Internal Revenue
bulletin

Bulletin No. 2015–5
February 2, 2015

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.

INCOME TAX

REG–153656–3, page 566.

This NPRM provides proposed rules relating to internal use software under § 41(d)(4)(E). Generally, § 41 provides for the research credit based on expenses incurred for qualified research; however, research with respect to internal use software is not qualified research except to the extent provided by regulations.

Notice 2015–4, page 407.

This notice provides guidance on the performance and quality standards that small wind energy property must meet to qualify for the energy credit under § 48 of the Code. The notice allows a taxpayer to rely on a certification from an eligible certifier in determining whether a wind turbine meets the performance and quality standards. The notice also sets forth the required contents of a certification as well as the definition of an eligible certifier.

Rev. Proc. 2015–13, page 419.

This revenue procedure updates and revises the general procedures under § 446(e) of the Internal Revenue Code and § 1.446–1(e) of the Income Tax Regulations to obtain the consent of the Commissioner of Internal Revenue (Commissioner) to change a method of accounting for federal income tax purposes. Specifically, this revenue procedure provides the general procedures to obtain the advance (non-automatic) consent of the Commissioner to change a method of accounting and provides the procedures to obtain the automatic consent of the Commissioner to change a method of accounting described in Rev. Proc. 2015–14, 2015–5 I.R.B. 450 (or successor) (List of Automatic Changes).

Rev. Proc. 2015–14, page 450.

This revenue procedure provides the List of Automatic Changes to which the automatic change procedures in Rev. Proc. 2015–13, 2015–5 I.R.B. 419, (or successor) apply. The definitions in section 3 of Rev. Proc. 2015–13 apply to this revenue procedure.

Rev. Proc. 2015–15, page 564.

Revenue Procedure 2015–15 provides the 2015 monthly national average premium for qualified health plans that have a bronze level of coverage for taxpayers to use in determining their maximum individual shared responsibility payment under § 5000A(c)(1)(B) of the Internal Revenue Code and § 1.5000A–4 of the Income Tax Regulations.

EMPLOYEE PLANS

Notice 2015–5, page 408.

This notice sets forth updates on the corporate bond monthly yield curve, the corresponding spot segment rates for December 2014 used under § 417(e)(3)(D), the 24-month average segment rates applicable for January 2015, and the 30-year Treasury rates. These rates reflect the application of § 430(h)(2)(C)(iv), which was added by the Moving Ahead for Progress in the 21st Century Act, Public Law 112–141 (MAP–21) and amended by section 2003 of the Highway and Transportation Funding Act of 2014 (HATFA).

EXEMPT ORGANIZATIONS

T.D. 9708, page 337.

Final regulations under section 501(r) of the Code providing guidance regarding the requirements for charitable hospital organizations added by the Patient Protection and Affordable Care Act of 2010.

(Continued on the next page)

Finding Lists begin on page ii.

IRS

EMPLOYMENT TAX

Notice 2015–6, page 412.

This notice explains liability for and reporting of Federal Insurance Contributions Act (FICA) tax, Federal Unemployment Tax Act (FUTA) tax, and federal income tax withholding with respect to sick pay that is paid by third parties rather than employers. The notice also explains the filing requirements for new Form 8922, Third-Party Sick Pay Recap.

TAX CONVENTIONS

Announcement 2015–4, page 565.

The Competent Authority Agreement ("the Agreement") was released to the public on February 2, 2015, by the Competent Authorities of the United States and Kazakhstan regarding the eligibility of entities that are treated as fiscally transparent under the laws of either Contracting State to benefits under the Convention Between the Government of the United States of America and the Government of the Republic of Kazakhstan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed on October 24, 1993 (the "Treaty").

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. Rulings and Decisions Under the Internal Revenue Code of 1986

26 CFR 1.501(r)–0: Outline of regulations.
26 CFR 1.501(r)–1: Definitions.
26 CFR 1.501(r)–2: Failures to satisfy section 501(r).
26 CFR 1.501(r)–3: Community health needs assessments.
26 CFR 1.501(r)–4: Financial assistance policy and emergency medical care policy.
26 CFR 1.501(r)–5: Limitation on charges.
26 CFR 1.501(r)–6: Billing and collection.
26 CFR 1.501(r)–7: Effective/applicability dates.
26 CFR 1.6012–2: Corporations required to make returns of income.
26 CFR 1.6012–3: Returns by fiduciaries.
26 CFR 1.6033–2: Returns by exempt organizations (taxable years beginning after December 31, 1969) and returns by certain nonexempt organizations (taxable years beginning after December 31, 1980).
26 CFR 53.4959–1: Taxes on failures by hospital organizations to meet section 501(r)(3).
26 CFR 53.6011–1: General requirement of return, statement, or list.
26 CFR 53.6071–1: Time for filing returns.
26 CFR 602.101: OMB Control Numbers.

TD 9708

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Parts 1, 53, and 602

Additional Requirements for Charitable Hospitals; Community Health Needs Assessments for Charitable Hospitals; Requirement of a Section 4959 Excise Tax Return and Time for Filing the Return

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations that provide guidance regarding the requirements for charitable hospital organizations added by the Patient Protection and Affordable Care Act of 2010. The regulations will affect charitable hospital organizations.

DATES: *Effective date*: The final regulations are effective on December 29, 2014.

Applicability date: For dates of applicability, see §§ 1.501(r)–7(a); 1.6033–2(k)(4); 53.4959–1(b); and 53.6071–1(i)(2).

FOR FURTHER INFORMATION CONTACT: Amy F. Giuliano, Amber L. MacKenzie, or Stephanie N. Robbins at (202) 317-5800 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545-0047. The collection of information in the final regulations is in §§ 1.501(r)–3, 1.501(r)–4, and 1.501(r)–6(c). The collection of information is required for hospital organizations to receive the benefits of being described in section 501(c)(3) of the Internal Revenue Code (Code) and flows from section 501(r)(3), which requires a hospital organization to conduct a community health needs assessment (CHNA) and adopt an implementation strategy to meet the community health needs identified through the CHNA at least once every three years; section 501(r)(4), which requires a hospital organization to establish a written financial assistance policy (FAP) and a written policy related to care for emergency medical conditions; and section 501(r)(6), which requires a hospital organization to make reasonable efforts to determine whether an individual is eligible for assistance under a FAP before engaging in extraordinary collection actions. The expected recordkeepers are hospital organizations described in sections 501(c)(3) and 501(r)(2).

1. *2012 Proposed Regulations*

On June 26, 2012, the Department of the Treasury (Treasury Department) and the IRS published a notice of proposed rulemaking (NPRM) (REG–130266–11; 77 FR 38148) that contained proposed regulations regarding the requirements of sections 501(r)(4) through 501(r)(6) relating to FAPs, limitations on charges, and billing and collections (the 2012 proposed regulations). The 2012 proposed regulations estimated that the collection of information in the proposed regulations relating to sections 501(r)(4) and 501(r)(6) would result in an average annual paperwork burden per recordkeeper of 11.5 hours. (The requirements of section 501(r)(3) were addressed in different proposed regulations, released in 2013, and the collection of information associated with those proposed regulations is addressed in section 2 of this portion of the preamble relating to the Paperwork Reduction Act.)

In response to this burden estimate, the Treasury Department and the IRS received 15 comments generally stating that the estimates set forth in the 2012 proposed regulations were too low and that the burden was significantly higher, with some commenters offering estimates ranging between 15 and 38,500 hours annually. However, these commenters provided insufficient information regarding the hours necessary to comply with the information collection requirements of §§ 1.501(r)–4 and 1.501(r)–6(c) of the 2012 proposed regulations for the IRS to determine why, or by how much, the proposed burden estimate should be increased. A few commenters noted that they would have to devote significant resources up-front to amending policies and procedures and altering information systems.

The Treasury Department and the IRS anticipated an up-front commitment of resources when they derived the 11.5-hour annual burden estimate proposed in the 2012 proposed regulations by dividing an estimated 34.5-hour burden over three years (the maximum OMB approval period for a collection of information burden estimate) by three. It was anticipated that a large share of those 34.5 hours would be devoted to updating policies, procedures, and information systems in the first year. The Treasury Department and the IRS also expected that hospitals would be building upon existing policies and processes rather than establishing entirely new policies. For example, § 1.501(r)–6(c)(2) of the 2012 proposed regulations was intended to enable hospitals to notify patients about the FAP primarily by adding information to billing statements, necessitating some time to change the template of the billing statement but presumably relatively little time thereafter. However, in light of the comments received, the Treasury Department and the IRS have increased their estimate of the average amount of time a hospital organization will devote to amending policies and procedures and altering information systems in the first year to come into compliance with §§ 1.501(r)–4 and 1.501(r)–6(c) to 60 hours (with additional time needed each year to implement the requirements).

One commenter stated that hospitals' experience in administering charity care programs under existing state law required more than 100 annual staff hours per hospital, and that the 2012 proposed regulations would increase that burden. However, the total amount of time spent administering charity care programs in general under the commenter's state law is not equivalent to the amount of time necessary to comply with the collection of information requirements, in particular, in the 2012 proposed regulations.

Most of the 38,500 burden hours that one commenter estimated for the paperwork burden resulting from the 2012 proposed regulations was based on the time the commenter estimated would be spent by 16 financial counseling staff members to provide direct patient counseling. While providing direct patient financial counseling is a commendable activity that would help ensure that patients obtain the financial assistance for which they are eligible, the burden estimates under the Paperwork Reduction Act are limited to collections of information authorized or imposed by the statute and regulations, and, therefore, such counseling activity would not be captured in the estimates.

The Treasury Department and the IRS also note that, in response to comments, these final regulations contain several changes intended to reduce the paperwork burden of the 2012 proposed regulations. Most significantly, numerous commenters noted that the requirement in § 1.501(r)–6(c)(2) to include a plain language summary of the FAP with all (and at least three) billing statements during a 120-day notification period would add significantly to the cost of mailing the billing statements and be a waste of paper. In response to these comments, rather than requiring a plain language summary with every bill issued during the notification period, the final regulations instead require a hospital facility to include on each billing statement a conspicuous written notice that notifies and informs patients about the availability of financial assistance, including both a telephone number of the office or department that can provide information about the FAP and FAP application process and the direct Web site address (or URL) where copies of the FAP, FAP application form, and plain language summary of the FAP may be obtained. Additionally, the final regulations require a plain language summary to be included with only one post-discharge communication and give a hospital facility the flexibility to send this one plain language summary only to the subset of patients against whom the hospital facility actually intends to engage in extraordinary collection actions. These changes are intended to maintain the frequent reminders to patients of the availability of financial aid while reducing the burden and cost of mailing multiple copies of a plain language summary of the FAP.

The one change in the final regulations that may materially increase the paperwork burden relates to translations of the FAP and related documents. The 2012 proposed regulations required a hospital facility to translate its FAP (as well as the FAP application form and plain language summary of the FAP) into the primary language of any populations with limited English proficiency (LEP) that constitute more than 10 percent of the residents of the community served by the hospital facility. In response to comments discussed in section 4.a.iv.F of this preamble, the final regulations change that threshold to 5 percent or 1,000, whichever is less, of the population of individuals likely to be affected or encountered by the hospital facility. This may increase the overall number of translations that hospital organizations affected by the final regulations will be required to make.

Taking into account all of the comments received, as well as the changes made in these final regulations that will affect the paperwork burden, the Treasury Department and the IRS have adjusted their burden estimate for §§ 1.501(r)–4 and 1.501(r)–6(c) to 60 hours per recordkeeper of up-front time to update information systems and draft and amend policies, procedures, and template billing statements and notifications, plus 15 hours per recordkeeper per year for each of three years to implement the collection of information requirements. This results in a total of 105 hours over a three-year period, or an average of 35 hours per year per recordkeeper, up from the estimate of 11.5 hours per year per recordkeeper proposed in the 2012 proposed regulations. The Treasury Department and the IRS note that the burden estimates must be updated every three years and that future estimates can be amended to reflect hospitals' actual experience in implementing the collection of information requirements in §§ 1.501(r)–4 and 1.501(r)–6(c).

2. *2013 Proposed Regulations*

On April 5, 2013, the Treasury Department and the IRS published a NPRM (REG–106499–12; 78 FR 20523) that contained proposed regulations regarding the CHNA requirements under section 501(r)(3) (the 2013 proposed regulations). The 2013 proposed regulations estimated that the collection of information in the proposed regulations would result in an average annual paperwork burden per recordkeeper of 80 hours. In response to this burden estimate, the Treasury Department and the IRS received 10 comments stating generally that the estimates set forth in the 2013 proposed regulations were too low and that the burden was significantly higher, with most commenters stating that satisfying the requirements described in the 2013 proposed regulations would necessitate "thousands of hours." However, because commenters provided little specific information regarding the hourly burden of activities that are required to comply with the collection of information required by section 501(r)(3), it is difficult for the Treasury Department and the IRS to determine how to appropriately revise the burden estimate.

The Treasury Department and the IRS note that a hospital organization only has to satisfy the CHNA requirements once every three years, and the burden estimate reflected in the 2013 proposed regulations was 240 hours per CHNA, averaged over three years. In addition, the Treasury Department and the IRS recognize that the amount of time hospitals devote to their CHNAs will vary greatly depending on their size and resources and whether they choose to collaborate with other organizations and facilities in conducting their CHNAs.

One commenter asked that the IRS clarify its definition of "recordkeeper" to indicate that the estimate is for a hospital organization with a single hospital facility and that a hospital organization with multiple hospital facilities would have an estimated burden that would be multiplied by the number of hospital facilities. However, both the 2013 proposed regulations and these final regulations allow hospital organizations with multiple hospital facilities to collaborate and produce one joint CHNA report and implementation strategy for all of its hospital facilities, provided the hospital facilities define their communities to be the same. As a result, the Treasury Department and the IRS do not believe the burden estimate will necessarily increase in direct relation to the number of hospital facilities operated. On the other hand, the Treasury Department and the IRS do recognize that some hospital facilities operated by the same organization will define their communities to be different and will therefore conduct separate CHNAs and produce separate CHNA reports. For purposes of estimating the total paperwork burden, and in the absence of data on which hospital facilities will conduct joint CHNAs and which will not, the Treasury Department and the IRS have assumed that hospital facilities operated by hospital organizations with three or fewer hospital facilities will produce joint CHNA reports and hospital facilities operated by hospital organizations with more than three hospital facilities will conduct separate CHNA reports. Based on the latest available IRS data on the number of hospital organizations and facilities, the assumption that hospital organizations operating more than three hospital facilities will conduct separate CHNAs for each hospital facility increases the average annual burden associated with the CHNA requirements per hospital organization from 80 to 101 hours. The Treasury Department and the IRS note that the burden estimates must be updated every three years and that future estimates can be amended to reflect hospitals' actual experience in implementing the collection of information requirements in § 1.501(r)–3.

3. *Adjusted Burden Estimates for Final Regulations*

After taking into account all the comments and information available and based on the latest IRS data on the number of hospital organizations and facilities, the Treasury Department and the IRS have reached the following reporting burden estimates:

Estimated total annual reporting burden: 401,905

Estimated average annual burden hours per recordkeeper: 136 hours

Estimated number of recordkeepers: 2,955

Estimated frequency of collections of such information: Annual

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

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 section 6103.

Background

Section 501(r) was added to the Code by the Patient Protection and Affordable Care Act, Public Law 111–148 (124 Stat. 119 (2010)) (the Affordable Care Act), enacted March 23, 2010, and imposes additional requirements on charitable hospital organizations. Section 501(r)(1) provides that a hospital organization described in section 501(r)(2) will not be treated as a tax-exempt organization described in section 501(c)(3) unless the organization meets the requirements of sections 501(r)(3) through 501(r)(6). Section 501(r)(3) requires a hospital organization to conduct a community health needs assessment (CHNA) at least once every three years and to adopt an implementation strategy to meet the community health needs identified through the CHNA. Section 501(r)(4) requires a hospital organization to establish a written financial assistance policy (FAP) and a written policy relating to emergency medical care. Section 501(r)(5) requires a hospital organization to not use gross charges and to limit amounts charged for emergency or other medically necessary care provided to individuals eligible for assistance under the organization's FAP (FAP-eligible individuals) to not more than the amounts generally billed to individuals who have insurance covering such care (AGB). Section 501(r)(6) requires a hospital organization to make reasonable efforts to determine whether an individual is FAP-eligible before engaging in extraordinary collection actions. Section 501(r)(2)(B) requires a hospital organization to meet each of these requirements separately with respect to each hospital facility it operates.

The statutory requirements of section 501(r) (except for section 501(r)(3)) apply to taxable years beginning after March 23, 2010. Section 501(r)(3) applies to taxable years beginning after March 23, 2012. A hospital organization has had to comply with the statutory requirements of section 501(r) since these applicability dates.

The Affordable Care Act also added section 4959, which imposes a $50,000 excise tax on a hospital organization that fails to meet the CHNA requirements for any taxable year, and amended section 6033 to add certain reporting requirements related to section 4959 and the CHNA requirements and to require hospital organizations to file a copy of their audited financial statements with their annual information returns.

In May 2010, the Department of the Treasury (Treasury Department) and the IRS issued Notice 2010–39 (2010–24 IRB 756 (June 14, 2010)), which solicited comments regarding the additional requirements imposed by section 501(r). Approximately 125 comments were received in response to Notice 2010–39.

In July 2011, the Treasury Department and the IRS issued Notice 2011–52 (2011–30 IRB 60 (July 25, 2011)), which described (and solicited comments regarding) provisions related to the CHNA requirements that the Treasury Department and the IRS anticipated would be included in proposed regulations. More than 80 comments were received in response to Notice 2011–52.

On June 26, 2012, the Treasury Department and the IRS published a notice of proposed rulemaking in the **Federal Register** (REG–130266–11, 77 FR 38148) (2012 proposed regulations) that contained proposed regulations regarding the requirements of sections 501(r)(4) through 501(r)(6) relating to FAPs, limitations on charges, and billing and collections. The 2012 proposed regulations also defined key terms used throughout the regulations, such as "hospital organization" and "hospital facility." More than 200 written comments were received in response to the 2012 proposed regulations, and a public hearing was held on December 5, 2012.

On April 5, 2013, the Treasury Department and the IRS published a notice of proposed rulemaking in the **Federal Register** (REG–106499–12, 78 FR 20523) (2013 proposed regulations) that contained proposed regulations regarding the CHNA requirements of section 501(r)(3), the related reporting obligations under section 6033, the excise tax under section 4959, and the consequences for failing to meet any of the section 501(r) requirements. The 2013 proposed regulations also added a few additional defined terms and made minor amendments to the definitions of "hospital organization" and "hospital facility" contained in the 2012 proposed regulations. More than 90 written comments were received in response to the 2013 proposed regulations. No public hearing was requested or held.

On August 15, 2013, the Treasury Department and the IRS published final and temporary regulations and a cross-reference notice of proposed rulemaking in the **Federal Register** (TD 9629, 78 FR 49681; REG–115300–13, 78 FR 49700) under sections 6011 and 6071, which provided guidance regarding the requirement that a return accompany payment of the section 4959 excise tax for failure to meet the CHNA requirements for any taxable year. Specifically, the temporary regulations direct hospital organizations liable for the tax imposed by section 4959 to file Form 4720, "Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code," by the 15th day of the fifth month after the end of the organization's taxable year in which the liability was incurred. The cross-reference notice of proposed rulemaking solicited public comments. No public comments were received, and no public hearing was requested or held.

