand that other types of medical arrangements between health practitioners and individuals exist that do not fall within the definition of direct primary care. For example, an agreement between a dentist and a patient to provide dental care, or an agreement between a physician and a patient to provide specialty care, would not be a direct primary care arrangement but nonetheless may be the provision of medical care under section 213(d). The Treasury Department and the IRS request comments on whether the final regulations should clarify the treatment of other types of arrangements that are similar to direct primary care arrangements but do not meet the definition in the proposed regulations.

2. *Definition of Health Care Sharing Ministry*

For the purposes of section 213, the proposed regulations define a health care sharing ministry as an organization: (1) which is described in section 501(c)(3) and is exempt from taxation under section 501(a); (2) members of which share a common set of ethical or religious beliefs and share medical expenses among members in accordance with those beliefs and without regard to the State in which a member resides or is employed; (3) members of which retain membership even after they develop a medical condition; (4) which (or a predecessor of which) has been in existence at all times since December 31, 1999, and medical expenses of its members have been shared continuously and without interruption since at least December 31, 1999; and (5) which conducts an annual audit which is performed by an independent certified public accounting firm in accordance with generally accepted accounting principles and which is made available to the public upon request. This definition is from section 5000A(d)(2)(B)(ii), which provides that the individual shared responsibility payment (which is zero after December 31, 2018) does not apply to an individual who is a member of a health care sharing ministry. The Treasury Department and the IRS request comments on the definition of a health care sharing ministry.

3. *Analysis of Medical Care under Section 213(d)(1)(A)*

Direct primary care arrangements, as defined in the proposed regulations, may encompass a broad range of facts. Depending on the facts, a payment for a direct primary care arrangement may be a payment for medical care under section 213(d)(1)(A) or, as discussed below, may be a payment for medical insurance under section 213(d)(1)(D). For example, payments for a direct primary care arrangement that solely provides for an anticipated course of specified treatments of an identified condition, or solely provides for an annual physical examination, are payments for medical care under section 213(d)(1)(A). However, so long as a direct primary care arrangement meets the definition set forth in the proposed regulations, amounts paid for the arrangement will qualify as an expense for medical care under section 213(d), regardless of whether the arrangement is for medical care under section 213(d)(1)(A) or medical insurance under section 213(d)(1)(D).

Health care sharing ministries, unlike direct primary care arrangements, do not themselves provide any medical treatment or services that would qualify as medical care under section 213(d)(1)(A). Instead, membership in a health care sharing ministry entitles members to share their medical bills through the ministry and potentially receive payments from other members to help with their medical bills. The membership payments are not payments for medical care under section 213(d)(1)(A). However, as further explained below, these proposed regulations provide that amounts paid for membership in a health care sharing ministry may be payments for medical insurance under section 213(d)(1)(D).

4. *Analysis of Medical Insurance under Section 213(d)(1)(D)*

Section 213(d)(1)(D) does not define the term "insurance." When a federal statute uses a term without an accompanying definition, the meaning of the term must be determined from the ordinary use of the term, in conjunction with any guidance found in the structure of the relevant statute and its legislative history. *See Group Life & Health Insurance Co. v. Royal Drug. Co.*, 440 U.S. 205, 211 (1979).