In January 2014, the Treasury Department and the IRS published Notice 2014–2 (2014–3 IRB 407 (January 13, 2014)) to confirm that hospital organizations could rely on both the 2012 proposed regulations and the 2013 proposed regulations, pending the publication of final regulations or other applicable guidance. This Treasury decision obsoletes Notice 2014–2, but the final regulations contained in this Treasury decision continue to allow reliance on both the 2012 proposed regulations and the 2013 proposed regulations until a hospital organization's first taxable year beginning after December 29, 2015.

Also in January 2014, the Treasury Department and the IRS published Notice 2014–3 (2014–3 IRB 408 (January 13, 2014)), which contained, and solicited public comments on, a proposed revenue procedure that provides correction and reporting procedures under which certain failures to meet the requirements of section 501(r) will be excused for purposes of sections 501(r)(1) and 501(r)(2)(B). The Treasury Department and the IRS received six comments in response to Notice 2014–3.

After consideration of the comments received on the 2012 and 2013 proposed regulations, both sets of proposed regulations under section 501(r) are adopted as amended by this Treasury decision. In addition, this Treasury decision removes the temporary regulations under sections 6011 and 6071 and adopts as amended the proposed regulations that cross-referenced the text of those temporary regulations. The major areas of comment and the revisions are discussed in this preamble. The comments are available for public inspection at *www.regulations.gov* or on request.

Summary of Comments and Explanation of Revisions

These final regulations provide guidance on the requirements described in section 501(r), the entities that must meet these requirements, and the reporting obligations relating to these requirements under section 6033. In addition, the final regulations provide guidance on the consequences described in sections 501(r)(1), 501(r)(2)(B), and 4959 for failing to satisfy the section 501(r) requirements.

1. *Hospital Facilities and Organizations*

a. *In general*

In accordance with section 501(r)(2)(A)(i) and consistent with the proposed regulations, the final regulations define "hospital organization" as an organization recognized (or seeking to be recognized) as described in section 501(c)(3) that operates one or more hospital facilities and define "hospital facility" as a facility that is required by a state to be licensed, registered, or similarly recognized as a hospital. The final regulations refer to hospital facilities taking certain actions, and such references are intended to include instances in which the hospital organization operating the hospital facility takes action through or on behalf of the hospital facility.

Section 501(r)(2)(A)(ii) provides that a hospital organization also includes "any other organization that the Secretary determines has the provision of hospital care as its principal function or purpose constituting the basis for its exemption" under section 501(c)(3). One commenter requested that this language be incorporated into the definition of "hospital organization" contained in the final regulations.

At this time, the Treasury Department and the IRS have not identified any additional categories of organizations or facilities (other than hospital facilities and organizations operating them) with the principal function or purpose of providing hospital care. If any such categories of organizations or facilities are later identified, the Treasury Department and the IRS will issue proposed regulations identifying them, with the expanded definition applying prospectively only if, and when, the proposed regulations are finalized, after an opportunity for notice and comment.

b. *Multiple buildings under a single hospital license*

The definition of "hospital facility" in the 2012 proposed regulations provided that a hospital organization "may treat" multiple buildings operated under a single state license as a single hospital facility. To increase the certainty and consistency in the designation of hospital facilities, the 2013 proposed regulations revised this definition to indicate that multiple buildings operated by a hospital organization under a single state license "are" considered a single hospital facility for purposes of section 501(r).

In response to the 2013 proposed regulations, several commenters stated that buildings in different geographic locations that share a license (for example, a hospital facility with satellite sites in various locations) may serve distinct communities and stakeholders, whose needs could be missed or unaddressed if they are aggregated into one large community served for purposes of the CHNA requirements. Multiple commenters asked that such a hospital facility be given the flexibility to conduct separate CHNAs for its separate buildings, noting that state law may require the facility to file separate implementation strategies for each building describing how each building plans to meet the health needs in its community.

The Treasury Department and the IRS believe that a fixed rule regarding the treatment of multiple buildings under a single state license will provide for consistency and certainty in tax administration and increase the ability of both the IRS and the public to understand and to evaluate information reported on hospital organizations' Forms 990 from year to year. Accordingly, the final regulations continue to provide that multiple buildings operated by a hospital organization under a single state license are considered to be a single hospital facility. The final regulations also clarify that, in the case of a hospital facility consisting of multiple buildings that operate under a single state license and serve different geographic areas or populations, the community served by the hospital facility is the aggregate of such areas or populations. However, in such a case, the hospital facility consisting of multiple buildings could, if desired, assess the health needs of the different geographic areas or populations served by the different buildings separately and document the assessments in separate chapters or sections of the hospital facility's CHNA report and implementation strategy.

c. *One building under multiple state licenses*

A few commenters asked that the final regulations allow a hospital organization to treat operations in a single building under more than one state license as a single "hospital facility," a situation the proposed regulations did not address. These commenters stated that entities operating within the same building have a high degree of integration and similar patient populations and that requiring each licensed facility to comply separately with section 501(r) would impose burdens without benefitting the community served.

The final regulations do not adopt this suggestion because the Treasury Department and the IRS believe that having one definition of "hospital facility" based on state licensure alone is simpler and more administrable. However, the Treasury Department and the IRS note that, as discussed in section 4.c of this preamble, separate hospital facilities within the same building may have identical FAPs and other policies established for them or share one policy document as long as the information in the policy or policies is accurate for all such facilities and any joint policy clearly states that it is applicable to each facility. Furthermore, as discussed in sections 3.a.v and 3.b.iii of this preamble, separate hospital facilities within the same building that define their communities to be the same may conduct a joint CHNA and adopt a joint implementation strategy addressing the significant health needs identified in the joint CHNA. Thus, the final regulations allow for hospital facilities within the same building to jointly comply with many of the section 501(r) requirements.

d. *Government hospital organizations*

The statutory language of section 501(r) applies to all hospital organizations that are (or seek to be) recognized as described in section 501(c)(3) and does not provide an exception for government hospital organizations. Accordingly, the preamble to the 2012 proposed regulations stated that the Treasury Department and the IRS intend to apply section 501(r) to every hospital organization that has been recognized (or seeks recognition) as an organization described in section 501(c)(3), regardless of whether a hospital organization is a government hospital organization. However, in recognition of the unique position of government hospital organizations, the Treasury Department and the IRS also requested comments regarding alternative methods a government hospital organization could use to satisfy the requirements of section 501(r).

A number of commenters noted that government hospital organizations have long-standing relationships with their communities, are already known as "safety net" health care providers, and are already obligated to provide care regardless of ability to pay (although care is sometimes limited to or prioritized for citizens of the locality that is supporting the hospital). Commenters also stated that government hospital organizations disproportionately serve patients who are uninsured, Medicaid beneficiaries, or hard to reach (such as homeless individuals, migrant workers, and undocumented individuals), and have governance structures that reflect a level of public accountability. Commenters added that, as stewards of public funds, government hospital organizations have an obligation to local taxpayers to ensure that scarce financial resources go toward patient care and not toward unnecessary administrative costs. However, rather than offering alternative methods a government hospital organization could use to satisfy the requirements of section 501(r), these commenters instead effectively requested that the Treasury Department and the IRS provide exemptions from the requirements imposed by section 501(r) for government hospital organizations. For example, commenters recommended that government hospital organizations be exempted from all of the documentation requirements related to CHNAs, be deemed to have met the FAP requirements by virtue of their public status, or be permitted to charge some FAP-eligible individuals more than AGB as long as the average annual discounted charge provided to FAP-eligible individuals did not exceed AGB.

Other commenters expressed support for applying the requirements of section 501(r) to government hospital organizations, stating that no exceptions for particular categories of section 501(c)(3) organizations are permitted by the statute. Commenters also stated that, from the point of view of individuals seeking or receiving care, most government hospital organizations are indistinguishable from any other section 501(c)(3) hospital organization and that their practices with regard to charges, billing, and collections are substantially the same.

Because section 501(r) has no express or implicit exceptions for government hospital organizations, the final regulations require the section 501(r) requirements to be met by all hospital organizations that are (or seek to be) recognized as described in section 501(c)(3), including those that are government hospital organizations. The Treasury Department and the IRS note, however, that government hospital organizations that have previously been recognized as described in section 501(c)(3) but do not wish to comply with the requirements of section 501(r) may submit a request to voluntarily terminate their section 501(c)(3) recognition as described in section 7.04(14) of Rev. Proc. 2014–4 (2014–1 IRB 125) (or a successor revenue procedure).

A number of commenters asked whether and how government hospital organizations can satisfy the reporting requirements related to CHNAs, given that they are excused from filing a Form 990, "Return of Organization Exempt From Income Tax," under Rev. Proc. 95–48 (1995–2 CB 418). The Affordable Care Act did not change the requirements regarding which organizations are required to file a Form 990. Rev. Proc. 95–48 provides that certain government entities are relieved from any requirement to file a Form 990 (and therefore are relieved from having to disclose information or documents on or with a Form 990). Accordingly, a government hospital organization (other than one that is described in section 509(a)(3)) described in Rev. Proc. 95–48 or a successor revenue procedure is not required to file a Form 990 or include any CHNA-related information with a Form 990. However, to be treated as described in section 501(c)(3), government hospital organizations still must meet all section 501(r) requirements that do not involve disclosure on or with the Form 990, including making their CHNA reports and FAPs widely available on a Web site.

e. *Accountable care organizations*

Several commenters asked that separate entities cooperating in accountable care organizations (ACOs) or similar integrated care models be treated as a single "hospital organization" for purposes of section 501(r), arguing that this would create administrative efficiencies as the participating organizations develop one standard set of policies and procedures and result in less confusion for patients as they move through a "continuum of care." The final regulations do not adopt this suggestion, but the Treasury Department and the IRS note that, as discussed in section 4.c of this preamble, multiple hospital facilities may have identical FAPs and other policies established for them or share one joint policy document as long as the information in the policy or policies is accurate for all such facilities and any joint policy clearly states that it is applicable to each facility. Furthermore, as discussed in sections 3.a.v and 3.b.iii of this preamble, separate hospital facilities that define their community to be the same may conduct a joint CHNA and adopt a joint implementation strategy addressing the significant health needs identified in the joint CHNA. Thus, the final regulations provide opportunities for separate hospital facilities participating in an ACO to jointly comply with many of the section 501(r) requirements.

f. *"Operating" a hospital facility*

The 2013 proposed regulations generally provided that an organization operates a hospital facility if it owns a capital or profits interest in an entity treated as a partnership for federal tax purposes that operates the hospital facility. The final regulations maintain this general rule with two additions.[1] First, the final regulations clarify that an organization is considered to own a capital or profits interest in an entity treated as a partnership for federal tax purposes if it owns such an interest directly or indirectly through one or more lower-tier entities that are treated as partnerships for federal tax purposes.[2]

Second, the final regulations clarify how the question of whether an organization "operates" a hospital facility relates to the question of whether the organization needs to meet the requirements of section 501(r) (and, therefore, would be subject to any consequences for failing to meet such requirements). Specifically, § 1.501(r)–2(e) of the final regulations clarifies that a hospital organization is not required to meet the requirements of section 501(r) with respect to any hospital facility it is not "operating" within the meaning of that defined term. In addition, as stated in the preamble to the 2013 proposed regulations, the final regulations provide that a hospital organization is not required to meet the requirements of section 501(r) with respect to the operation of a facility that is not a "hospital facility" because it is not required by a state to be licensed, registered, or similarly recognized as a hospital. The final regulations also provide that a hospital organization is not required to meet the requirements of section 501(r) with respect to any activities that constitute an unrelated trade or business described in section 513 with respect to the hospital organization.

g. *Providing care in a hospital facility through hospital-owned entities*

A number of commenters asked that the final regulations clarify the extent to which certain section 501(r) requirements apply to hospital-owned physician practices providing care in the hospital, with a few commenters requesting that the section 501(r) requirements apply to all care

---

[1]The final regulations delete the specific reference to joint ventures and limited liability companies contained in the 2013 proposed regulations because those entities are sufficiently covered by the general phrase "entity treated as a partnership for federal tax purposes." The final regulations also delete the reference to "members of" an entity treated as a partnership for federal tax purposes because the intended organizations should be captured by the references to owners of a capital or profits interest in the partnership. These changes are not intended to be substantive changes.

[2]The final regulations also provide that an organization operates a hospital facility if it is the sole member or owner of a disregarded entity that operates the hospital facility. Section 301.7701–2(a) provides that a disregarded entity's activities are treated in the same manner as a branch or division of the owner. Accordingly, if a hospital organization is the sole owner of one disregarded entity that is, in turn, the sole owner of another disregarded entity that operates a hospital facility, the hospital organization would be considered to operate the hospital facility.

provided in a hospital facility by such practices.[3]

Whether or not the section 501(r) requirements apply to hospital-owned physician practices or other entities providing care in a hospital facility depends upon how the entities are classified for federal tax purposes. For example, a hospital facility would not be required to meet the section 501(r) requirements with respect to a taxable corporation providing care in the hospital facility, even if the corporation is wholly or partially owned by the hospital organization that operates the hospital facility, because the corporation is a separate taxable entity to which section 501(r) does not apply.

By contrast, if a hospital organization is the sole member or owner of an entity providing care in one of its hospital facilities and that entity is disregarded as separate from the hospital organization for federal tax purposes, the care provided by the entity would be considered to be care provided by the hospital organization through its hospital facility. Accordingly, the hospital organization would be required to meet the section 501(r) requirements with respect to care provided by the disregarded entity in any hospital facility that the hospital organization operates.

If a hospital organization owns a capital or profits interest in an entity providing care in a hospital facility that is treated as a partnership for federal tax purposes, the activities of the partnership are treated as the activities of the hospital organization for purposes of determining whether the hospital organization is operated exclusively for exempt purposes or engaged in an unrelated trade or business under generally applicable tax principles. *See* Rev. Rul. 2004–51 (2004–1 CB 974); Rev. Rul. 98–15 (1998–1 CB 718). Accordingly, emergency or other medically necessary care provided in a hospital facility by a partnership in which the hospital organization operating the facility has a capital or profits interest is treated as care provided by the hospital organization in its hospital facility for purposes of section 501(r). If the provision of such care by the partnership is an unrelated trade or business with respect to the hospital organization, the hospital organization does not have to meet the section 501(r) requirements with respect to the care because, as noted in section 1.f of this preamble, the final regulations provide that a hospital organization is not required to meet the requirements of section 501(r) with respect to any activity that constitutes an unrelated trade or business with respect to the hospital organization. On the other hand, if the provision of emergency or other medically necessary care by the partnership is not an unrelated trade or business with respect to the hospital organization, the final regulations clarify that the hospital organization must meet the requirements of sections 501(r)(4) through 501(r)(6) with respect to such care. The final regulations use a new defined term, "substantially-related entity," to refer to an entity that is treated as a partnership for federal tax purposes in which a hospital organization owns a capital or profits interest (or a disregarded entity of which the hospital organization is the sole owner or member) and that provides, in a hospital facility operated by the hospital organization, emergency or other medically necessary care that is not an unrelated trade or business with respect to the hospital organization.[4]

h. *Authorized body*

The 2013 proposed regulations defined the term "authorized body of a hospital facility" to include: (1) the governing body (that is, the board of directors, board of trustees, or equivalent controlling body) of the hospital organization; (2) a committee of, or other party authorized by, the governing body of the hospital organization, to the extent permitted under state law; or (3) in the case of a hospital facility that has its own governing body and is recognized as an entity under state law but is a disregarded entity for federal tax purposes, the governing body of that hospital facility, or a committee of, or other party authorized by, that governing body to the extent permitted under state law.

In cases in which a hospital organization owns a capital or profits interest in a partnership that operates a hospital facility, the Treasury Department and the IRS believe the governing body of the partnership should also be considered an authorized body of the hospital facility, and the final regulations are amended to reflect this change. In particular, the final regulations provide that an authorized body of a hospital facility may include the governing body of an entity that operates the hospital facility and is disregarded or treated as a partnership for federal tax purposes (or a committee of, or other party authorized by, that governing body to the extent such committee or other party is permitted under state law to act on behalf of the governing body), and thus either the governing body (or committee or other authorized party) of the hospital organization or of the disregarded entity or partnership may be considered the authorized body of the hospital facility.

Some questions have arisen regarding whether adoption of a CHNA report, implementation strategy, FAP, or other policy by one authorized official of a hospital facility would constitute adoption by an authorized body of the hospital facility for purposes of the regulatory requirements. Under the regulatory definition of "authorized body of a hospital facility" in both the 2013 proposed regulations and these final regulations, a single individual may constitute either a committee of the governing body or a party authorized by the governing body to act on its behalf, provided that state law allows a single individual to act in either of these capacities.[5]

2. *Failures to Satisfy the Requirements of Section 501(r)*

The Treasury Department and the IRS recognize that errors may occur even in

[3]As discussed in section 4.a of this preamble, in response to comments, the final regulations require a hospital facility's FAP to identify the providers, other than the hospital facility itself, that may deliver emergency or other medically necessary care in the hospital facility and specify which providers are covered by the hospital facility's FAP and which are not.

[4]The final regulations also clarify that the term "substantially-related entity" does not include any partnership that qualifies for a grandfather rule included in the 2013 proposed regulations and adopted in the final regulations. Under that rule, an organization will not be considered to "operate" a hospital facility despite owning a capital or profits interest in an entity treated as a partnership for federal tax purposes that operates the hospital facility if it has met certain conditions since March 23, 2010.

[5]This interpretation of "authorized body of a hospital facility" is consistent with the interpretation of the term "authorized body" under Treas. Reg. § 53.4958–6(c)(1)(i). *See* TD 8978 (67 FR 3076, 3082).

circumstances in which a hospital facility has practices and procedures in place that are reasonably designed to facilitate overall compliance with section 501(r) and has implemented safeguards reasonably calculated to prevent errors. Thus, the 2013 proposed regulations provided that a hospital facility's omission of required information from a policy or report described in § 1.501(r)–3 or § 1.501(r)–4, or an error with respect to the implementation or operational requirements described in §§ 1.501(r)–3 through 1.501(r)–6, would not be considered a failure to meet a requirement of section 501(r) if: (1) the omission or error was minor, inadvertent, and due to reasonable cause, and (2) the hospital facility corrected such omission or error as promptly after discovery as is reasonable given the nature of the omission or error.

In addition, to provide an incentive for hospital facilities to take steps not only to avoid errors but also to correct and provide disclosure when they occur, the 2013 proposed regulations provided that a hospital facility's failure to meet one or more of the requirements described in §§ 1.501(r)–3 through 1.501(r)–6 that is neither willful nor egregious would be excused if the hospital facility corrects and makes disclosure in accordance with guidance set forth by revenue procedure, notice, or other guidance published in the Internal Revenue Bulletin. On January 13, 2014, the Treasury Department and the IRS published Notice 2014–3, which contained a proposed revenue procedure setting forth procedures for correction and disclosure of such failures and solicited public comments regarding the proposed revenue procedure. The Treasury Department and the IRS intend to release a revenue procedure finalizing the guidance proposed in Notice 2014–3 in the near future.

a. *Minor omissions and errors*

Several commenters supported the proposed approach to minor and inadvertent omissions and errors that are due to reasonable cause, agreeing that if they are promptly corrected upon discovery they should not result in sanctions. Accordingly, the final regulations retain this general approach, with some modifications.

One commenter suggested modifying the proposed rule so that it will apply to omissions or errors that are minor, inadvertent, "or" due to reasonable cause (rather than "and"), stating that an omission or error was unlikely to satisfy all three conditions. The same commenter noted that "reasonable cause" may be interpreted differently in a variety of circumstances, potentially making this safe harbor too narrow. The Treasury Department and the IRS believe that the insignificance of an omission or error should always be a necessary condition for receiving the benefit of correcting under § 1.501(r)–2(b) without any obligation to disclose to the IRS or the public. Thus, the final regulations require an omission or error to be minor in order to be corrected and not considered a failure under § 1.501(r)–2(b). However, in response to this comment, the final regulations provide that the option for correction without disclosure provided in § 1.501(r)–2(b) will be available if the omission or error is minor and either inadvertent or due to reasonable cause. As noted later in this section of the preamble, the final regulations also clarify the meaning of "reasonable cause" for purposes § 1.501(r)–2(b).

Numerous commenters asked for further guidance and specific examples with respect to the types of omissions and errors that would be considered minor, inadvertent, and/or due to reasonable cause, as opposed to those that are excused only if they are corrected and disclosed, as discussed in section 2.b of this preamble. As more experience is gained regarding the types of omissions or errors that typically occur in implementing the section 501(r) requirements, the Treasury Department and the IRS will consider issuing further guidance in this area. In the meantime, the final regulations provide additional guidance regarding the factors that will be considered in determining whether an omission or error is minor and either inadvertent or due to reasonable cause. With respect to minor, the final regulations clarify that, in the case of multiple omissions or errors, the omissions or errors are considered minor only if they are minor in the aggregate. The final regulations further provide that the fact that the same omission or error has occurred and been corrected previously is a factor tending to show that an omission or error is not inadvertent. Finally, with respect to reasonable cause, the final regulations provide that a hospital facility's establishment of practices or procedures (formal or informal) reasonably designed to promote and facilitate overall compliance with the section 501(r) requirements prior to the occurrence of an omission or error is a factor tending to show that the omission or error was due to reasonable cause.

Commenters also asked for guidance and examples demonstrating how minor omissions or errors should be remedied to avoid sanctions. The final regulations specify that correction of minor omissions or errors must include establishment (or review and, if necessary, revision) of practices or procedures (formal or informal) that are reasonably designed to achieve overall compliance with the requirements of section 501(r). As more experience is gained regarding the types of omissions or errors that typically occur in implementing the section 501(r) requirements, the Treasury Department and the IRS will consider issuing further guidance on the correction of minor omissions or errors.

A few commenters asked that hospital facilities be required to disclose the minor omissions or errors that they correct, either on a Web site or on the Form 990, to increase transparency and encourage continuous improvement. The Treasury Department and the IRS expect that minor omissions or errors will not have a significant impact on individuals in a hospital facility's community and, therefore, will be sufficiently inconsequential that they do not justify the additional burden of disclosure. Instead, as discussed in section 2.b of this preamble, disclosure is a requirement reserved for those omissions and errors that rise above the level of "minor" and have a broader scope and greater impact on individuals within the hospital facility's community, as well as those that are neither inadvertent nor due to reasonable cause and thus involve a degree of culpability on the part of the hospital facility.

b. *Excusing certain failures if a hospital facility corrects and makes disclosure*

The 2013 proposed regulations provided that a hospital facility's failure to meet one or more of the requirements described in §§ 1.501(r)–3 through 1.501(r)–6 that is neither willful nor egregious would be excused if the hospital facility corrects and provides disclosure in accordance with guidance set forth by revenue procedure, notice, or other guidance published in the Internal Revenue Bulletin. The 2013 proposed regulations indicated that, for purposes of this provision, a "willful" failure would be interpreted consistent with the meaning of that term in the context of civil penalties, which would include a failure due to gross negligence, reckless disregard, or willful neglect. Several commenters indicated that the reference to "civil penalties" was unclear. In response, the final regulations delete the reference to civil penalties, but continue to provide that a "willful" failure includes a failure due to gross negligence, reckless disregard, and willful neglect—all terms with well-established meanings in case law—to assist hospital facilities in distinguishing between a failure that is willful and a failure that may be excused if it is corrected and disclosed.

Similarly, several commenters asked for guidance on what would qualify as "egregious" noncompliance, recommending that the term should be reserved for actions that are of the utmost seriousness and that would undermine the intent of section 501(r) as a whole. The Treasury Department and the IRS agree with commenters that the term "egregious" should encompass only a very serious failure, taking into account the severity of the impact and the number of affected persons, and the final regulations are amended to reflect this. As the Treasury Department and the IRS gain additional experience with the types of failures to meet section 501(r) that occur, examples of failures that are or are not willful or egregious may be provided in future guidance.

A number of commenters suggested that the final regulations should create a rebuttable presumption that a failure that is corrected and disclosed is neither willful nor egregious. Commenters reasoned that such a presumption would ensure that hospital facilities that correct and disclose failures would get some benefit in return for their efforts and reduce uncertainty regarding their section 501(c)(3) status. The final regulations do not provide for such a presumption because correction and disclosure of a failure are not determinative of a hospital facility's willfulness or the egregiousness of the failure. However, the Treasury Department and the IRS do believe that a hospital facility that corrects and discloses a failure to meet a section 501(r) requirement is less likely to have acted willfully in failing to meet that requirement, and thus the final regulations provide that correction and disclosure of a failure is a factor tending to show that an error or omission was not willful.

A few commenters questioned whether a system of correction and disclosure should be sufficient to prevent revocation of section 501(c)(3) status, with one commenter asking that proposed § 1.501(r)–2(c) be struck in its entirety. The Treasury Department and the IRS believe that the statute's objectives of promoting transparency of hospital facilities' CHNAs and FAPs and of providing protections to FAP-eligible patients with respect to charges and collections are well served by a system that encourages hospitals to adopt practices that prevent failures and promptly discover and correct any failures that happen to occur. In addition, disclosure of failures and what has been done to correct them provides significant transparency. Accordingly, the final regulations retain § 1.501(r)–2(c).

The 2013 proposed regulations stated that a hospital facility may, in the discretion of the IRS, be subject to an excise tax under section 4959 for a failure to meet the CHNA requirements, notwithstanding the hospital facility's correction and disclosure of the failure in accordance with the relevant procedures. Several commenters expressed confusion as to whether and how the tax under section 4959 would apply in the event of a failure that was corrected and disclosed. Although some commenters did not think the excise tax should apply upon correction and disclosure, at least one commenter suggested that the statute does not permit the excise tax to be excused.

To eliminate the uncertainty, the final regulations under section 4959 provide that a hospital facility failing to meet the CHNA requirements "will" (rather than "may, in the discretion of the IRS") be subject to an excise tax under section 4959, notwithstanding its correction and disclosure of the failure. However, as discussed in section 2.a of this preamble, a hospital facility's omission or error with respect to the CHNA requirements will not be considered a failure to meet the CHNA requirements if the omission or error is minor and either inadvertent or due to reasonable cause and if the hospital facility corrects the omission or error in accordance with § 1.501(r)–2(b)(1)(ii) of the final regulations. Accordingly, the final regulations under section 4959 also make clear that such a minor omission or error related to the CHNA requirements that is corrected will not give rise to an excise tax under section 4959.

c. *Facts and circumstances considered in determining whether to revoke section 501(c)(3) status*

Consistent with the 2013 proposed regulations, the final regulations provide that the IRS will consider all relevant facts and circumstances when determining whether revocation of section 501(c)(3) status is warranted as a result of a failure to meet one or more requirements of section 501(r).

Several commenters asked that the regulatory text of the final regulations include the statement found in the preamble to the 2013 proposed regulations that application of these facts and circumstances will ordinarily result in revocation of section 501(c)(3) status only if the organization's failures to meet the requirements of section 501(r) are willful or egregious. On the other hand, one commenter expressed concern that this statement signals that revocation could result due to failures that are willful, but not serious or material.

The final regulations provide that all of the relevant facts and circumstances will be considered in determining whether to revoke a hospital organization's section 501(c)(3) status, including the size, scope, nature, and significance of the organization's failure, as well as the reason for the failure and whether the same type of failure has previously occurred. The IRS will also consider whether the hospital organization had, prior to the failure, established practices or procedures (formal or informal) reasonably designed to promote and facilitate overall compliance with the section 501(r) requirements; whether such practices or procedures were being routinely followed; and whether the failure was corrected promptly.

d. *Taxation of noncompliant hospital facilities*

Like the 2013 proposed regulations, the final regulations provide for a facility-level tax for a hospital organization operating more than one hospital facility that fails to meet one or more of the requirements of section 501(r) separately with respect to a hospital facility during a taxable year. Specifically, this facility-level tax applies to a hospital organization that continues to be recognized as described in section 501(c)(3) but would not continue to be so recognized based on the facts and circumstances described in section 2.c of this preamble if the noncompliant facility were the only hospital facility operated by the organization. The facility-level tax is applied to income derived from the noncompliant hospital facility during the taxable year of non-compliance and is computed as provided in section 11 (or as provided in section 1(e) if the hospital organization is a trust described in section 511(b)(2)).

The 2013 proposed regulations also stated that the application of the facility-level tax to income derived from a noncompliant hospital facility would not, by itself, affect the tax-exempt status of bonds issued to finance the noncompliant hospital facility. Numerous commenters requested that the final regulations further specify that a noncompliant hospital facility subject to the facility-level tax will not be treated as an unrelated trade or business for purposes of tax-exempt bonds issued to finance the noncompliant facility. In response to these comments, the final regulations clarify that application of the facility-level tax will not, by itself, result in the operation of the noncompliant hospital facility being considered an unrelated trade or business described in section 513.

3. *Community Health Needs Assessments*

Consistent with section 501(r)(3)(A), the final regulations provide that a hospital organization meets the requirements of section 501(r)(3) in any taxable year with respect to a hospital facility it operates only if the hospital facility has conducted a CHNA in such taxable year or in either of the two immediately preceding taxable years and an authorized body of the hospital facility has adopted an implementation strategy to meet the community health needs identified through the CHNA.

a. *Conducting a community health needs assessment*

Consistent with the 2013 proposed regulations, the final regulations provide that, in conducting a CHNA, a hospital facility must define the community it serves and assess the health needs of that community. In assessing the community's health needs, the hospital facility must solicit and take into account input received from persons who represent the broad interests of its community. The hospital facility must also document the CHNA in a written report (CHNA report) that is adopted for the hospital facility by an authorized body of the hospital facility. Finally, the hospital facility must make the CHNA report widely available to the public. A hospital facility is considered to have conducted a CHNA on the date it has completed all of these steps, including making the CHNA report widely available to the public.

Several commenters suggested that a hospital facility should be considered to have conducted a CHNA if it updates a previously conducted CHNA, as opposed to being required to create an entirely new CHNA every three years. The Treasury Department and the IRS expect that, in conducting CHNAs, hospital facilities will build upon previously-conducted CHNAs, and nothing in either the 2013 proposed regulations or the final regulations is intended to prevent this practice. Hospital facilities should note, however, that both the 2013 proposed regulations and these final regulations require the solicitation and consideration of input from persons representing the broad interests of the community anew with each CHNA, even if the CHNA builds upon a previously conducted CHNA.

i. Community Served by the Hospital Facility

The 2013 proposed regulations provided that a hospital facility may take into account all of the relevant facts and circumstances in defining the community it serves, including the geographic area served by the hospital facility, target populations served (for example, children, women, or the aged), and principal functions (for example, focus on a particular specialty area or targeted disease). The 2013 proposed regulations further provided that a hospital facility may define its community to include populations in addition to its patient populations and geographic areas outside of those in which its patient populations reside. However, the 2013 proposed regulations did not permit a hospital facility to define its community in a way that excluded medically underserved, low-income, or minority populations who are served by the hospital facility, live in the geographic areas in which its patient populations reside (unless such populations are not part of the hospital facility's target population or affected by its principal functions), or otherwise should be included based on the method used by the hospital facility to define its community.

A few commenters expressed concern that the sentence suggesting that a hospital facility could define its community to include populations in addition to its patient populations and geographic areas outside of those in which its patient populations reside could create confusion among both hospital organizations and the public, as it implies that the community that is defined for CHNA purposes may not actually be the community served by the hospital facility. To avoid potential confusion, the final regulations delete this language. However, the final regulations continue to give hospital facilities broad flexibility to define the communities they serve or intend to serve (both in addressing needs identified through their CHNAs and otherwise) taking into account all relevant facts and circumstances, provided that they do not exclude medically underserved, low-income, or minority populations.

With respect to the provision in the 2013 proposed regulations that a hospital facility may not define its community in a way that excludes medically underserved, low-income, or minority populations, several commenters asked that the final regulations prohibit exclusion of additional populations, such as populations with limited English proficiency (LEP) or potential patients within the community who are not currently receiving care. With respect to potential patients not currently receiving care, commenters noted that individuals may live within a hospital facility's service community but not use the facility for reasons that include cost, lack of transportation, lack of adequate language access services, stigma, or other barriers.

The 2013 proposed regulations and these final regulations define "medically underserved" populations as including populations "at risk of not receiving adequate medical care as a result of being uninsured or underinsured or due to geographic, language, financial, or other barriers." The reference to language barriers in the definition of medically underserved already encompasses LEP populations. In addition, the definition of "medically underserved" already prevents the exclusion of those living within a hospital facility's service area but not receiving adequate medical care from the facility because of cost, transportation difficulties, stigma, or other barriers. The final regulations also provide that hospital facilities may not exclude low-income or minority populations living "in the geographic areas from which the hospital facility draws its patients," and not only those already receiving care from the facility. Accordingly, the Treasury Department and the IRS believe the concerns addressed by these commenters are addressed by the final regulations.

ii. Assessing Community Health Needs

The 2013 proposed regulations provided that, to assess the health needs of its community, a hospital facility must identify the significant health needs of its community, prioritize those health needs, and identify potential measures and resources (such as programs, organizations, and facilities in the community) available to address the health needs. For these purposes, the 2013 proposed regulations stated that health needs include requisites for the improvement or maintenance of health status both in the community at large and in particular parts of the community (such as particular neighborhoods or populations experiencing health disparities). The preamble added that requisites for the improvement or maintenance of health status in a community may include improving access to care by removing financial and other barriers to care, such as a lack of information regarding sources of insurance designed to benefit vulnerable populations. Numerous commenters asked for clarification that the term "health needs" also encompasses needs in addition to access to care, such as access to proper nutrition and housing, the mitigation of social, environmental, and behavioral factors that influence health, or emergency preparedness. In response to these comments, the final regulations expand the examples of health needs that a hospital facility may consider in its CHNA to include not only the need to address financial and other barriers to care but also the need to prevent illness, to ensure adequate nutrition, or to address social, behavioral, and environmental factors that influence health in the community. The Treasury Department and the IRS note that the list of possible health needs in the final regulations is only a list of examples, and a hospital facility is not required to identify all such types of health needs in its CHNA report if all such types are not determined by the hospital facility to be significant health needs in its community.

The 2013 proposed regulations provided that a hospital facility may use any criteria to prioritize the significant health needs it identifies, including, but not limited to, the burden, scope, severity, or urgency of the health need; the estimated feasibility and effectiveness of possible interventions; the health disparities associated with the need; or the importance the community places on addressing the need. One commenter supported the flexibility provided to hospital facilities in determining how to prioritize significant health needs, while several other commenters expressed concern that the language in the proposed rule that a hospital facility may use "any" criteria when prioritizing significant health needs could be read to include criteria that disregard community preferences. Two commenters recommended requiring hospital facilities to use the listed criteria, with one such commenter noting that these are commonly-used criteria in health planning and program evaluation.

Section 501(r)(3) does not mandate the use of particular prioritization criteria. Accordingly, the list of prioritization criteria in the final regulations remains a non-exhaustive list of examples, and hospital facilities have flexibility to choose how best to prioritize the significant health needs of their particular communities. However, to ensure transparency with respect to a hospital facility's prioritization, the final regulations, like the 2013 proposed regulations, require a hospital facility's CHNA report to describe the process and criteria used in prioritizing the significant health needs identified. In addition, the final regulations require a hospital facility to take into account community input not only in identifying significant health needs but also in prioritizing them.

A few commenters asked for clarification regarding the requirement in the 2013 proposed regulations that hospital facilities identify potential measures and resources (such as programs, organizations, and facilities in the community) available to address significant health needs. For example, one commenter asked whether the term "measures" referred to how the hospital facility would measure the scope of the health need, rather than actions the hospital facility might take to address the health need. Another commenter interpreted the proposed requirement as referring to the potential measures and resources only of parties in the community other than the hospital facility itself. To eliminate any confusion associated with the use of the term "measures," the final regulations eliminate the term and require a hospital facility to identify resources potentially available to address the significant health needs, with the term "resources" including programs, organizations, or facilities. In addition, the final regulations clarify that resources of the hospital facility itself may be identified.

Numerous commenters recommended removing the requirement that a CHNA include potential measures and resources to address the significant health needs identified, stating that the implementation strategy was a better place to discuss the means to address health needs. Other commenters supported this requirement, with one such commenter stating that it is important to consider potential measures and resources early in the CHNA process to provide a framework for determining which health needs to address in the implementation strategy. The Treasury Department and the IRS agree that a vital part of assessing and prioritizing health needs is to begin considering what resources in the community could potentially be harnessed to help address those health needs and thus believe that hospital facilities should get community input on this important aspect of assessing health needs while the CHNA is being conducted. The opportunity for contemporaneous community input on potentially available resources would not exist if such resources were identified as part of the implementation strategy because a hospital facility is not required to take into account input on an implementation strategy until it is conducting the subsequent CHNA. Accordingly, the final regulations retain the requirement that a CHNA identify resources potentially available to address significant health needs.

iii. Input From Persons Representing the Broad Interests of the Community

The 2013 proposed regulations provided that, in assessing the health needs of its community, a hospital facility must take into account input received from, at a minimum, the following three sources: (1) at least one state, local, tribal, or regional governmental public health department (or equivalent department or agency) with knowledge, information, or expertise relevant to the health needs of the community; (2) members of medically underserved, low-income, and minority populations in the community, or individuals or organizations serving or representing the interests of such populations; and (3) written comments received on the hospital facility's most recently conducted CHNA and most recently adopted implementation strategy.

Several commenters asked that the final regulations address the situation in which a hospital facility, despite its best efforts, is unable to secure input on its CHNA from a required category of persons. In response, the final regulations retain the three categories of persons representing the broad interests of the community specified in the 2013 proposed regulations but clarify that a hospital facility must "solicit" input from these categories and take into account the input "received." The Treasury Department and the IRS expect, however, that a hospital facility claiming that it solicited, but could not obtain, input from one of the required categories of persons will be able to document that it made reasonable efforts to obtain such input, and the final regulations require the CHNA report to describe any such efforts.