The predecessor to section 213, section 23x, was originally enacted in 1942 and allowed a deduction for medical care expenses, including amounts paid for health insurance. Although the statutory language did not define "insurance" for purposes of the medical expense deduction, the legislative history specifically states that amounts paid for health insurance are included in the category of medical expenses, and that payments for "hospitalization insurance, or for membership in an association furnishing cooperative or so-called free-choice medical service, or group hospitalization and clinical care are intended, for purposes of this section, to be included as amounts which may be deducted." This language from the legislative history was incorporated into the section 213 regulations in 1957 and remains unchanged. *See* §1.213-1(e)(4)(i)(a). Based on that legislative history, the Treasury Department and the IRS conclude that Congress intended that "insurance" for section 213 purposes be read broadly. Indeed, the Treasury Department and the IRS have interpreted "insurance" broadly over the years in guidance under section 213. *See*, *e.g.*, Rev. Rul. 79-175, 1979-1 C.B. 117 (premiums paid for Medicare Part A coverage are amounts paid for medical insurance); Rev. Rul. 74-429, 1974-2 C.B. 83 (nonrefundable fixed amount paid by a taxpayer for an agreement with an optometrist to replace the taxpayer's contact lenses for one year if they became lost or damaged is an amount paid for medical insurance); Rev. Rul. 68-433, 1968-2 C.B. 110 (insurance premiums paid for a policy that provides only for reimbursement of the cost of prescription drugs are amounts paid for medical insurance). Further, IRS Publication 502 (Medical and Dental Expenses) states the long-standing IRS posi-

tion that amounts paid for membership in an HMO are treated as medical insurance premiums.

The Treasury Department and the IRS also conclude that the general insurance principles used for subchapter L purposes are not controlling for purposes of determining whether payment for an arrangement is treated as an amount paid for medical insurance under section 213. Subchapter L does not define insurance. It provides a definition of the term "insurance company" for purposes of determining whether an entity is an insurance company for federal income tax purposes. However, there is no requirement in section 213 that amounts be paid to an insurance company to qualify as payments for medical insurance. Further, the legislative history of section 213 indicates that medical insurance is not limited to traditional health insurance provided by an insurance company. Thus, although payments to an insurance company for medical care may be amounts paid for medical insurance under section 213(d)(1)(D), amounts need not be paid to an insurance company to be payments for medical insurance under section 213.

As noted above, depending on the specific facts regarding an arrangement, a payment for a direct primary care arrangement may be a payment for medical care under section 213(d)(1)(A) or may be a payment for medical insurance under section 213(d)(1)(D). Regardless of the characterization of an arrangement as medical care under section 213(d)(1)(A) or medical insurance under section 213(d)(1)(D), an amount paid for the arrangement will qualify as a medical expense under section 213. However, the characterization of a direct primary care arrangement as medical insurance under section 213(d)(1)(D) has implications for purposes of the rules for health savings accounts (HSAs) under section 223. Specifically, as explained later in this preamble, if an individual enters into a direct primary care arrangement, the type of coverage provided by the arrangement will impact whether or not he or she is an eligible individual for purposes of section 223.

Under these proposed regulations, payments for membership in a health care sharing ministry that shares expenses for medical care, as defined in section 213(d)(1)(A), are payments for medical insurance under section 213(d)(1)(D). The purpose of a health care sharing ministry is for members to share the burden of their medical expenses with other members. Members assist in the payment of other members' medical bills, and possibly receive reimbursement for their own medical bills in return. Whether this is done by making membership payments to the ministry or by sending the payments directly to other members, the substance of the transaction is the same. Similar to traditional medical insurance premiums, amounts paid for membership in a health care sharing ministry allow members who incur expenses for medical care under section 213(d)(1)(A) to submit claims for those expenses and potentially receive payments to help cover those expenses.

Accordingly, the proposed regulations provide that medical insurance under section 213(d)(1)(D) includes health care sharing ministries that share expenses for medical care under section 213(d)(1)(A). This proposal under section 213 has no bearing on whether a health care sharing ministry is considered an insurance company, insurance service, or insurance organization (health insurance issuer) for other purposes of the Code, ERISA, the Public Health Service Act (PHS Act), or any other Federal or State law. In addition, the proposed regulations incorporate the long-standing position of the IRS treating amounts paid for membership in an HMO as medical insurance premiums for section 213 purposes. In contrast, amounts paid to an HMO or a provider to cover coinsurance, copayment, or deductible obligations under an HMO's terms are payments for medical care under section 213(d)(1)(A). Regardless of their classification, both HMO amounts paid are eligible for deduction as a medical expense under section 213(a).