Numerous commenters requested that the final regulations provide for public input on the identification and prioritization of significant health needs, with a few of these commenters expressing a particular interest in ensuring ample opportunity for community input and feedback on which community health needs should be deemed "significant." By requiring hospital facilities to take into account public input "in assessing the health needs of the community" and defining "assessing the health needs of the community" to include identifying and prioritizing significant health needs, the 2013 proposed regulations already required public input on the identification and prioritization of significant health needs. The final regulations clarify that the requirement to take into account input in assessing the health needs of the community includes taking into account input in identifying and prioritizing significant health needs, as well as identifying resources potentially available to address those health needs.

Finally, the final regulations do not adopt a suggestion from several commenters that a hospital facility be required to take into account public input in defining its community because such a requirement would be circular, as a hospital facility must define its community before it can take into account input from persons who represent the broad interests of that community.

A. Governmental public health departments

Numerous commenters supported requiring hospital facilities to take into account input from a governmental public health department (or equivalent department or agency), noting that governmental health departments typically have access to statistical and other data that may be helpful in assessing and prioritizing community health needs and, in many cases, conduct community health assessments of their own.

One commenter asked what is meant by "or equivalent department or agency" and whether the term was intended to be an exception to the requirement that hospital facilities collaborate with governmental public health departments. The parenthetical reference to an "equivalent department or agency" in the 2013 proposed regulations and the final regulations is not intended to be an exception. Rather, it is included in recognition of the fact that governments may have different names for the particular unit with jurisdiction over and expertise in public health. For example, the particular unit of a government with jurisdiction over and expertise in public health might be called an "agency," "division," "authority," "bureau," "office," or "center" rather than a department and may or may not have the term "public health" in its name. As long as a hospital facility is soliciting and taking into account input received from the unit of a local, state, tribal, or regional government with jurisdiction over and expertise in public health, it will satisfy the requirement to solicit and take into account input received from a governmental public health department.

The 2013 proposed regulations provided flexibility in allowing a hospital facility to choose the level of government that it concluded was most appropriate for its CHNA, and did not require a hospital facility to solicit input from a local public health department, in particular, because not all jurisdictions will have local public health departments available to participate in the CHNA process. Several commenters asked that the final regulations require a hospital facility to solicit input from a local public health department if one exists in its community. Other commenters, however, expressly supported allowing flexibility to choose the particular governmental health department from which to seek input.

The Treasury Department and the IRS believe that public health departments represent the broad interests of the jurisdictions they serve and have special knowledge of and expertise in public health, regardless of whether they are local, state, tribal, or regional departments. Several commenters noted that local public health departments may vary greatly in their capacity to participate in a CHNA process. In addition, the community served by a hospital facility may span the jurisdictions of multiple local public health departments. Thus, even when a hospital facility's locality has a local public health department, the hospital facility still might reasonably decide that a public health department at a different jurisdictional level may be a more appropriate source of input for its CHNA. Accordingly, the final regulations preserve the flexible approach of the 2013 proposed regulations and allow a hospital facility to select the jurisdictional level (local, state, tribal or regional) of the public health department that is most appropriate for its CHNA.

One commenter asked that the final regulations identify State Offices of Rural Health (SORHs) as governmental public health entities from which hospital facilities may seek input. This commenter stated that SORHs operate on a statewide basis and routinely conduct rural health planning efforts, including both health service access assessments and population health status assessments. The Treasury Department and the IRS note that the substantial majority of SORHs are located in state health departments, such that rural hospital facilities soliciting input from these state SORHs would presumably be soliciting input from a state public health department. However, because some SORHs are located in state universities or other nonprofits or government departments other than public health departments, the final regulations separately identify SORHs as a source of input from which hospital facilities may solicit and take into account input to satisfy the relevant requirement.

One commenter stated that hospital facilities are increasingly employing or contracting with public health experts. This commenter further stated that it would seem illogical for a hospital facility to be considered to have failed to meet the CHNA requirements because it relied on more specific, in-depth advice and input from a public health expert without necessarily working with a public health agency with strained available resources that is attempting to serve a larger geographic area with a broader set of public health needs than those the hospital facility might address. The Treasury Department and the IRS note that public health expertise alone does not result in a person's representing the broad interests of the community, while a governmental public health department both offers public health expertise and is responsible for ensuring that the broad interests of the community are represented. Thus, while hospital facilities are free to contract with public health experts to assist with their CHNAs, the final regulations require a hospital facility to solicit and take into account input received from a governmental public health department.

B. Medically underserved, low-income, and minority populations

Several commenters asked that hospital facilities be required to seek input from certain specified groups, such as the disabled, individuals with chronic diseases, women and children, and LEP populations, in addition to the requirement in the 2013 proposed regulations to seek input from medically underserved, low-income, and minority populations. As noted in section 3.a.i of this preamble, "medically underserved" populations are defined in the 2013 proposed regulations and these final regulations as populations "at risk of not receiving adequate medical care as a result of being uninsured or underinsured or due to geographic, language, financial, or other barriers." The Treasury Department and the IRS believe this definition (along with the inclusion of low-income and minority populations) should be sufficiently broad to encompass many of the populations cited by commenters to the extent such populations are at risk of not receiving adequate medical care. Moreover, even if a hospital facility does not solicit input from a particular population while conducting its CHNA, any person can participate in the CHNA process by submitting written comments on the hospital facility's most recently conducted CHNA and most recently adopted implementation strategy, as described in section 3.a.iii.C of this preamble. Accordingly, the final regulations do not expand the populations from whom a hospital facility is required to solicit input beyond medically underserved, minority, and low-income populations.

One commenter asked that the final regulations define the broader category of "minority populations" to include certain sub-categories of persons, such as persons with disabilities and LEP individuals, and require hospital facilities to consult a member or representative of each such sub-category identified in their community served. Because the sub-categories within the broad categories of minority and medically underserved populations will likely vary greatly from community to community, the final regulations continue to provide hospital facilities with the flexibility to identify the significant minority and medically underserved populations in their communities with whom they should consult and do not mandate any specific approach.

C. Written comments

While some comments in response to Notice 2011–52 recommended a requirement that a hospital facility take into account public input on a draft version of its CHNA report before finalizing the report, this recommendation was not adopted in the 2013 proposed regulations due to the complexity of the additional timeframes and procedures such a process would require. Instead, the 2013 proposed regulations required hospital facilities to consider written comments received from the public on the hospital facility's most recently conducted CHNA and most recently adopted implementation strategy. Because a new CHNA must be conducted and an implementation strategy adopted at least once every three years, the Treasury Department and the IRS intended for this requirement to establish the same sort of continual feedback on CHNA reports suggested by commenters, albeit over a different timeframe.

In response to the 2013 proposed regulations, some commenters continued to advocate for requiring comments on a draft CHNA report before it is finalized, stating that the burdens of such a rule would be reasonable and commensurate with the benefits of giving interested individuals additional opportunities to participate in the CHNA. These commenters added that without a mandatory opportunity to comment on the draft CHNA report, interested individuals and organizations may not be aware that a hospital facility is conducting its CHNA until the CHNA is complete, and that opening up the CHNA report for comment in "real time" would yield findings more indicative of community priorities and provide a better framework for collaboration. Other commenters, however, supported the proposed requirement that hospital facilities take into account input in the form of written comments received on the hospital facility's most recently conducted CHNA and most recently adopted implementation strategy, stating that such comments may provide extremely valuable information to guide future assessments and implementation strategies and that this is a practical way of taking various perspectives into account.

The Treasury Department and the IRS continue to believe that the opportunity for the public to submit written comments on previously adopted CHNA reports and implementation strategies will result in a meaningful exchange over time and that the longer timeframe will both give the public sufficient time to provide comments (including comments reflecting changing circumstances) and give hospital facilities sufficient time to take the comments into account when conducting their next CHNA. The Treasury Department and the IRS also note that hospital facilities' CHNA processes will be taking into account input in "real time" from various community stakeholders, including, at a minimum, governmental public health departments and medically underserved, low-income, and minority populations (or persons serving or representing them). Accordingly, the final regulations retain the requirement that a hospital facility take into account written comments on the hospital facility's most recently conducted CHNA report and most recently adopted implementation strategy and do not adopt an additional requirement to post a draft CHNA report for public comment before it is finalized. In addition, the Treasury Department and the IRS note that hospital facilities may choose to post a draft CHNA report for public comment, and both the 2013 proposed regulations and these final regulations facilitate this option by specifying that the posting of a draft CHNA report will not trigger the start of a hospital facility's next three-year CHNA cycle.

A few commenters asked how the public is expected to comment on the implementation strategy if the information is not made available outside of the Form 990 reporting process. As discussed in section 8.a of this preamble, a hospital organization must either attach to its Form 990 a copy of the most recently adopted implementation strategy for each hospital facility it operates or provide on the Form 990 the URL(s) of the Web page(s) on which it has made each implementation strategy widely available on a Web site. Section 6104 requires Forms 990 to be made available to the public by both the filing organization and the IRS, and members of the public may obtain a copy of a hospital organization's Forms 990 from one of the privately-funded organizations that gathers and disseminates Forms 990 online or by completing IRS Form 4506–A, "Request for Public Inspection or Copy of Exempt or Political Organization IRS Form."

One commenter requested clarification on how hospital facilities should be collecting written comments from the public, asking, for example, if written comments must be collected via a form on a Web site or by email or mailed letter. The final regulations do not require a specific method for collection of these written comments, providing hospital facilities with the flexibility to set up a collection and tracking system that works with their internal systems and makes the most sense for their particular community.

A few commenters asked that the final regulations clarify how hospital facilities should respond to written comments received from the public. One commenter proposed that a hospital facility designate a representative or division responsible for providing substantive responses to written comments to demonstrate that the hospital facility has received the comment and to ensure that the public will be able to provide continual feedback during the interim period between formal CHNAs. In contrast, another commenter stated that requiring hospitals to individually address each community concern through feedback could become burdensome. As discussed in section 3.a.iv of this preamble, the final regulations require hospital facilities to describe generally any input received in the form of written comments (or from any other source) in their CHNA reports. The Treasury Department and the IRS expect that this description in the CHNA report will provide sufficient confirmation that comments have been received and considered and intend that hospital facilities will otherwise have flexibility in determining whether further responses are necessary. Thus, the final regulations do not adopt any specific requirements regarding how hospital facilities must respond to written comments received from the public.

Finally, one commenter sought confirmation that the requirement to take into account written comments on the hospital facility's "most recently conducted CHNA" means that hospital facilities must take into account public comments submitted after the CHNA or implementation strategy is finalized to inform and influence future CHNAs and implementation strategies. This is an accurate description of this provision in both the 2013 proposed regulations and these final regulations. The Treasury Department and the IRS intend that the phrase "most recently conducted CHNA" refers not to a CHNA that is in process but rather to the last CHNA that was "conducted," typically determined as of the date the hospital facility makes an adopted and complete CHNA report widely available to the public.

D. Additional sources of input

The 2013 proposed regulations provided that, in addition to soliciting input from the three required sources, a hospital facility may take into account input from a broad range of persons located in or serving its community, including, but not limited to, health care consumers and consumer advocates, nonprofit and community-based organizations, academic experts, local government officials, local school districts, health care providers and community health centers, health insurance and managed care organizations, private businesses, and labor and workforce representatives.

Numerous commenters requested that the final regulations require, rather than simply permit, hospital facilities to solicit input from additional sources, including from patient and health care consumer organizations located in or serving the hospital facility's community, county governing boards, experts in nutrition or the local food system, and housing service providers. While these sources may have valuable input to contribute to a hospital facility's CHNA, mandating input from some or all of these sources could result in a final rule that is unsuited for particular communities and further complicate the CHNA process and the ability to collaborate. Accordingly, the final regulations do not require hospitals to solicit input from additional persons, although a hospital facility is free to solicit input from the suggested sources (as well as other sources) and must take into account input received from any person (including these sources) in the form of written comments on the most recently conducted CHNA or most recently adopted implementation strategy.

E. Input on financial and other barriers

The 2012 proposed regulations requested comments on the potential link between the needs of a hospital facility's community, as determined through the hospital facility's most recently conducted CHNA, and a hospital facility's FAP. The preamble to the 2013 proposed regulations recognized that the need to improve access to care by removing financial barriers can be among the significant health needs assessed in a CHNA, and the 2013 proposed regulations themselves provided that input from persons representing the broad interests of the community includes, but is not limited to, input on any financial and other barriers to access to care in the community.

Several commenters stated that the CHNA process offers an opportunity to inquire about financial and other barriers to care, which could provide useful information to a hospital facility in updating and evaluating its FAP. However, other commenters noted that section 501(r) does not require a link between a hospital facility's CHNA and its FAP. These commenters further stated that because CHNAs are already required to take into account input from persons who represent the broad interests of the community and the decision of how to meet those needs is the responsibility of the hospital's governing board, a linkage should be allowed at the discretion of the hospital facility but not required.

In acknowledgement of the importance of assessing financial barriers to care in the CHNA process, the final regulations expressly provide that the health needs of a community may include the need to address financial and other barriers to access to care in the community. However, consistent with the approach taken in Notice 2011–52 and the 2013 proposed regulations, the final regulations focus on ensuring transparency regarding the health needs identified through a CHNA rather than requiring hospital facilities to identify any particular categories of health needs. As with all significant health needs identified through a CHNA, a hospital facility's decision as to whether and how to address a significant health need involving financial barriers to care (including through an amendment to a hospital facility's FAP) will be disclosed publicly in the hospital facility's implementation strategy and subject to public comments in preparing the next CHNA. Thus, the final regulations do not require any additional link between a hospital facility's CHNA and its FAP.

iv. Documentation of a CHNA

Similar to the 2013 proposed regulations, the final regulations provide that a hospital facility must document its CHNA in a CHNA report that is adopted by an authorized body of the hospital facility and includes: (1) a definition of the community served by the hospital facility and a description of how the community was determined; (2) a description of the process and methods used to conduct the CHNA; (3) a description of how the hospital facility solicited and took into account input received from persons who represent the broad interests of the community it serves; (4) a prioritized description of the significant health needs of the community identified through the CHNA, along with a description of the process and criteria used in identifying certain health needs as significant and prioritizing those significant health needs; and (5) a description of resources potentially available to address the significant health needs identified through the CHNA.

Both the 2013 proposed regulations and these final regulations provide that a CHNA report will be considered to describe the process and methods used to conduct the CHNA if the CHNA report describes the data and other information used in the assessment, as well as the methods of collecting and analyzing this data and information, and identifies any parties with whom the hospital facility collaborated, or with whom it contracted for assistance, in conducting the CHNA. Some commenters requested that this provision be modified to permit the referencing of publicly available source materials (for example, public health agency data) on which the hospital facility relied in conducting its CHNA. The final regulations clarify that a hospital facility may rely on (and the CHNA report may describe) data collected or created by others in conducting its CHNA and, in such cases, may simply cite the data sources rather than describe the "methods of collecting" the data.

A few commenters requested clarification on how a hospital facility's CHNA report should describe input received in the form of written comments, with one such commenter asking if a general summary of the input provided, the number of comments received, and the time period during which the comments were received will be sufficient. The final regulations retain the provisions of the 2013 proposed regulations, which stated that a CHNA report will be considered to describe how the hospital facility took into account community input if it summarizes, in general terms, the input provided and how and over what time period it was provided. This language applies to written comments, as well as to any other type of input provided. In addition, like the 2013 proposed regulations, the final regulations provide that a CHNA report does not need to name or otherwise identify any specific individual providing input on the CHNA, which would include input provided by individuals in the form of written comments.

v. Collaboration on CHNA Reports

The 2013 proposed regulations provided that a hospital organization may choose to conduct its CHNA in collaboration with other organizations and facilities, including related and unrelated hospital organizations and facilities, for-profit and government hospitals, governmental departments, and nonprofit organizations. In general, every hospital facility must document its CHNA in a separate CHNA report. However, the 2013 proposed regulations made clear that portions of a hospital facility's CHNA report may be substantively identical to portions of the CHNA reports of other facilities or organizations, if appropriate under the facts and circumstances. The 2013 proposed regulations further provided that collaborating hospital facilities that define their community to be the same and that conduct a joint CHNA process may produce a joint CHNA report. The final regulations amend the proposed regulations to clarify that joint CHNA reports must contain all of the same basic information that separate CHNA reports must contain (discussed in section 3.a.iv of this preamble).

Numerous commenters expressed support for allowing joint CHNA reports, noting that the purpose of collaboration is to make the most efficient use of resources in assessing community needs and devising strategies to address those needs and that communities would benefit from strengthened collaborative partnerships that help build broad-based support for community-wide solutions to the underlying causes of health problems. In addition, several of these commenters stated that joint CHNA reports would more effectively leverage the health data expertise of governmental public health departments without placing an unreasonable burden on departments that serve jurisdictions with more than one tax-exempt hospital facility. Another commenter stated that joint CHNA reports both enhance overall community health and lessen confusion in the community by providing a more comprehensive view of the identified needs and associated strategies for addressing those needs. For these reasons, the final regulations continue to permit collaborating hospital facilities to produce joint CHNA reports.

Several commenters recommended that the final regulations go beyond simply permitting collaboration to expressly encouraging, or even requiring, hospital facilities located in the same jurisdiction to collaborate in conducting a CHNA and developing an implementation strategy. One of these commenters stated that this would help ensure that the community is not overburdened by multiple CHNA efforts, noting that a "go it alone" approach in a jurisdiction with multiple hospitals is likely to be neither the most efficient nor the most effective way to improve the overall health of the community. Another commenter, however, stated that the discretion to work collaboratively with others should be left to each particular hospital facility, given the many health care providers operating in a typical community.

Like the 2013 proposed regulations, the final regulations encourage and facilitate collaboration among hospital facilities by allowing for joint CHNA reports. However, section 501(r) applies separately to each hospital organization (and, in the case of hospital organizations operating more than one hospital facility, each hospital facility) and, therefore, it is not appropriate to require hospital organizations to meet the section 501(r)(3) requirements collaboratively with other organizations. Accordingly, the final regulations facilitate, but do not require, collaboration.

Two commenters asked whether the requirement that collaborating hospital facilities must "conduct a joint CHNA process" to adopt a joint CHNA report means that the collaborating hospital facilities must make the joint CHNA report widely available to the public (including posting the CHNA report on a Web site) on the same day. The Treasury Department and the IRS do not intend for collaborating hospital facilities to have to make a joint CHNA report widely available to the public on the same day. Thus, in response to these comments and to avoid potential confusion, the final regulations remove the reference to a joint CHNA process.

A. Defining a common community

Several commenters expressed concern regarding the requirement that hospital facilities that collaborate on a CHNA and intend to produce a joint CHNA report must define their communities to be the same. Two of these commenters requested that a hospital facility collaborating on a CHNA being conducted for a larger shared community also be able to identify and address needs that are highly localized in nature or occurring within only a small portion of that community. The 2013 proposed regulations and these final regulations define "health needs" to include requisites for the improvement or maintenance of health status in particular parts of the community, such as particular neighborhoods or populations experiencing health disparities. Accordingly, a joint CHNA conducted for a larger area could identify as a significant health need a need that is highly localized in nature or occurs within only a small portion of that larger area. In addition, nothing in the final regulations prevents a hospital facility collaborating on a CHNA from supplementing a joint CHNA report with its own assessment of more highly localized needs. Because the 2013 proposed regulations already allowed collaborating hospital facilities to address highly localized needs experienced in a particular part of their shared community, the final regulations do not amend the proposed regulations in response to these comments.