Finally, the proposed regulations clarify that amounts paid for coverage under certain government-sponsored health care programs are treated as amounts paid for medical insurance under section 213(d)(1)(D). The proposed regulations incorporate the guidance in section 213(d)(1)(D) and Rev. Rul. 79-175, respectively, that Medicare Parts A and B are medical insurance, and clarify that Medicare Parts C and D are medical insurance, for purposes of section 213. The proposed regulations also provide that Medicaid, the Children's Health Insurance Program (CHIP), TRICARE, and certain veterans' health care programs are medical insurance under section 213(d)(1)(D). Thus, to the extent a particular government-sponsored health program requires individuals to pay premiums or enrollment fees for coverage under the program, those amounts are eligible for deduction as a medical expense under section 213. The Treasury Department and the IRS request comments on whether amounts paid for other government-sponsored health care programs should be treated as amounts paid for medical insurance, and if so, which specific government-sponsored health care programs should be treated as medical insurance.

5. *Direct Primary Care Arrangements, Health Reimbursement Arrangements (HRAs), and HSAs*

A. *Direct Primary Care Arrangements and HRAs*

An HRA (other than a qualified small employer health reimbursement arrangement (QSEHRA)) is a type of account-based group health plan funded solely by employer contributions (with no salary reduction contributions or other contributions by employees) that reimburses an employee solely for medical care expenses incurred by the employee (and, at the discretion of the plan sponsor, the employee's family), up to a maximum dollar amount for a coverage period. *See* Notice 2002-45, 2002-2 C.B. 93 and Rev. Rul. 2002-41, 2002-2 C.B. 75. Because an HRA cannot by itself satisfy the prohibition on lifetime and annual dollar limits for group health plans under PHS Act section 2711 or the requirement to provide coverage for certain preventive services without cost sharing under PHS Act section 2713 (both of which are incorporated by reference in section 9815), unless an applicable exception applies, it must be integrated with coverage that otherwise satisfies those requirements. *See* §54.9815-2711. A QSEHRA is a type of HRA, except that it generally is not a group health plan and is subject to additional specific requirements, including the requirement that it may be provided

only by an employer that is not an applicable large employer, as defined in section 4980H(c)(2). *See* section 9831. Because QSEHRAs are generally not group health plans, there is no need for them to be integrated with other coverage.[3]

An HRA, including a QSEHRA, an HRA integrated with a traditional group health plan, an HRA integrated with individual health insurance coverage or Medicare (individual coverage HRA), or an excepted benefit HRA, generally may reimburse expenses for medical care, as defined under section 213(d). Thus, an HRA may provide reimbursements for direct primary care arrangement fees.

B. *Direct Primary Care Arrangements and HSAs*

Section 223 permits eligible individuals to establish and contribute to HSAs. In general, an HSA is a tax-exempt trust or custodial account established exclusively for the purpose of paying qualified medical expenses of the account beneficiary who, for the months for which contributions are made to an HSA, is covered under a high deductible health plan (HDHP). *See* section 223(d); Notice 2004-2, 2004-1 C.B. 269, Q&A 1. An eligible individual is, with respect to any month, any individual if (i) such individual is covered under an HDHP as of the first day of such month, and (ii) such individual is not, while covered under an HDHP, covered under any health plan which is not an HDHP, and which provides coverage for any benefit which is covered under the HDHP. *See* section 223(c)(1); Notice 2004-2, Q&A 2. An HDHP is a health plan that satisfies the minimum annual deductible requirement and maximum out-of-pocket expenses requirement under section 223(c)(2)(A), and meets certain other requirements. *See* section 223(c)(2); Notice 2004-2, Q&A 3.

Section 223(c)(1)(B) provides that, in addition to coverage under an HDHP, an eligible individual may have "disregarded coverage," which includes only certain permitted insurance under section 223(c)(3), and coverage (whether through insurance or otherwise) for accidents, disability, dental care, vision care, long-term care, or certain health flexible spending arrangements. Section 223(c)(3) provides that permitted insurance is insurance relating to liabilities incurred under worker's compensation laws, tort liabilities, or liabilities relating to ownership or use of property, insurance for a specified disease or illness, and insurance paying a fixed amount per day (or other period) of hospitalization. In addition, section 223(c)(2)(C) provides that an HDHP may provide preventive care before the minimum annual deductible for an HDHP is met.

The legislative history to section 223 states that "[e]ligible individuals for HSAs are individuals who are covered by a high deductible health plan and no other health plan that is not a high deductible health plan." H.R. Conf. Rep. No. 391, 108th Cong., 1st Sess. 841 (2003). The legislative history also states that, "[a]n individual with other coverage in addition to a high deductible health plan is still eligible for an HSA if such other coverage is certain permitted insurance or permitted coverage." *Id*.

In Rev. Rul. 2004-38, 2004-1 C.B. 717, an individual was covered by a health plan that satisfied the requirements to be an HDHP under section 223(c)(2) (including the minimum annual deductible under section 223(c)(2)(A)), but the plan did not include coverage for prescription drugs. The individual was also covered by another plan (or rider) providing prescription drug benefits that required copays but was not subject to the minimum annual deductible under section 223(c)(2)(A). Rev. Rul. 2004-38 held that an individual covered by an HDHP that does not cover prescription drugs, and who is also covered by a separate plan (or rider) that provides prescription drug benefits before the minimum annual deductible is met, is not an eligible individual under section 223(c)(1)(A) and may not contribute to an HSA. Accordingly, if an individual has coverage that is not disregarded coverage or preventive care, and that provides benefits before the minimum annual deductible is met, the individual is not an eligible individual. *See also* Notice 2008-59, 2008-2 C.B. 123, Q&A 2 and 3.

The Treasury Department and the IRS understand that direct primary care arrangements typically provide for an array of primary care services and items, such as physical examinations, vaccinations, urgent care, laboratory testing, and the diagnosis and treatment of sickness or injuries. This type of DPC arrangement would constitute a health plan or insurance that provides coverage before the minimum annual deductible is met, and provides coverage that is not disregarded coverage or preventive care. Therefore, an individual generally is not eligible to contribute to an HSA if that individual is covered by a direct primary care arrangement. However, in the limited circumstances in which an individual is covered by a direct primary care arrangement that does not provide coverage under a health plan or insurance (for example, the arrangement solely provides for an anticipated course of specified treatments of an identified condition) or solely provides for disregarded coverage or preventive care (for example, it solely provides for an annual physical examination), the individual would not be precluded from contributing to an HSA solely due to participation in the direct primary care arrangement. If the direct primary care arrangement fee is paid by an employer, that payment arrangement would be a group health plan and it (rather than the direct primary care arrangement), would disqualify the individual from contributing to a HSA.

6. *Health Care Sharing Ministries, HRAs, and HSAs*

Under the regulations authorizing individual coverage HRAs, health care sharing ministries cannot integrate with an individual coverage HRA. However, under these proposed regulations, an HRA, including an HRA integrated with a traditional group health plan, an individual coverage HRA, a QSEHRA, or an

[3] However, under section 9831(d)(2)(B)(ii), a QSEHRA may only provide reimbursements to an eligible employee after the eligible employee provides proof of coverage, and consistent with section 106(g), the coverage must qualify as minimum essential coverage as defined in section 5000A(f).

excepted benefit HRA, may reimburse payments for membership in a health care sharing ministry as a medical care expense under section 213(d). Because the proposed regulations provide that health care sharing ministries are medical insurance under section 213(d)(1)(D) that is not permitted insurance, membership in a health care sharing ministry would preclude an individual from contributing to an HSA.