One commenter requested that collaborating hospital facilities that serve different communities be allowed to adopt a joint CHNA report, stating that requiring all hospital facilities participating in a joint CHNA report to define their community to be the same would appear to prohibit collaboration between general and specialized hospital facilities in the same geographic area if the specialized hospital facilities define their communities in terms of service area or principal function and the general hospital facilities define their communities geographically.

The 2013 proposed regulations and these final regulations permit hospital facilities with different but overlapping communities to collaborate in conducting a CHNA and to include substantively identical portions in their separate CHNA reports if appropriate under the facts and circumstances. The final regulations elaborate upon this point with an example of two hospital facilities with overlapping, but not identical, communities that are collaborating in conducting a CHNA and state that, in such a case, the portions of each hospital facility's CHNA report relevant to the shared areas of their communities may be identical. Thus, the final regulations not only expressly permit hospital facilities with different communities (including general and specialized hospitals) to collaborate but also allow such hospital facilities to adopt substantively identical CHNA reports to the extent appropriate.

A few commenters recommended that the final regulations make clear that, to the extent that the communities served by collaborating hospital facilities differ, a CHNA report must reflect the unique needs of the community of the particular hospital facility adopting the report. By stating that collaborating hospital facilities with different but overlapping communities may include substantively identical portions in their separate CHNA reports only "if appropriate under the facts and circumstances," the 2013 proposed regulations and these final regulations convey that the CHNA reports of collaborating hospital facilities should differ to reflect any material differences in the communities served by those hospital facilities.

B. Collaborating with public health departments

Two commenters requested that hospital facilities be permitted to adopt the CHNA of a local public health department in the event that: (1) the hospital facility has the same community as the local public health department (as defined by the hospital facility), and (2) the CHNA adopted by the local public health department meets the requirements set forth in these regulations. The final regulations clarify that if a governmental public health department has conducted a CHNA for all or part of a hospital facility's community, portions of the hospital facility's CHNA report may be substantively identical to those portions of the health department's CHNA report that address the hospital facility's community. The final regulations also clarify that a hospital facility that collaborates with a governmental public health department in conducting its CHNA may adopt a joint CHNA report produced by the hospital facility and public health department, as long as the other requirements applicable to joint CHNA reports are met.

vi. Making the CHNA Report Widely Available to the Public

The 2013 proposed regulations provided that a hospital facility must make its CHNA report widely available to the public both by making the CHNA report widely available on a Web site and by making a paper copy of the CHNA report available for public inspection without charge at the hospital facility. The 2013 proposed regulations further provided that the CHNA report must be made widely available to the public in this manner until the date the hospital facility has made widely available to the public its two subsequent CHNA reports.

A few commenters recommended that the final regulations require the CHNA report to be translated into multiple languages. Commenters also recommended that the hospital facility be required to make paper copies of the CHNA report available in locations other than the hospital facility that may be more accessible to the community at large and proactively inform the community when the report is available.

The Treasury Department and the IRS note that section 501(r)(3) requires the CHNA to be made "widely available" to the public, in contrast to the requirement in section 501(r)(4) regarding measures to "widely publicize" the FAP. The Treasury Department and the IRS have interpreted the term "widely publicize" to require proactive efforts to inform, and make a document available in, the community at large, but have not so interpreted the term "widely available." The Treasury Department and the IRS interpret "widely available" in a manner consistent with how that term is defined for purposes of section 6104 (relating to disclosure of annual information returns). *See* § 301.6104(d)–2(b) (interpreting the term "widely available" in section 6104(d)(4) to include the posting of information returns and exemption applications on a Web page). Accordingly, the final regulations retain the definition of "widely available" set forth in the proposed regulations and decline to adopt a definition that would include the suggested measures to translate and proactively publicize the CHNA report within the community served by the hospital facility.

Additional commenters requested that hospital facilities be required to post their CHNA reports (and implementation strategies) on a national, searchable Web site. Given that hospital facilities are already required to conspicuously post their CHNA reports on a Web site, any individual interested in a particular hospital facility's CHNA report should be able to locate it. The Treasury Department and the IRS do not have, and cannot require a third party to host, a comprehensive Web site containing all hospital facilities' CHNA reports. Accordingly, the final regulations do not adopt this additional suggested requirement.

One commenter asked that the final regulations clarify how a hospital facility is required to make a paper copy of its CHNA report available for public inspection and, specifically, whether a paper copy of the CHNA report must be publicly displayed or, rather, may be made available only upon request. The final regulations clarify that a hospital facility need only make a paper copy of the CHNA report available for public inspection upon request.

vii. Frequency of the CHNA Cycle

The 2013 proposed regulations provided that, to satisfy the CHNA requirements for a particular taxable year, a hospital facility must conduct a CHNA in that taxable year or in either of the two taxable years immediately preceding such taxable year. A few commenters requested that the final regulations provide flexibility in the timeline to limit impediments to collaboration amongst hospital facilities with different taxable years. Commenters also requested that the CHNA cycle match the five-year cycle that local public health departments follow in conducting their community health assessments for national accreditation by the Public Health Accreditation Board. One such commenter stated that adopting this five-year timeline would avoid duplication of effort and incentivize hospital facilities to collaborate more fully with local public health departments. Because section 501(r)(3)(A)(i) requires a hospital organization to conduct a CHNA in the current or one of the two prior taxable years, the final regulations do not adopt these suggestions.

b. *Implementation strategies*

The final regulations provide, consistent with the 2013 proposed regulations, that a hospital facility's implementation strategy is a written plan that, with respect to each significant health need identified through the CHNA, either: (1) describes how the hospital facility plans to address the health need, or (2) identifies the health need as one the hospital facility does not intend to address and explains why the hospital facility does not intend to address the health need.

The preamble to the 2013 proposed regulations further provided that although an implementation strategy must consider the significant health needs identified through a hospital facility's CHNA, the implementation strategy is not limited to considering only those health needs and may describe activities to address health needs that the hospital facility identifies in other ways. Several commenters supported this proposed flexibility to discuss health needs identified in ways other than through conducting a CHNA, with two such commenters requesting that this language appear in the regulatory text of the final regulations. Another commenter, however, stated that CHNA reports and implementation strategies should be tightly integrated and expressed concern that allowing or encouraging hospital facilities to introduce in the implementation strategy additional needs beyond those identified in the CHNA may undermine the role of community input.

In general, the final regulations under section 501(r) provide detail only with respect to the minimum elements that must be included in the various documents and policies required under sections 501(r)(3) and 501(r)(4), preserving flexibility for hospital facilities to otherwise determine the contents of such documents and policies. Consistent with this approach, the final regulations do not prohibit implementation strategies from discussing health needs identified through means other than a CHNA, provided that all of the significant health needs identified in the CHNA are also discussed.

Many commenters recommended that the statutory requirements that a CHNA "take into account input from persons who represent the broad interests of the community" and "be made widely available to the public" should also apply to implementation strategies to allow communities to monitor, assist, and provide input on hospital facilities' efforts to address health needs. With respect to making the implementation strategy more accessible to the public, commenters also asked that the final regulations clarify how the public may access an implementation strategy that is attached to the Form 990.

Section 501(r)(3)(B) applies the requirements regarding community input and wide availability to the public only to CHNAs. In addition, only section 501(r)(3)(A)(i), which refers to CHNAs, and not section 501(r)(3)(A)(ii), which refers to implementation strategies, cross-references the requirements regarding community input and wide availability to the public contained in section 501(r)(3)(B). Accordingly, the final regulations do not adopt the suggested changes. However, the 2013 proposed regulations and these final regulations respond to commenters' requests to require public input on the implementation strategy by requiring a hospital facility to take into account comments received on the previously adopted implementation strategy when the hospital facility is conducting the subsequent CHNA. Furthermore, as discussed in section 8.a of this preamble, the 2013 proposed regulations and these final regulations respond to commenters' requests to require the implementation strategy to be made widely available to the public by requiring a hospital organization to attach to its Form 990 a copy of the most recently adopted implementation strategy for each hospital facility it operates (or provide on the Form 990 the URL(s) of the Web page(s) on which it has made each implementation strategy widely available on a Web site). As noted in section 3.a.iii.C of this preamble, section 6104 requires Forms 990 to be made available to the public by both the filing organization and the IRS, and members of the public may easily obtain a copy of a hospital organization's Forms 990 from one of the privately-funded organizations that gathers and disseminates Forms 990 online or by completing IRS Form 4506–A.

i. Describing How a Hospital Facility Plans to Address a Significant Health Need

In describing how a hospital facility plans to address a significant health need identified through the CHNA, the 2013 proposed regulations provided that the implementation strategy must: (1) describe the actions the hospital facility intends to take to address the health need, the anticipated impact of these actions, and the plan to evaluate such impact; (2) identify the programs and resources the hospital facility plans to commit to address the health need; and (3) describe any planned collaboration between the hospital facility and other facilities or organizations in addressing the health need.

Many commenters supported the proposed requirement that a hospital facility include a plan to evaluate the impact of its efforts in its implementation strategy and further recommended that the final regulations require hospital facilities to actually perform the planned evaluation and publish the results of the evaluation. Some of these commenters recommended publication of the results in the subsequent CHNA report. Other commenters requested permission for hospital facilities to accomplish the "plan to evaluate the impact" of the implementation strategy through the process of conducting the next CHNA. In response to these comments, the final regulations replace the proposed requirement that the implementation strategy describe a plan to evaluate its impact with a requirement that the CHNA report include an evaluation of the impact of any actions that were taken since the hospital facility finished conducting its immediately preceding CHNA to address the significant health needs identified in the hospital facility's prior CHNA(s).

The preamble to the 2013 proposed regulations provided the example that if a hospital facility's CHNA identified high rates of financial need or large numbers of uninsured individuals and families in the community as a significant health need in its community, its implementation strategy could describe a program to address that need by expanding its financial assistance program and helping to enroll uninsured individuals in sources of insurance such as Medicare, Medicaid, Children's Health Insurance Program (CHIP), and the new Health Insurance Marketplaces (also known as Exchanges), as appropriate. A few commenters stated that, in addition to examples involving access to health care, it would be helpful to have examples of other interventions designed to prevent illness or to address social, behavioral, and environmental factors that influence community health. An implementation strategy may describe the actions the hospital facility intends to take to address any significant health needs identified through the CHNA process, and, as noted in section 3.a.ii of this preamble, the final regulations specify that the health needs identified through a CHNA may, for example, include the need to prevent illness, to ensure adequate nutrition, or to address social, behavioral, and environmental factors that influence health in the community. Thus, the final regulations make clear that an implementation strategy may describe interventions designed to prevent illness or to address social, behavioral, and environmental factors that influence community health.

ii. Describing Why a Hospital Facility Is Not Addressing a Significant Health Need

The 2013 proposed regulations provided that a hospital facility may provide a brief explanation of its reason for not addressing a significant health need, including, but not limited to, resource constraints, relative lack of expertise or competencies to effectively address the need, a relatively low priority assigned to the need, a lack of identified effective interventions to address the need, and/or the fact that the need is being addressed by other facilities or organizations in the community. Several commenters thought hospital facilities should not be able to cite "resource constraints" or "lack of expertise" as reasons for not addressing a significant health need. These commenters state that a hospital facility that is unable, for reasons of lack of resources or expertise or other factors, to address a community health need should instead collaborate with community partners to address that need. Other commenters supported allowing hospital facilities to provide any explanation as to why some health needs will not be addressed, consistent with the proposed rule.

As discussed in section 3.a.v of this preamble, the final regulations permit but do not require collaboration. Thus, the final regulations preserve the ability for a hospital facility to explain its reasons for not addressing a significant health need (including resource constraints or a lack of expertise), even if those reasons could be mitigated through collaboration.

iii. Joint Implementation Strategies

The 2013 proposed regulations provided that a hospital facility adopting a joint CHNA report along with other hospital facilities and organizations (as described in section 3.a.v of this preamble) may also adopt a joint implementation strategy as long as it meets certain specified requirements.

Numerous commenters generally supported joint implementation strategies, with some of these commenters stating that such collaboration is an important way to conserve resources, promote cross-system strategies, and yield better outcomes. Commenters also noted that the proposed approach avoids the need to create duplicative separate documents while still ensuring that information for each hospital facility is clearly presented. Accordingly, the final regulations adopt the proposed provision allowing for joint implementation strategies.

iv. When the Implementation Strategy Must Be Adopted

To satisfy the CHNA requirements with respect to any taxable year, section 501(r)(3)(A)(ii) requires a hospital facility to adopt an implementation strategy to meet the health needs identified through the CHNA described in section 501(r)(3)(A)(i). The 2013 proposed regulations provided that, to satisfy this requirement, an authorized body of the hospital facility must adopt an implementation strategy to meet the health needs identified through a hospital facility's CHNA by the end of the same taxable year in which the hospital facility finishes conducting the CHNA. In addition, the Treasury Department and the IRS sought comments on whether this rule would materially inhibit the ability of hospital facilities with different taxable years to collaborate with each other or otherwise burden hospital facilities unnecessarily.

Some commenters requested additional time in which to adopt the implementation strategy to accommodate collaboration between hospital facilities, public health departments, and community organizations with different fiscal years and on different CHNA schedules. Suggestions from these commenters ranged from an additional four and a half months to 12 months after the end of the taxable year in which the CHNA was conducted.

In response to these comments, the final regulations provide hospital facilities with an additional four and a half months to adopt the implementation strategy, specifically requiring an authorized body of the hospital facility to adopt an implementation strategy to meet the health needs identified through a CHNA on or before the 15th day of the fifth month after the end of the taxable year in which the hospital facility finishes conducting the CHNA. By matching the date by which an authorized body of the hospital facility must adopt the implementation strategy to the due date (without extensions) of the Form 990 filed for the taxable year in which the CHNA is conducted, this approach does not materially reduce transparency, because an implementation strategy (or the URL of the Web site on which it is posted) is made available to the public through the Form 990. The final regulations do not go further and permit a hospital facility to delay adoption of an implementation strategy until the due date for the Form 990 including extensions. This is because hospital facilities need to report on Form 4720 any excise tax they owe under section 4959 as a result of failing to meet the CHNA requirements in a taxable year by the 15th day of the fifth month following the end of that taxable year and thus need to know whether they have met the requirement to adopt an implementation strategy by that date.

Because all hospital organizations now have until the 15th day of the fifth month following the close of the taxable year in which they conduct a CHNA to adopt the associated implementation strategy, the final regulations remove the transition rule that allowed for this result for CHNAs conducted in a hospital facility's first taxable year beginning after March 23, 2012.

c. *Exception for hospital facilities that are new, newly acquired, or newly subject to section 501(r)*

The 2013 proposed regulations provided that a hospital facility that was newly acquired or placed into service by a hospital organization, or that became newly subject to section 501(r) because the hospital organization that operated it was newly recognized as described in section 501(c)(3), must meet the CHNA requirements by the last day of the second taxable year beginning after the date, respectively, the hospital facility was acquired, placed into service, or newly subject to section 501(r).

Several commenters interpreted the 2013 proposed regulations as providing new and newly acquired hospital facilities with only two taxable years to meet the CHNA requirements. Two such commenters requested that these hospital facilities be given three taxable years, to correspond to the length of the CHNA cycle provided in the statute.

The 2013 proposed regulations gave hospital facilities two complete taxable years plus the portion of the taxable year of acquisition, licensure, or section 501(c)(3) recognition (as applicable) to meet the CHNA requirements. As noted in the preamble to the 2013 proposed regulations, a short taxable year of less than twelve months is considered a taxable year for purposes of section 501(r). Thus, the portion of the taxable year in which a hospital facility is acquired or placed into service, or becomes newly subject to section 501(r), is a taxable year for purposes of the CHNA requirements, regardless of whether that taxable year is less than twelve months. As a result, a deadline of the last day of the second taxable year beginning after the date of acquisition, licensure, or section 501(c)(3) recognition provides these new hospital facilities with three taxable years (even if less than three full calendar years) to meet the section 501(r)(3) requirements. By contrast, a deadline of the last day of the third taxable year beginning after the date of acquisition, licensure, or section 501(c)(3) recognition would provide these new hospital facilities with more than three taxable years, and possibly close to four taxable years, to meet the CHNA requirements. Accordingly, the final regulations continue to require hospital facilities that are newly acquired or placed into service (or become newly subject to section 501(r)) to meet the CHNA requirements by the last day of the second taxable year beginning after the later of the date of acquisition, licensure, or recognition of section 501(c)(3) status.

i. Acquired Hospital Facilities

The 2013 proposed regulations provided that a hospital facility that was newly acquired must meet the CHNA requirements by the last day of the second taxable year beginning after the date the hospital facility was acquired. Several commenters asked for guidance on whether and how this rule for acquisitions applies in the case of a merger of two hospital organizations.

The final regulations provide that, in the case of a merger that results in the liquidation of one organization and survival of another, the hospital facilities formerly operated by the liquidated organization will be considered "acquired," meaning they will have until the last day of the second taxable year beginning after the date of the merger to meet the CHNA requirements. Thus, the final regulations treat mergers equivalently to acquisitions.

ii. New Hospital Organizations

One commenter asked whether a new hospital organization must meet the CHNA requirements by the last day of the second taxable year beginning after the date of licensure or section 501(c)(3) recognition if the organization seeks and obtains recognition of section 501(c)(3) status based on its planned activities before the hospital facility it plans to operate is licensed and placed into service. A facility is not considered a "hospital facility" until it is licensed, registered, or similarly recognized as a hospital by a state, and an organization operating a hospital facility is not subject to section 501(r) until it is recognized as described in section 501(c)(3). Thus, the Treasury Department and the IRS intend that a new hospital organization must meet the CHNA requirements by the last day of the second taxable year beginning after the later of the effective date of the determination letter or ruling recognizing the organization as described in section 501(c)(3) or the first date a facility operated by the organization was licensed, registered, or similarly recognized by its state as a hospital. The final regulations are amended to make this clarification.

iii. Transferred or Terminated Hospital Facilities

One commenter recommended that a hospital organization should not be required to meet the CHNA requirements in a particular taxable year with respect to a hospital facility if, before the end of that taxable year, the hospital organization transfers the hospital facility to an unaffiliated organization or otherwise terminates its operation of that hospital facility. This commenter reasoned that requiring a hospital organization to invest time and energy in conducting a CHNA and developing an implementation strategy for a hospital facility will create inefficiencies if the organization is transferring or terminating its operation of the hospital facility, as the new hospital organization may have different perceptions of the community's needs and the optimal channels for addressing those needs. In response to this comment, the final regulations provide that a hospital organization is not required to meet the requirements of section 501(r)(3) with respect to a hospital facility in a taxable year if the hospital organization transfers all ownership of the hospital facility to another organization or otherwise ceases its operation of the hospital facility before the end of the taxable year. The same rule applies if the facility ceases to be licensed, registered, or similarly recognized as a hospital by a state during the taxable year.