Proposed Applicability Date

These regulations are proposed to apply for taxable years that begin on or after the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

Special Analyses

I. *Regulatory Planning and Review*

This regulation is subject to review under section 6 of Executive Order 12866 pursuant to the April 11, 2018, Memorandum of Agreement ("April 11, 2018 MOA") between the Treasury Department and the Office of Management and Budget ("OMB") regarding review of tax regulations. The Acting Administrator of the Office of Information and Regulatory Affairs ("OIRA"), OMB, has waived review of this proposed rule in accordance with section 6(a)(3)(A) of Executive Order 12866. OIRA will subsequently make a significance determination of the final rule under Executive Order 12866 pursuant to the terms of section 1 of the April 11, 2018 MOA.

II. *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 proposed 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.

III. *Executive Order 13132: Federalism*

Executive Order 13132 (entitled "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 proposed 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.

IV. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. The proposed regulations directly affect individuals and not entities. Accordingly, the proposed rule will not have a significant economic impact on a substantial number of small entities.

In accordance with section 7805(f), this notice of proposed rulemaking has been submitted to the Chief Counsel of the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to comments that are submitted timely to the IRS as prescribed in this preamble in the "**ADDRESSES**" section. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. Any electronic comments submitted, and to the extent practicable any paper comments submitted, will be made available at www.regulations.gov or upon request.

A public hearing will be scheduled if requested in writing by any person who timely submits electronic or written comments. Requests for a public hearing are also encouraged to be made electronically. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**. Announcement 2020-4, 2020-17 IRB 1, provides that until further notice, public hearings conducted by the IRS will be held telephonically. Any telephonic hearing will be made accessible to people with disabilities.

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.

Drafting Information

The principal author of these proposed regulations is Richard C. Gano IV of the Office of Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.213-1 is amended by:

1. Redesignating paragraphs (e)(1)(v) and (vi) as (e)(1)(vi) and (vii) respectively.
2. Adding a new paragraph (e)(1)(v).

3. Redesingnating newly redesignated paragraphs (e)(1)(vi)(*a*) through (*c*) as (e)(1)(vi)(A) through (C).
4. Redesignating paragraphs (e)(4)(i)(*a*) and (*b*) as (e)(4)(i)(B) and (C) respectively.
5. Adding a new paragraph (e)(4)(i)(A).
6. Revising newly redesignated paragraph (e)(4)(i)(B).
7. In newly redesignated paragraph (e)(4)(i)(C):
   i. Adding a subject heading;
   ii. Redsignating the introductory text as paragraph (e)(4)(i)(C)(*1*) introductory text and paragraphs (e)(4)(i)(C)(*1*) and (*2*) as paragraphs (e)(4)(i)(C)(*1*)(*i*) and (*ii*);
   iii. Removing the words "(a) of this subdivision" and add in their place the words "paragraphs (e)(4)(i)(A) and (B) of this section" in newly redesignated paragraph (e)(4)(i)(C)(*1*) introductory text;
   iv. Designating the undesignated paragraph following newly redsignated paragraph (e)(4)(i)(C)(*1*)(*ii*) as paragraph (e)(4)(i)(C)(*2*); and
   v. Removing "subdivision (*b*)" and adding in its place "paragraph (e)(4)(i)(C)" in newly designated paragraph (e)(4)(i)(C)(*2*)

The additions and revision read as follows:

§1.213-1 Medical, dental, etc., expenses.

* * * * *

(e)* * *

(1)* * *

(v)(A) *Direct primary care arrangements*. Expenses paid for medical care under section 213(d) include amounts paid for a direct primary care arrangement. A "direct primary care arrangement" is a contract between an individual and one or more primary care physicians under which the physician or physicians agree to provide medical care (as defined in section 213(d)(1)(A)) for a fixed annual or periodic fee without billing a third party. A "primary care physician" is an individual who is a physician (as described in section 1861(r)(1) of the Social Security Act) who has a primary specialty designation of family medicine, internal medicine, geriatric medicine, or pediatric medicine.

(B) *Applicability date*. The rules of this paragraph (e)(1)(v) apply to taxable years ending on or after [the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**].

* * * * *

(4)(i)(A) *Medical insurance contracts and programs—*(*1*) *In general*. In determining whether a contract constitutes an "insurance" contract under section 213(d)(1)(D), it is irrelevant whether the benefits are payable in cash or in services. For example, amounts paid for hospitalization insurance, for membership in an association furnishing cooperative or so-called free-choice medical service, for group hospitalization and clinical care, or for membership in a health maintenance organization (HMO) are payments for medical insurance under section 213(d)(1)(D).

(*2*) *Health care sharing ministries*.— Amounts paid for membership in a health care sharing ministry that shares expenses for medical care, as defined in section 213(d)(1)(A), are payments for medical insurance under section 213(d)(1)(D). A health care sharing ministry is an organization:

(*i*) Which is described in section 501(c)(3) and is exempt from taxation under section 501(a);

(*ii*) Members of which share a common set of ethical or religious beliefs and share medical expenses among members in accordance with those beliefs and without regard to the State in which a member resides or is employed;

(*iii*) Members of which retain membership even after they develop a medical condition;

(*iv*) Which (or a predecessor of which) has been in existence at all times since December 31, 1999, and medical expenses of its members have been shared continuously and without interruption since at least December 31, 1999; and

(*v*) Which conducts an annual audit which is performed by an independent certified public accounting firm in accordance with generally accepted accounting principles and which is made available to the public upon request.

(*3*) *Government-sponsored health care programs*. Amounts paid for coverage under government-sponsored health care programs may be amounts paid for medical insurance under section 213(d)(1)(D). Taxes imposed by any governmental unit that fund such a program, however, do not constitute amounts paid for medical insurance. The following government-sponsored health care programs are medical insurance under section 213(d)(1)(D):

(*i*) The Medicare program under Title XVIII of the Social Security Act (42 U.S.C. 1395c and following sections), including Parts A, B, C, and D;

(*ii*) Medicaid programs under title XIX of the Social Security Act (42 U.S.C. 1396 and following sections);

(*iii*) The Children's Health Insurance Program (CHIP) under title XXI of the Social Security Act (42 U.S.C. 1397aa and following sections);

(*iv*) Medical coverage under chapter 55 of title 10, U.S.C., including coverage under the TRICARE program; and

(*v*) Veterans' health care programs under chapter 17 or 18 of Title 38 U.S.C.

(*4*) *Applicability date*. The rules of this paragraph (e)(4)(i)(*A*) apply to taxable years ending on or after [the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**].

(B) *Insurance contract covering more than medical care*. Amounts are paid for medical insurance under section 213(d)(1)(D) only to the extent that such amounts are paid for insurance covering expenses of medical care referred to in paragraph (e)(1) of this section or for any qualified long-term care insurance contract as defined in section 7702B(b). Amounts will be considered payable for other than medical insurance under a contract if the contract provides for the waiver of premiums upon the occurrence of an event. In the case of an insurance contract under which amounts are payable for other than medical insurance (as, for example, a policy providing an indemnity for loss of income or for loss of life, limb, or sight) –

(*1*) No amount shall be treated as paid for medical insurance under section 213(d)(1)(D) unless the charge for such insurance is either separately stated in the contract or furnished to the policyholder by the insurer in a separate statement,

(*2*) The amount taken into account as the amount paid for such medical insurance shall not exceed such charge, and

(*3*) No amount shall be treated as paid for such medical insurance if the amount specified in the contract (or furnished to the policyholder by the insurer in a separate statement) as the charge for such insurance is unreasonably large in relation to the total charges under the contract. In determining whether a separately stated charge for insurance covering expenses of medical care is unreasonably large in relation to the total premium, the relationship of the coverage under the contract together with all of the facts and circumstances shall be considered.

(C) *Premiums paid after taxpayer attains the age of 65.* * * *

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Sunita Lough,
Deputy Commissioner for Services and Enforcement.

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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.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—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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[1] A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2018–27 through 2018–52 is in Internal Revenue Bulletin 2018–52, dated December 27, 2018.

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

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