Another commenter asked whether a government hospital organization that voluntarily terminates its section 501(c)(3) status must meet the CHNA requirements in the taxable year of termination to avoid an excise tax under section 4959. As noted in section 1.d of this preamble, government hospital organizations that have previously been recognized as described in section 501(c)(3) but do not wish to comply with the requirements of section 501(r) may submit a request to voluntarily terminate their section 501(c)(3) recognition as described in section 7.04(14) of Rev. Proc. 2014–4 (or a successor revenue procedure). A government hospital organization that terminates its section 501(c)(3) recognition in this manner is no longer considered a "hospital organization" within the meaning of these regulations and therefore will not be subject to excise tax under section 4959 for failing to meet the CHNA requirements during the taxable year of its termination.

4. *Financial Assistance Policies and Emergency Medical Care Policies*

In accordance with the statute and the 2012 proposed regulations, the final regulations require hospital organizations to establish written FAPs as well as written emergency medical care policies.

a. *Financial assistance policies*

Consistent with the 2012 proposed regulations, the final regulations provide that a hospital organization meets the requirements of section 501(r)(4)(A) with respect to a hospital facility it operates only if the hospital organization establishes for that hospital facility a written FAP that applies to all emergency and other medically necessary care provided by the hospital facility.

A number of commenters noted that patients, including emergency room patients, are commonly seen (and separately billed) by private physician groups or other third-party providers while in the hospital setting. Commenters asked for clarification on the extent to which a hospital facility's FAP must apply to other providers a patient might encounter in the course of treatment in a hospital facility, including non-employee providers in private physician groups or hospital-owned practices. Some of these commenters noted that patients are often unaware of the financial arrangements between various providers in the hospital facility and may unknowingly be transferred to a provider that separately bills the patients for care. A few commenters noted that emergency room physicians in some hospital facilities separately bill for emergency medical care provided to patients and recommended that the section 501(r) requirements apply to such emergency room physicians.

In response to comments and to provide transparency to patients, the final regulations require a hospital facility's FAP to list the providers, other than the hospital facility itself, delivering emergency or other medically necessary care in the hospital facility and to specify which providers are covered by the hospital facility's FAP (and which are not). As discussed in section 1.g of this preamble, the final regulations also clarify that a hospital facility's FAP must apply to all emergency and other medically necessary care provided in a hospital facility by a partnership owned in part by, or a disregarded entity wholly owned by, the hospital organization operating the hospital facility, to the extent such care is not an unrelated trade or business with respect to the hospital organization. In addition, the Treasury Department and the IRS note that if a hospital facility outsources the operation of its emergency room to a third party and the care provided by that third party is not covered under the hospital facility's FAP, the hospital facility may not be considered to operate an emergency room for purposes of the factors considered in Rev. Rul. 69–545 (1969–2 CB 117) (providing examples illustrating whether a nonprofit hospital claiming exemption under section 501(c)(3) is operated to serve a public rather than a private interest, with one activity of the section 501(c)(3) hospital being the operation of a full time emergency room).

i. Eligibility Criteria and Basis for Calculating Amounts Charged to Patients

Section 501(r)(4)(A)(i) and (ii) require a hospital facility's FAP to specify the eligibility criteria for financial assistance, whether such assistance includes free or discounted care, and the basis for calculating amounts charged to patients. Accordingly, the 2012 proposed regulations provided that a hospital facility's FAP must specify all financial assistance available under the FAP, including all discounts and free care and, if applicable, the amount(s) (for example, gross charges) to which any discount percentages will be applied. The 2012 proposed regulations also provided that a hospital facility's FAP must specify all of the eligibility criteria that an individual must satisfy to receive each discount, free care, or other level of assistance.

A number of commenters asked that hospital facilities be allowed to offer patients certain discounts—including self-pay discounts, certain discounts mandated under state law, and discounts for out-of-state patients— outside of their FAPs and that this assistance not be subject to the requirements of sections 501(r)(4) through 501(r)(6), including the AGB limitation of section 501(r)(5)(A). Several commenters noted that subjecting all assistance provided by hospital facilities to the AGB limitation could result in hospitals offering fewer discounts or less assistance than they might otherwise provide to certain categories of patients.

The Treasury Department and the IRS recognize that not all discounts a hospital facility might offer its patients are properly viewed as "financial assistance" and intend that hospital facilities may offer payment discounts or other discounts outside of their FAPs and may charge discounted amounts in excess of AGB to individuals that are not FAP-eligible. Accordingly, the final regulations only require the FAP to describe discounts "available under the FAP" rather than all discounts offered by the hospital facility.[6] The Treasury Department and the IRS note, however, that only the discounts specified in a hospital facility's FAP (and, therefore, subject to the AGB limitation) may be reported as "financial assistance" on Schedule H, "Hospitals," of the Form 990. Moreover, discounts provided by a hospital facility that are not specified in a hospital facility's FAP will not be considered community benefit activities for purposes of section 9007(e)(1)(B) of the Affordable Care Act (relating to reports on costs incurred for community benefit activities) nor for purposes of the totality of circumstances that are considered in determining whether a hospital organization is described in section 501(c)(3).

Some commenters asked for the final regulations to confirm that hospital facilities will be given the flexibility to develop FAP-eligibility criteria that respond to local needs. Like the 2012 proposed regulations, the final regulations do not mandate any particular eligibility criteria and require only that a FAP specify the eligibility criteria for receiving financial assistance under the FAP.

A number of commenters recommended that the final regulations require the FAP to contain a statement that explains the patient's obligation to cooperate with the hospital facility's requests for information needed to make an eligibility determination. The Treasury Department and the IRS decline to impose this specific requirement but note that hospital facilities have the flexibility to include any additional information in the FAP that the hospital facility chooses to convey or that may be helpful to the community, including such a statement.

ii. Method for Applying for Financial Assistance

Section 501(r)(4)(A)(iii) requires a hospital facility's FAP to include the method for applying for financial assistance under the FAP. Accordingly, the 2012 proposed regulations provided that a hospital facility's FAP must describe how an individual applies for financial assistance under the FAP and that either the hospital facility's FAP or FAP application form (including accompanying instructions) must describe the information or documentation the hospital facility may require an individual to submit as part of his or her FAP application. The 2012 proposed regulations also made clear that financial assistance may not be denied based on the omission of information or documentation if such information or doc-

[6]The 2012 proposed regulations stated that a hospital facility's FAP must specify "all financial assistance available under the FAP, including all discount(s)." Although the term "all discount(s)" was not qualified with the phrase "available under the FAP," this interpretation was intended. The final regulations add "available under the FAP" after "all discounts" to clarify that discounts may be offered outside of the FAP.

umentation was not specifically required by the FAP or FAP application form.

Numerous commenters asked that the final regulations add language to ensure that hospital facilities are not prohibited from granting financial assistance despite an applicant's failure to provide any or all information or documentation described in the FAP or FAP application form and requested that hospital facilities have the flexibility to grant financial assistance based on other evidence or an attestation by the applicant. While the Treasury Department and the IRS intend to require hospital facilities to establish a transparent application process under which individuals may not be denied financial assistance based on a failure to provide information or documentation unless that information or documentation is described in the FAP or FAP application form, they do not intend to restrict hospital facilities' ability to grant financial assistance to an applicant who has failed to provide such information or documentation. Accordingly, the final regulations expressly state that a hospital facility may grant financial assistance under its FAP notwithstanding an applicant's failure to provide such information. Thus, a hospital facility may grant financial assistance based on evidence other than that described in a FAP or FAP application form or based on an attestation by the applicant, even if the FAP or FAP application form does not describe such evidence or attestations.

One commenter stated that the example in the 2012 proposed regulations of a hospital facility with a FAP that requires certain specified documentation demonstrating household income (including federal tax returns or paystubs) or "other reliable evidence of the applicant's earned and unearned household income" was contrary to the idea that a FAP must "describe the information and documentation" required. The Treasury Department and the IRS intended for the reference to "other reliable evidence" in the example to signal that a hospital facility may be flexible in allowing applicants to provide alternative documentation to demonstrate eligibility. The example was not intended to suggest that a reference in a FAP or FAP application form to "reliable evidence" alone (without also identifying specific documentation applicants could provide) would be sufficient. To clarify this intent, the example of the FAP application form in the final regulations is modified so that the instructions identify specific documentation (including federal tax returns, paystubs, or documentation establishing qualification for certain specified state means-tested programs) but also state that if an applicant does not have any of the listed documents to prove household income, he or she may call the hospital facility's financial assistance office and discuss other evidence that may be provided to demonstrate eligibility.

A number of commenters noted that total reliance on paper applications does not reflect current practices in which much information is gathered from patients orally, with a few commenters recommending that the final regulations expressly permit eligibility determinations on the basis of information obtained through face-to-face meetings or over the phone rather than through a paper application process. The Treasury Department and the IRS did not intend to mandate paper applications or to imply that information needed to determine FAP-eligibility could not be obtained from an individual in other ways. Accordingly, and in response to comments, the final regulations amend the definition of "FAP application" to clarify that the term is not intended to refer only to written submissions and that a hospital facility may obtain information from an individual in writing or orally (or a combination of both).

Numerous commenters stated that hospitals can, and commonly do, rely on trustworthy methods and sources of information other than FAP applications to determine FAP-eligibility and recommended that hospital facilities be allowed to rely on these information sources and methods to determine FAP-eligibility, provided that the sources and methods are disclosed in the FAP or on the hospital facility's Form 990. Commenters also recommended that a hospital should be able to rely on prior FAP-eligibility determinations, provided that such reliance is disclosed in its FAP.

As discussed in section 6.b.vi of this preamble, the final regulations permit a hospital facility to determine that an individual is eligible for assistance under its FAP based on information other than that provided by the individual or based on a prior FAP-eligibility determination, provided that certain conditions are met. Given this change, and consistent with commenters' recommendations, the final regulations require a hospital facility to describe in its FAP any information obtained from sources other than individuals seeking assistance that the hospital facility uses, and whether and under what circumstances it uses prior FAP-eligibility determinations, to presumptively determine that individuals are FAP-eligible.

Some commenters requested that the final regulations specifically prohibit hospital facilities from using social security numbers or credit card information or from running credit checks that damage consumer credit, while another commenter would impose a requirement that all requested information or documentation be reasonable and adequate to establish eligibility for the hospital facility's FAP. The final regulations do not prescribe or restrict the information or documentation a hospital facility may request but do require that a hospital facility describe such information or documentation in its FAP or FAP application form. The Treasury Department and the IRS expect that the transparency achieved by requiring the information or documentation to be described in the FAP or FAP application form will discourage hospital facilities from requesting information or documentation that is unreasonable or unnecessary to establish eligibility.

A number of commenters noted that a patient's financial status may change over time and requested clarification on the point in time used to determine financial eligibility. A few of these commenters requested clarification that a hospital facility has the discretion to determine that point in time in its FAP, a few recommended that a specific point in time be used (for example, the date of service or the date of application), and a few suggested that the final regulations should require the point in time to be specified in a FAP.

The Treasury Department and the IRS intend for hospital facilities to have the flexibility to choose the time period used to determine FAP eligibility and expect that that the relevant point(s) in time will be made clear based on the information and/or documentation requested from applicants in the FAP or FAP application form. For example, if a hospital facility's FAP application form asks for "last month's" income, the hospital facility presumably will look at the applicant's income from the month preceding the submission of the FAP application to determine whether the applicant satisfies the income-based eligibility criteria. Similarly, the example regarding application methods in these final regulations describes a hospital facility that requests proof of household income in the form of payroll check stubs "from the last month" (which would reflect wages in the time period shortly before the application) or, if last month's wages are not representative of the applicant's annual income, a copy of the applicant's "most recent federal tax return" (which would reflect annual income in a year preceding the application). Because the Treasury Department and the IRS expect that the time period(s) used to assess eligibility should be evident from the information and/or documentation requested to demonstrate eligibility, the final regulations do not provide further elaboration on this point.

iii. Actions That May Be Taken in the Event of Nonpayment

In the case of a hospital facility that does not have a separate billing and collections policy, section 501(r)(4)(A)(iv) requires a hospital facility's FAP to include actions that may be taken in the event of nonpayment. Accordingly, the 2012 proposed regulations provided that either a hospital facility's FAP or a separate written billing and collections policy established for the hospital facility must describe the actions that the hospital facility (or other authorized party) may take related to obtaining payment of a bill for medical care, including, but not limited to, any extraordinary collection actions described in section 501(r)(6).

A few commenters recommended that the final regulations require governing board approval of the billing and collections policy of a hospital facility. The Treasury Department and the IRS note that these final regulations, like the 2012 proposed regulations, provide that a FAP "established" by a hospital facility must describe the hospital facility's actions in the event of nonpayment unless the hospital facility has "established" a billing and collections policy that describes these actions. As described in section 4.c of this preamble, a billing and collections policy or a FAP is "established" only if it is adopted by an authorized body of the hospital facility, which includes the governing body of the hospital facility or a committee of, or other party authorized by, such governing body. Thus, the final regulations provide that an authorized body of the hospital facility must adopt the hospital facility's FAP and, if applicable, billing and collections policy.

Two commenters asked that hospital facilities with separate billing and collections policies be required both to include some basic information about those policies in their FAPs and to translate the separate billing and collections policies into foreign languages. The 2012 proposed regulations provided that a hospital facility that described its actions in the event of nonpayment in a separate billing and collections policy must state in its FAP that the actions in the event of nonpayment are described in a separate billing and collections policy and explain how members of the public may readily obtain a free copy of this separate policy. In addition, the definition of "readily obtainable information" in the 2012 proposed regulations provided that a separate billing and collections policy would be readily obtainable if it were made available free of charge both on a Web site and in writing upon request in the same manner that a FAP is made available on a Web site and upon request, which included making translated copies available on a Web site and upon request. To clarify that translations were intended to be part of making a billing and collections policy readily obtainable, § 1.501(r)–4(b)(6) of the final regulations relating to "readily obtainable information" has been amended to expressly refer to the provision of translations.

iv. Widely Publicizing the FAP

Section 501(r)(4)(A)(v) requires a hospital facility's FAP to include measures to widely publicize the FAP within the community served by a hospital facility. To satisfy this requirement, the 2012 proposed regulations provided that a FAP must include, or explain how members of the public may readily obtain a free written description of, the measures taken by the hospital facility to—

☐ Make the FAP, FAP application form, and a plain language summary of the FAP (together, "FAP documents") widely available on a Web site;

☐ Make paper copies of the FAP documents available upon request and without charge, both in public locations in the hospital facility and by mail;

☐ Notify and inform visitors to the hospital facility about the FAP through conspicuous public displays or other measures reasonably calculated to attract visitors' attention; and

☐ Notify and inform residents of the community served by the hospital facility about the FAP in a manner reasonably calculated to reach those members of the community who are most likely to require financial assistance.

Several commenters asked that hospitals be given the flexibility to "widely publicize" the FAP in any manner they see fit. The Treasury Department and the IRS view the provisions in the 2012 proposed regulations as already giving hospital facilities broad flexibility to determine the methods they think are best to notify and inform their patients and broader communities about their FAPs. In addition, the Treasury Department and the IRS see the requirements to make the FAP widely available on a Web site and to make paper copies available upon request as minimal steps that are necessary to ensure patients have the information they need to seek financial assistance. Accordingly, the final regulations continue to require a hospital facility to make the FAP documents available upon request and widely available on a Web site and to notify and inform both visitors to the hospital and members of the community served by the hospital about its FAP.

One commenter suggested that a hospital facility's FAP should only be required to "summarize" the measures to widely publicize the FAP, suggesting that requiring detailed information about such measures would unnecessarily increase mailing, copying, and compliance costs. In response to this comment and to reduce the documentation burden associated with the FAP, these final regulations eliminate the requirement that the FAP list the measures taken to widely publicize the FAP and instead require only that a hospital facility implement the measures to widely publicize the FAP in the community it serves. This approach is consistent with the definition of "establishing" a FAP discussed in section 4.c of this preamble, which includes not only adopting the FAP but also implementing it, and with the Joint Committee on Taxation's (JCT) Technical Explanation of the Affordable Care Act. *See* Staff of the Joint Committee on Taxation, Technical Explanation of the Revenue Provisions of the "Reconciliation Act of 2010," as Amended, in Combination with the "Patient Protection and Affordable Care Act" (March 21, 2010), at 82 (Technical Explanation) (stating that section 501(r)(4) requires each hospital facility to "adopt, implement, and widely publicize" a written FAP).

A. Widely available on a Web site

A number of commenters stated that FAPs will be updated more frequently than summaries, so that making the full FAP widely available on a Web site would be burdensome. One of these commenters stated that the full FAP is not especially useful for most patients, as it is written for internal compliance and difficult for the general public to understand. On the other hand, numerous other commenters strongly supported the requirement to make these documents widely available on a Web site, with some noting that doing so would allow patients to more easily identify the assistance they might be eligible for and to speak knowledgeably with financial assistance personnel at the hospital facility. The Treasury Department and the IRS believe that making the complete FAP widely available to the public on a Web site is important in achieving transparency and that the benefits of this transparency outweigh the burdens incurred in posting an updated document on a Web site. Thus, the final regulations retain this requirement.

B. Making paper copies available upon request

With respect to the requirement to make paper copies of the FAP documents available upon request and without charge in public locations in the hospital facility, one commenter stated that "public locations" could be interpreted to mean all public locations in the hospital and that essentially every area of the hospital could be classified as a public location. Another commenter asked that "public locations" specifically include the admissions areas and the emergency room, noting that patients and their family members generally pass through one of those two areas during their stay and that having at least one uniform location where these documents are available would help ensure that patients know where to go for paper copies. In response to these comments, the final regulations specify that "public locations" in a hospital facility where paper copies must be provided upon request include, at a minimum, the emergency room (if any) and the admissions areas.

Other commenters asked that making paper copies "available upon request" should be required only with respect to patients who indicate that they lack access to the Internet. The final regulations clarify that hospital facilities may inform individuals requesting copies that the various FAP documents are available on a Web site or otherwise offer to provide the documents electronically (for example, by email or on an electronic screen). However, the Treasury Department and the IRS continue to believe that making paper copies of the FAP documents available to those persons who request them is important to achieve adequate transparency. Accordingly, the final regulations also make clear that a hospital facility must provide a paper copy unless the individual indicates he or she would prefer to receive or access the document electronically.

C. Notifying and informing hospital facility patients

With respect to the requirement in the 2012 proposed regulations to notify and inform visitors to a hospital facility about the FAP through a conspicuous public display (or other measures reasonably calculated to attract visitors' attention), a number of commenters asked for clarification on what makes a public display "conspicuous," with one such commenter noting that placement of a small placard in a corner of a financial assistance office that is rarely seen by patients should not be sufficient.

The Treasury Department and the IRS believe that what makes a public display "conspicuous" is both for the display to be of a noticeable size and for the display to be placed in a location in the hospital facility where visitors are likely to see it. Thus, similar to the requirement regarding making paper copies of the FAP documents available upon request in "public locations" in the hospital facility, the final regulations clarify that hospital facilities must notify and inform visitors about the FAP in "public locations" in the hospital facility, including, at a minimum, the emergency room (if any) and admissions areas.

In addition to notifying patients about the FAP through a conspicuous public display (or through other measures reasonably calculated to attract visitors' attention), the final regulations also require hospital facilities to widely publicize their FAPs by providing FAP information to patients before discharge and with billing statements. The 2012 proposed regulations included the notification of patients about the FAP before discharge and with billing statements as part of the notification component of reasonable efforts to determine FAP-eligibility under section 501(r)(6). However, these efforts to notify and inform patients about the FAP before discharge and with billing statements may also be appropriately categorized as measures to widely publicize the FAP under section 501(r)(4). Thus, the final regulations consolidate all of the requirements that involve notifying patients generally about the FAP under the section 501(r)(4) widely publicizing requirements. As a result, the notification component of reasonable efforts to determine FAP-eligibility under the section 501(r)(6) final regulations is simplified and is focused primarily on those patients against whom a hospital facility actually intends to engage in extraordinary collection actions. The Treasury Department and the IRS expect that moving the requirement that hospital facilities notify and inform patients about the FAP with billing statements and as part of their intake or discharge process from the section 501(r)(6) regulations to the section 501(r)(4) regulations will increase understanding of the requirements and compliance, without a loss of notification to patients.

In addition to requiring hospital facilities to notify individuals about their FAPs before discharge and on billing statements as part of widely publicizing their FAPs, the final regulations also amend these requirements in several important respects in response to comments to the 2012 proposed regulations. First, rather than require a full plain language summary with billing statements, the final regulations require only that a hospital facility's billing statement include a conspicuous written notice that notifies and informs the recipient about the availability of financial assistance under the hospital facility's FAP and includes the telephone number of the hospital facility office or department that can provide information about the FAP and FAP application process and the direct Web site address (or URL) where the copies of the FAP documents may be obtained. This change responds to those comments (discussed in greater length in section 6.b.iii of this preamble) that noted that a reference on the billing statement to the availability of the FAP and a brief description of how to obtain more information should provide sufficient notification to patients while minimizing costs for hospital facilities.

Second, some commenters appeared to interpret the phrase "before discharge" in the 2012 proposed regulations as requiring distribution "at discharge" and suggested that the latter requirement would not work because outpatients do not always revisit with a hospital registration staff member after care is provided or may never be physically present at the hospital facility. In response to these comments, the final regulations refer to offering the plain language summary as part of either the "intake or discharge process," and the Treasury Department and the IRS intend that those terms be interpreted broadly to include whatever processes are used to initiate or conclude the provision of hospital care to individuals who are patients of the hospital facility. In addition, in response to commenters who noted that many patients will have no interest in receiving a plain language summary of the FAP because they know they are not FAP-eligible, the final regulations require only that a hospital facility "offer" (rather than "provide") a plain language summary as part of the intake or discharge process. Thus, a hospital facility will not have failed to widely publicize its FAP because an individual declines to take a plain language summary that the hospital facility offered on intake or before discharge or indicates that he or she would prefer to receive or access a plain language summary electronically rather than receive a paper copy.

D. Notifying and informing the broader community

Several commenters recommended eliminating altogether the requirement to notify and inform members of the hospital facility's community about the FAP, stating that the other three measures to widely publicize the FAP are sufficient and that this additional specification is vague, open to subjective interpretation, and overly burdensome for hospitals. Other commenters, however, strongly supported the requirement, particularly the special emphasis placed on members of the community most likely to need financial help.

The Treasury Department and the IRS interpret the phrase "widely publicize . . . within the community to be served by the organization" in section 501(r)(4)(v) as going beyond merely making a FAP "widely available" on a Web site or upon request and requiring hospital facilities to affirmatively reach out to the members of the communities they serve to notify and inform them about the financial assistance they offer. Accordingly, the final regulations retain the requirement to notify and inform members[7] of the hospital facility's community in a manner reasonably calculated to reach those members who are most likely to require financial assistance from the hospital facility.

E. Plain language summary of the FAP

The 2012 proposed regulations defined the plain language summary of the FAP as a written statement that notifies an individual that the hospital facility offers financial assistance under a FAP and provides certain specified information, including but not limited to: (1) the direct Web site address and physical location(s) (including a room number, if applicable) where the individual can obtain copies of the FAP and FAP application form; and (2) the contact information, including telephone numbers and physical location (including a room number, if applicable), of hospital facility staff who can provide the individual with information about the FAP and the FAP application process, as well as of the nonprofit organizations or government agencies, if any, that the hospital facility has identified as available sources of assistance with FAP applications.

A number of commenters noted that many hospitals currently assist patients with the FAP application process and that such assistance can be very important for low-income patients with literacy barriers. A few commenters requested that the final regulations require hospitals to assist and/or provide contact information for hospital staff who can assist with the FAP application process. One commenter suggested that the plain language summary should not have to include the contact information of nonprofit organizations or government agencies that assist with FAP applications, recommending instead that hospital facilities be able to include the contact information for the hospital facility's own community health clinics as sources of FAP application assistance.

Although assisting patients with the FAP application process can be an important step in ensuring that patients obtain the financial assistance for which they are eligible, nonprofit organizations or government agencies can be as effective sources of this assistance as hospital facilities themselves. To ensure both that patients have notice of how to obtain assistance with the FAP application process and that hospital facilities have the flexibility to refer patients to other organizations rather than provide assistance themselves, the final regulations require the plain language summary to include the contact information of a source of assistance with FAP applications but allow for this source to be either the hospital facility itself or a different organization. More specifically, the final regulations provide that the plain language summary must include the contact information of either the hospital facility office or department that can provide assistance with (rather than just "information about") the FAP application process or, if the hospital facility

[7]In recognition of the fact that not all hospital facilities will define the communities they serve along strictly geographic lines, the final regulations are amended to refer to "members" of the hospital facility's community rather than "residents."

does not provide assistance with the FAP application process, at least one nonprofit organization or government agency that the hospital facility has identified as an available source of such assistance.

One commenter recommended that the plain language summary of the FAP only be required to list a department rather than a physical location because hospital facility remodeling and redesign could mean that the precise physical location could be subject to change, therefore requiring redrafting of the plain language summary. Another commenter asked that the final regulations clarify that the plain language summary may identify the location and phone number of the appropriate office or department to contact for more information about the FAP, without naming a specific staff person.

The Treasury Department and the IRS continue to think that the physical location in the hospital facility where patients can obtain copies of the FAP and FAP application form and information about and/or assistance with the FAP application process is important, basic information to provide to individuals in the plain language summary. Therefore, the final regulations continue to require this information regarding physical location. However, the final regulations remove a specific reference to a room number to give hospital facilities more flexibility to describe the physical location in the manner that makes the most sense for the hospital facility. The final regulations also clarify that the plain language summary may identify the location and phone number of the appropriate office or department to contact for more information about the FAP and, if applicable, assistance with the FAP application process and does not need to name a specific staff person.

One commenter recommended that, in addition to the required items of information described in the 2012 proposed regulations, the plain language summary should provide a basic outline of the FAP application process and the appropriate times to apply. This commenter stated that many patients will rely on the plain language summary for information about the FAP, in lieu of reading the FAP itself, and that information about when and how to apply for financial assistance is basic information a patient needs to have. The Treasury Department and the IRS agree that information about how to apply for financial assistance is important information for individuals to have, and the final regulations therefore require this information to be included in the plain language summary. Any additional burden created by requiring this information should be mitigated by the fact that the final regulations do not require the plain language summary to be included with all billing statements and other written communications provided during the notification period. As for "when" to apply, while patients generally have at least 240 days from the date of the first bill to apply for financial assistance, the deadline for any particular patient's FAP application will depend on whether and when the hospital facility sends that patient the notice about potential extraordinary collection actions described in section 6.b.iii.C of this preamble that states a deadline. Given the resulting variability in deadlines, the final regulations do not require the plain language summary to include a description of the appropriate times to apply.

A few commenters asked that the plain language summary be required to include a statement regarding patient responsibilities. The Treasury Department and the IRS do not intend for the list of elements required to be included in a plain language summary of the FAP to limit a hospital facility's ability to provide additional information. Accordingly, a hospital facility is permitted, but not required, to include in its plain language summary any additional items of information it deems relevant to the FAP and FAP application process.

F. Translating the FAP documents

The 2012 proposed regulations provided that hospital facilities must translate FAP documents into the primary language of any LEP populations that constitute more than 10 percent of the members of the community served by the hospital facility. One commenter asked that this requirement be eliminated altogether, at least with regard to small or rural hospital facilities, while two other commenters supported the 10-percent threshold for translation. Many additional commenters requested that the translation threshold be lowered from 10 percent to the lesser of 5 percent or 500 LEP individuals. They noted that some federal translation thresholds are set as low as 500 LEP individuals and that a 5-percent threshold would result in greater consistency with translation guidance provided by the Department of Health and Human Services (HHS). *See* HHS, "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons," 68 FR 47,311 (August 8, 2003) ("HHS Guidance"). The HHS Guidance includes a "safe harbor" that considers it strong evidence that a hospital receiving federal financial assistance is in compliance with written translation obligations under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et. seq.) if it provides written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered.[8]

Both Medicaid and Medicare Part A constitute "federal financial assistance" for purposes of Title VI of the Civil Rights Act, and the Treasury Department and the IRS expect that virtually every hospital facility operated by an organization described in section 501(c)(3) accepts Medicaid and/or Medicare Part A. The Treasury Department and the IRS also expect that documents that describe the financial assistance offered by a hospital facility and that are necessary to apply for such financial assistance would be considered "vital" for purposes of the Title VI obligations. Therefore, the Treasury Department and the IRS expect that many hospital facilities are already translating these documents to meet their Title VI obligations, often in accordance with the safe harbor in the HHS Guidance. As a result, the Treasury Department and the

[8]If there are fewer than 50 persons in a language group that reaches the 5-percent trigger, the recipient of federal financial assistance does not have to translate vital written materials to satisfy the safe harbor but rather may provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

IRS agree with commenters that it is reasonable and appropriate to make the translation threshold applicable to the FAP documents generally consistent with the 5-percent/1000 person threshold under the HHS Guidance safe harbor, and the final regulations adopt this change.

The 2012 proposed regulations provided that a hospital facility could determine whether a LEP group exceeded the relevant threshold based on the latest data available from the U.S. Census Bureau or other similarly reliable data. One commenter requested clarification on whether to use the U.S. Census Bureau's decennial survey or more updated information provided through the American Community Survey. The Treasury Department and the IRS believe that a hospital facility basing its determination of LEP populations in whole or in part on data from the U.S. Census Bureau should be allowed to use either the latest decennial census data or the latest American Community Survey data. In addition, other data sources may also be reasonable to use to determine LEP populations for purposes of these regulations. For example, the HHS Guidance notes that, in determining the LEP persons eligible to be served or likely to be affected or encountered, it may be appropriate for hospitals to examine not only census data but also their prior experiences with LEP patients, data from school systems and community organizations, and data from state and local governments. *See* HHS Guidance, 68 FR at 47314. The Treasury Department and the IRS intend that a hospital facility be able to use these same data sources in determining the LEP persons in the community it serves or likely to be affected or encountered for purposes of these final regulations. Therefore, rather than list the various data sources a hospital facility may use to determine its LEP populations, the final regulations provide that a hospital facility may use any reasonable method to determine such populations.

Several commenters recommended that hospital facilities only be required to translate the plain language summary of the FAP and the FAP application form, not the full FAP, stating that the summary and application form are the documents most useful to patients and that few, if any, patients request the full FAP. The Treasury Department and the IRS believe that the benefits of ensuring that LEP populations have access to the details provided in the FAP that are not captured in a summary or application form outweigh the additional costs that hospital facilities may incur in translating the full FAP document. Accordingly, the final regulations do not adopt this comment.

Several commenters recommended that the final regulations require hospitals to provide access to oral interpreters or bilingual staff on request, regardless of whether the thresholds for written translations are met. The Treasury Department and the IRS believe it would be overly burdensome to require hospital facilities to provide access to oral interpreters or bilingual staff for every language possibly spoken in a community. Accordingly, the final regulations do not adopt this comment.

b. *Emergency medical care policy*

To satisfy the requirements of section 501(r)(4)(B), the 2012 proposed regulations provided that a hospital facility must establish a written policy that requires the hospital facility to provide, without discrimination, care for emergency medical conditions (within the meaning of the Emergency Medical Treatment and Labor Act (EMTALA), section 1867 of the Social Security Act (42 U.S.C. 1395dd)) to individuals, regardless of whether they are FAP-eligible. The 2012 proposed regulations further provided that an emergency medical care policy will generally satisfy this standard if it requires the hospital facility to provide the care for any emergency medical condition that the hospital facility is required to provide under Subchapter G of Chapter IV of Title 42 of the Code of Federal Regulations, which is the subchapter regarding the Centers for Medicare and Medicaid Services' (CMS) standards and certification that includes the regulations under EMTALA. In addition, § 1.501(r)–4(c)(2) of the 2012 proposed regulations provided that a hospital facility's emergency medical care policy would not meet the requirements of section 501(r)(4)(B) unless it prohibited the hospital facility from engaging in actions that discouraged individuals from seeking emergency medical care, such as by demanding that emergency department patients pay before receiving treatment or by permitting debt collection activities in the emergency department or in other areas of the hospital facility where such activities could interfere with the provision, without discrimination, of emergency medical care.

Some commenters stated that the regulations under EMTALA already establish rules for registration processes and discussions regarding a patient's ability to pay in the emergency department and that the final regulations should not go beyond those requirements. A number of commenters noted that the broad language regarding "debt collection in the emergency department" could be read to proscribe ordinary and unobjectionable activities in the emergency room, such as collecting co-payments on discharge, checking for qualification for financial or public assistance, and asking for insurance information or co-pays after patients are stabilized and waiting (sometimes for long periods of time) for test results or follow-up visits from their physician.

Section 1.501(r)–4(c)(2) of the 2012 proposed regulations was intended to apply only to debt collection activities in the emergency department (or other areas of the hospital facility) that could interfere with the provision of emergency care, not to all payment activities in the emergency department regardless of their potential to interfere with care. To make this intent clear, the final regulations are revised to prohibit "debt collection activities that interfere with the provision, without discrimination, of emergency medical care," regardless of where such activities occur.

In addition, the Treasury Department and the IRS note that, since the publication of the 2012 proposed regulations, CMS has made clear that the regulations under EMTALA prohibit applicable hospital facilities from engaging in actions that delay the provision of screening and treatment for an emergency medical condition to inquire about method of payment or insurance status, or from using registration processes that unduly discourage individuals from remaining for further evaluation, such as by requesting immediate payment before or while providing screening or stabilizing treatment for emergency medical conditions. *See* CMS Memorandum S&C–14–06 – Hospitals/CAHs re: EMTALA Requirements &

Conflicting Payor Requirements or Collection Practices, at 6–7 (Dec. 13, 2013). As a result, a hospital facility that provides the screening care and stabilizing treatment for emergency medical conditions, as applicable, that the hospital facility is required to provide under the regulations under EMTALA, should generally not be engaging in the activities that § 1.501(r)–4(c)(2) of the final regulations requires emergency medical care policies to prohibit.

Two commenters asked whether the emergency medical care policy may be in the same document as the FAP. The final regulations do not prevent an emergency medical care policy from being included within the same document as the FAP or from being added to an already existing document related to emergency medical care (such as a document setting forth EMTALA compliance).

c. *Establishing the FAP and other policies*

Consistent with the 2012 proposed regulations, the final regulations provide that a hospital organization will have established a FAP, a separate billing and collections policy, or an emergency medical care policy for a hospital facility only if an authorized body of the hospital facility has adopted the policy and the hospital facility has implemented the policy.

The 2012 proposed regulations provided that a hospital facility has "implemented" a policy if it has "consistently carried out" the policy. A number of commenters asked for more clarity on when a policy will be deemed to be "consistently carried out." Two of these commenters would deem a hospital facility to have consistently carried out a policy only if the hospital facility attests that a policy that meets the requirements of section 501(r)(4) has been followed in all cases.

As discussed in section 2.a of this preamble, the final regulations provide that omissions or errors that are minor and either inadvertent or due to reasonable cause will not result in a failure to meet the requirements of section 501(r)(4) (or any other requirements under section 501(r)) as long as they are corrected in accordance with § 1.501(r)–2(b)(1)(ii) of the final regulations. Therefore, the final regulations make clear that the Treasury Department and the IRS do not intend that every error in implementing a policy described in section 501(r)(4) will result in a failure to meet the requirements of section 501(r)(4). On the other hand, a policy that is simply adopted by an authorized body of a hospital facility but not followed in any regular fashion has not been "established" for purposes of section 501(r)(4). Whether a policy is "consistently carried out" is to be determined based on all of the facts and circumstances. However, if the authorized body of a hospital facility adopts a policy and provides reasonable resources for and exercises due diligence regarding its implementation, then the standard should be met.

The 2012 proposed regulations provided that, while a hospital organization must separately establish a FAP for each hospital facility it operates, such policies "may contain the same operative terms." Several commenters asked that hospital organizations operating multiple facilities be permitted to adopt one FAP for all of their facilities. These commenters argued that many hospital systems have centralized patient financial services operations, including FAPs, and that adopting a single FAP would avoid both significant administrative costs as well as patient confusion about differences in financial responsibilities based on location.

The final regulations clarify that multiple hospital facilities may have identical FAPs, billing and collections policies, and/or emergency medical care policies established for them (or even share one joint policy document), provided that the information in the policy or policies is accurate for all such facilities and any joint policy clearly states that it is applicable to each facility. The final regulations also note, however, that different hospital facilities may have different AGB percentages or use different methods to determine AGB that would need to be reflected in each hospital facility's FAP (or, in the case of AGB percentages, in a separate document that can be readily obtained).

5. *Limitation on Charges*

The final regulations provide that a hospital organization meets the requirements of section 501(r)(5) with respect to a hospital facility it operates only if the hospital facility limits the amounts charged for any emergency or other medically necessary care it provides to a FAP-eligible individual to not more than AGB. The final regulations also require a hospital facility to limit the amounts charged to FAP-eligible individuals for all other medical care covered under the FAP to less than the gross charges for that care.

a. *Amounts generally billed*

The 2012 proposed regulations provided two methods for hospital facilities to use to determine AGB. The first was a "look-back" method based on actual past claims paid to the hospital facility by either Medicare fee-for-service alone or Medicare fee-for-service together with all private health insurers paying claims to the hospital facility (including, in each case, any associated portions of these claims paid by Medicare beneficiaries or insured individuals). The second method was "prospective," in that it required the hospital facility to estimate the amount it would be paid by Medicare and a Medicare beneficiary for the emergency or other medically necessary care at issue if the FAP-eligible individual were a Medicare fee-for-service beneficiary. For purposes of the 2012 proposed regulations, the term "Medicare fee-for-service" included only health insurance available under Medicare Parts A and B and not health insurance plans administered under Medicare Advantage.

Many commenters stated that allowing hospital facilities only two methods for calculating AGB was insufficiently flexible. Some commenters asked that the final regulations only require hospital facilities to fully disclose and describe the method they used to determine AGB on their Forms 990, without requiring hospital facilities to determine AGB in any particular manner. A few commenters noted that Medicare and insurer reimbursement models may shift over time and that flexibility will be needed to ensure that the methods for determining AGB set forth in the final regulations do not become antiquated or hamper evolution in reimbursement models. However, no additional methods to determine AGB were identified.

Providing hospital facilities complete discretion to select methods in determining AGB would make it very difficult for the IRS to enforce the statutory requirement that hospital facilities not charge FAP-eligible individuals more than AGB and difficult for the public to understand and recognize whether hospital facilities are complying with this requirement. However, the Treasury Department and the IRS recognize that Medicare and insurer reimbursement methodologies may evolve over time and that additional ways to determine AGB may be identified in the future. Therefore, the final regulations allow the Treasury Department and the IRS to provide for additional methods to determine AGB in future published guidance as circumstances warrant.

Many commenters suggested that the options for determining AGB should be expanded or amended to permit hospital facilities to base AGB on the payments of private, commercial insurers only, without also taking into account Medicare payments. Some commenters specifically asked for the ability to determine AGB based on "either the best, or an average of the three best, negotiated commercial rates," as suggested in the JCT's Technical Explanation. *See* Technical Explanation at 82. These commenters reasoned that individuals with commercial insurance are more representative of FAP-eligible populations than Medicare beneficiaries (as the latter generally include the elderly). A few commenters also suggested that Medicare rates are an inappropriate proxy for AGB because they are not the result of negotiations between parties and, according to these commenters, do not always cover the costs of providing care to Medicare beneficiaries. On the other hand, other commenters recommended that AGB be based on Medicare alone, arguing that this would increase transparency because amounts reimbursed by Medicare are publicly verifiable.

Because Medicare reimbursements constitute a large proportion of most hospital facilities' total insurance reimbursements, the Treasury Department and the IRS continue to believe a method of determining AGB that excludes Medicare and is based only on the claims or rates of private health insurers would be inconsistent with the statutory phrase "amounts generally billed to individuals who have insurance." On the other hand, the Treasury Department and the IRS find no support in either the statutory language of section 501(r)(5) or the Technical Explanation for requiring (rather than just allowing) AGB to be based on Medicare alone. Thus, the final regulations continue to allow hospital facilities using the look-back method to base AGB on the claims of Medicare fee-for-service plus all private health insurers, as well as on Medicare alone.

A few commenters noted that Medicaid is the largest governmental payer for children's hospitals and recommended that hospital facilities be able to use Medicaid rates in calculating AGB. The final regulations adopt this recommendation and allow hospital facilities to base AGB on Medicaid rates, either alone or in combination with Medicare (or, under the look-back method, together with Medicare and all private health insurers), at the hospital facility's option.

With respect to Medicaid, one commenter noted that, in many states, private managed care organizations operate Medicaid managed care plans and that the final regulations should expressly state whether Medicaid managed care claims and rates are to be included when determining AGB. In response to this comment, the final regulations provide that the term "Medicaid," as used in the final regulations, includes medical assistance provided through a contract between the state and a Medicaid managed care organization or a prepaid inpatient health plan and that such assistance is not considered reimbursements from or claims allowed by a private health insurer. By contrast, the final regulations, like the 2012 proposed regulations, provide that a hospital facility must treat health insurance plans administered by private health insurers under Medicare Advantage as the plans of private health insurers.

Many commenters asked how the limitation on charges to AGB applies to insured individuals who are eligible for financial assistance. Most of these commenters recommended that the AGB limitation apply only to uninsured individuals, asserting that section 501(r)(5) was enacted to provide uninsured individuals in need of assistance with the benefit of rates negotiated by insurance companies and that requiring the use of AGB for insured patients could inadvertently reduce the availability of financial assistance for insured patients. One commenter suggested that, for insured patients who receive a partial financial assistance discount, AGB should be equal to the amounts generally billed for the care minus payments made by the third-party insurer. Another commenter suggested that the AGB limitation should only apply to the patient liability and not include payments made by third parties, such as health insurers.

The Treasury Department and the IRS note that section 501(r)(5) does not distinguish between insured and uninsured FAP-eligible individuals. Accordingly, the final regulations continue to apply the AGB limitation of section 501(r)(5) to all individuals eligible for assistance under the hospital facility's FAP, without specific reference to the individual's insurance status. In response to the comments, however, the final regulations clarify that, for purposes of the section 501(r)(5) limitation on charges, a FAP-eligible individual is considered to be "charged" only the amount he or she is personally responsible for paying, after all deductions and discounts (including discounts available under the FAP) have been applied and less any amounts reimbursed by insurers. Thus, in the case of a FAP-eligible individual who has health insurance coverage, a hospital facility will not fail to meet the section 501(r)(5) requirements because the total amount required to be paid by the FAP-eligible individual and his or her health insurer together exceeds AGB, as long as the FAP-eligible individual is not personally responsible for paying (for example, in the form of co-payments, co-insurance, and deductibles) more than AGB for the care after all reimbursements by the insurer have been made. The final regulations also add several examples demonstrating how the limitation on charges works when applied to insured FAP-eligible individuals.

A few commenters asked that the final regulations clarify that AGB represents the maximum amount hospital facilities can charge to FAP-eligible individuals and that hospital facilities may charge FAP-eligible individuals less than AGB (that is, provide a more generous discount under a FAP). The Treasury Department and the IRS have added an example to the final regulations to confirm this point.

The 2012 proposed regulations provided that, after choosing a particular method to determine AGB, a hospital facility must continue using that method indefinitely. The preamble to the 2012 proposed regulations requested comments on whether a hospital facility should be allowed to change its method of determining AGB under certain circumstances or following a certain period of time and, if so, under what circumstances or how frequently. Commenters uniformly noted that there could be many practical reasons that a hospital facility might want to change its method for determining AGB, such as changes in technologies or processes that make a previously-selected method less administrable.

In response to these comments, the final regulations provide that a hospital facility may change the method it uses to determine AGB at any time. However, because the final regulations under section 501(r)(4) require a hospital facility's FAP to describe the method used to determine AGB, a hospital facility must update its FAP to describe a new method before implementing it.

A number of commenters noted that the 2012 proposed regulations do not define the term "medically necessary care." Some commenters asked that the final regulations provide that hospital facilities have the discretion to determine how non-emergency and elective services are considered under their FAPs. Other commenters recommended that the final regulations define the term "medically necessary care." Suggested definitions included the Medicaid definition used in the hospital facility's state or other definitions provided by state law, a definition that refers to the generally accepted medical practice in the community, or a definition based on the determination made by the examining physician or medical team.

The final regulations allow hospital facilities to define the term "medically necessary care" for purposes of their FAPs and the AGB limitation in recognition of the fact that health care providers and health insurers may have reasonable differences in opinion on whether some health care services are medically necessary in particular circumstances. In defining medically necessary care for purposes of their FAPs and the AGB limitation, the final regulations clarify that hospital facilities may (but are not required to) use the Medicaid definition used in the hospital facility's state, other definitions provided by state law, or a definition that refers to the generally accepted standards of medicine in the community or an examining physician's determination.

i. Look-Back Method

Under the look-back method for determining AGB, a hospital facility determines AGB for any emergency or other medically necessary care provided to a FAP-eligible individual by multiplying the hospital facility's gross charges for that care by one or more percentages of gross charges, called "AGB percentages." Hospital facilities must calculate their AGB percentages no less frequently than annually by dividing the sum of certain claims for emergency and other medically necessary care by the sum of the associated gross charges for those claims. A hospital facility may use the look-back method to calculate one average AGB percentage for all emergency and other medically necessary care provided by the hospital facility, or multiple AGB percentages for separate categories of care (such as inpatient and outpatient care or care provided by different departments) or for separate items or services. However, a hospital facility calculating multiple AGB percentages must calculate AGB percentages for all emergency and other medically necessary care it provides.

The 2012 proposed regulations provided that the AGB percentages must be based on all claims that have been "paid in full" to the hospital facility for emergency and other medically necessary care by Medicare fee-for-service alone, or by Medicare fee-for-service together with all private health insurers, during a prior 12-month period. A few commenters asked whether the phrase "claims . . . paid in full" as used in the 2012 proposed regulations was intended to include claims that a hospital facility had partially written off as bad debt and/or treated as paid in full after taking into account a discount it had granted. If so, commenters asked whether the hospital facility should only include the reduced amount actually paid when calculating the AGB percentage(s). One commenter also asked whether the amount a hospital facility has accepted for the claim in a sale to a third-party debt collector should be treated as "paid in full." Two commenters suggested that, instead of being based on claims "paid in full," the AGB percentages should be based on "contracted rates" or the amounts that are allowed by health insurers.

To eliminate the uncertainty created by the phrase "paid in full," the final regulations provide that, when calculating its AGB percentage(s) under the look-back method, a hospital facility should include in the numerator the full amount of all of the hospital facility's claims for emergency and other medically necessary care that have been "allowed" (rather than "paid") by health insurers during the prior 12-month period. For these purposes, the full amount allowed by a health insurer should include both the amount to be reimbursed by the insurer and the amount (if any) the individual is personally responsible for paying (in the form of co-payments, co-insurance, and deductibles), regardless of whether and when the individual actually pays all or any of his or her portion and disregarding any discounts applied to the individual's portion (under the FAP or otherwise).

Several commenters interpreted the 2012 proposed regulations to mean that hospital facilities had to include the claims for all emergency and other medically necessary care provided during the prior 12-month period when calculating AGB percentages. These commenters pointed out that many of the claims for care provided toward the end of a 12-month period will not be adjudicated by an insurer until some amount of time after the end of that 12-month period. Under both the 2012 proposed regulations and these final regulations, the inclusion of a claim in a hospital facility's calculation of its AGB percentage(s) is not based on whether the care associated with the claim was provided during the prior 12-month period. Rather, it is based on whether the claim is "allowed" (formerly, "paid in full") during the prior 12-month period. The final regulations clarify this point. The final regulations also state that, if the amount a health insurer will allow for a claim has not been finally determined as of the last day of the 12-month period used to calculate the AGB percentage(s), a hospital facility should exclude the amount of the claim from that calculation and include it in the subsequent 12-month period during which the amount allowed is finally determined.

A few commenters asked that hospital facilities be permitted to calculate AGB percentages under the look-back method based on claims for all medical care allowed in the prior 12-month period, rather than just the claims for emergency and medically necessary care. These commenters stated that it would be administratively burdensome to have to sift out only the claims for emergency and medically necessary care. Accordingly, the final regulations provide that a hospital facility may include in the calculation of its AGB percentage(s) claims for all medical care allowed during the prior 12-month period rather than just the claims allowed for emergency and other medically necessary care. The Treasury Department and the IRS note that the calculation of a hospital facility's AGB percentage(s) includes only claims allowed by insurers and that insurers generally allow claims only for care that is medically necessary. Thus, the Treasury Department and the IRS do not expect that there will be a significant difference between AGB percentages based on all claims allowed by insurers and AGB percentages based on all claims allowed by insurers for emergency and other medically necessary care.

A few commenters noted that the health care delivery system is migrating from a fee-for-service model to other methods of payment, used by both public and private payers, that include "value-based," accountable care, and shared savings payments. These commenters stated that the 2012 proposed regulations failed to account for these other methods of payment because the method of calculating AGB percentages appeared to be based on claims for individual episodes of care, while value-based, accountable care, shared savings, and similar payments are not necessarily tied to individual episodes of care.

As a general matter, the Treasury Department and the IRS interpret the statutory phrase "amounts generally billed to individuals who have insurance covering such care" as referring to amounts billed or reimbursed for care received by those insured individuals. It is not clear, and commenters did not address, how lump sum payments from an insurer with no direct connection to any specific individual's care would appropriately be included in a determination of AGB. As a result, the final regulations do not amend the look-back method or the prospective method to specifically account for any such separate payment streams. However, if a hospital facility can reasonably allocate a capitated (or other lump sum) payment made by an insurer to care received by particular patients during a twelve-month period and has also tracked the gross charges for that care, it may be able to reasonably incorporate such payments into its calculation of one or more AGB percentages under the look-back method described in the final regulations. In addition, the Treasury Department and the IRS will continue to consider whether hospital facilities need alternative methods of determining AGB that directly accommodate capitated payments or value-based, accountable care, shared savings, and similar payments, and, if so, such alternative methods may be provided in future regulations, revenue rulings, or other published guidance.

The look-back method described in the 2012 proposed regulations only included claims paid by Medicare fee-for-service and/or private health insurers as primary payers. One commenter indicated that payments made by secondary payers should also be included in a hospital facility's calculation of its AGB percentage(s) because considering only primary payers and patient co-insurance, copayments, and deductibles artificially depresses the AGB percentages. The Treasury Department and the IRS intend for hospital facilities to be able to include in the calculation of their AGB percentages the total amount of claims for care allowed by primary insurers (including both the amounts paid by primary insurers and the amounts insured individuals are personally responsible for paying in the form of co-payments, co-insurance, and deductibles), regardless of whether secondary insurers end up paying some or all of the insured individual's portion. In addition, if an individual's primary insurer does not cover a certain procedure but his or her secondary insurer does, including the amount allowed by the secondary insurer in the calculation of the hospital facility's AGB percentage(s) will not result in any duplication because only one amount was allowed by an insurer. Moreover, if the secondary insurer is of the type that is otherwise being included in the hospital facility's calculation of the AGB percentage (that is, Medicare, Medicaid, and/or a private health insurer), the amounts allowed by the secondary insurer should be included in the calculation to ensure that the resulting AGB percentage(s) is fully representative of the amounts allowed by the applicable type of insurer(s). Thus, to eliminate any confusion, the final regulations remove the references to "primary payers" contained in the 2012 proposed regulations.

Numerous commenters asked that hospital organizations be permitted to calculate AGB percentages on a system-wide basis, stating that many hospital systems have centralized patient financial services operations and that permitting a system-wide calculation would avoid both significant administrative costs and patient confusion about differences in financial responsibilities based on location. Because different hospital facilities within a system can serve distinct geographic areas, offer significantly different services, and have different negotiated rates with insurers, allowing hospital systems to calculate AGB percentages across the entire system could result in AGB percentages that would not accurately reflect the amounts generally billed to individuals with insurance by the separate hospital facilities within the system. Specifically, a system-wide AGB percentage would be an average across hospital facilities, some of which may have lower negotiated reimbursement rates with insurers or more Medicare patients than others. Use of a system-wide AGB percentage could result in higher charges for the FAP-eligible patients of those hospital facilities in the system with lower negotiated reimbursement rates or more Medicare patients than would be the case if the AGB were calculated on a facility-by-facility basis. Accordingly, the final regulations do not permit such system-wide calculations. However, because hospital facilities that have satisfied CMS criteria to bill and be covered under one Medicare provider number may find it administratively difficult to separate claims by hospital facility, the final regulations allow hospital facilities that are covered under the same Medicare provider agreement (as identified by the same CMS Certification Number) to calculate one AGB percentage (or multiple AGB percentages for separate categories of care or separate items or services) based on the claims and gross charges for all such hospital facilities and implement the AGB percentage(s) across all such hospital facilities.

One commenter asked that the final regulations clarify that a hospital organization operating more than one hospital facility may select the look-back method for some of its facilities and the prospective method for others. The 2012 proposed regulations were not intended to prevent different hospital facilities operated by the same hospital organization from using different methods to determine AGB at different hospital facilities, and these final regulations expressly state that this is permissible.

The 2012 proposed regulations provided that a hospital facility must begin applying its AGB percentage(s) by the 45th day after the end of the 12-month period the hospital facility used in calculating the AGB percentage(s) and requested comments regarding whether a hospital facility needs more than 45 days. Numerous commenters stated that hospital facilities need a period longer than 45 days both to complete the calculation and to make the updates to their policies, processes, systems, and communications necessary to implement the changes and recommended periods ranging from 60 to 120 days. In response to these comments, the final regulations allow a hospital facility to take up to 120 days after the end of the 12-month period used in calculating the AGB percentage(s) to begin applying its new AGB percentage(s). The Treasury Department and the IRS note that, because the final regulations under section 501(r)(4) require a hospital facility's FAP to state the hospital facility's AGB percentage(s) or explain how members of the public may readily obtain such percentage(s), a hospital facility must update its FAP (or other readily obtainable material) to reflect new AGB percentage(s).

The 2012 proposed regulations requested comments regarding whether a hospital facility using the look-back method should have the option to base its AGB-percentage calculation on a representative sample of claims (rather than all claims) that were paid in full over a prior 12-month period and, if so, how hospital facilities would ensure that such samples are representative and reliable. A few commenters suggested that the final regulations should permit the use of samples, but they did not provide much additional explanation of why samples were necessary or how samples could be determined in a representative and reliable way. Other commenters argued that samples would be inaccurate and that permitting the use of sampling would give hospital facilities an excessive ability to manipulate their computations and exacerbate problems with transparency or protections for consumers. Because legitimate concerns were raised by commenters with respect to sampling and no comments explained why the use of samples was necessary or how hospital facilities could ensure that such samples would be representative and reliable, the final regulations do not allow hospital facilities using the look-back method to base their calculation of AGB percentage(s) on a sample of claims. The Treasury Department and the IRS note, however, that, to the degree using all claims in calculating AGB percentages takes longer than using a representative sample, hospital facilities have 120, not 45, days after the end of the applicable 12-month period to calculate and implement AGB percentages under the final regulations.

The 2012 proposed regulations also requested comments regarding whether hospital facilities might significantly increase their gross charges after calculating one or more AGB percentages and whether such an increase could mean that determining AGB by multiplying current gross charges by an AGB percentage would result in charges that exceed the amounts that are in fact generally billed to those with insurance at the time of the charges. A number of commenters stated that such safeguards are unnecessary, since most hospitals do not update their gross charges more than once a year, increases are generally based on an annual market analysis, and AGB calculations would not drive hospitals to change their gross charges. After considering the comments received on this issue, the final regulations do not modify the proposed rule in this regard.

ii. Prospective Method

Under the prospective method described in the 2012 proposed regulations, a hospital facility could determine AGB for any emergency or other medically necessary care that the hospital facility provided to a FAP-eligible individual by using the same billing and coding process the hospital facility would use if the individual were a Medicare fee-for-service beneficiary and setting AGB for that care at the amount that Medicare and the Medicare beneficiary together would be expected to pay for the care. The Treasury Department and the IRS requested comments regarding whether a hospital facility should also have the option of determining AGB based on the private health insurer with the lowest rate or the three private health insurers with the three lowest rates. Some commenters who responded to this request for comments said hospital facilities should have this option under both the prospective and the look-back methods, while other commenters recommended that AGB be based on Medicare alone. For reasons discussed previously in this section 5.a of the preamble (including the fact that Medicare reimbursements constitute a large proportion of most hospital facilities' total insurance reimbursements), the Treasury Department and the IRS believe that excluding Medicare and basing AGB only on the private health insurer with the lowest rate or the three private health insurers with the three lowest rates would not accurately capture the amounts generally billed by hospital facilities to individuals with insurance in many cases. Thus, the final regulations do not permit hospital facilities to determine AGB using the prospective method based on the private health insurers with the lowest rate or the three private health insurers with three lowest rates.

Consistent with changes made to the look-back method, the final regulations allow hospital facilities to determine AGB under the prospective method based on Medicaid, either alone or in combination with Medicare fee-for service. More specifically, the final regulations provide that a hospital facility using the prospective method may base AGB on either Medicare fee-for-service or Medicaid or both, provided that, if it uses both, its FAP describes the circumstances under which it will use Medicare fee-for-service or Medicaid in determining AGB.

b. *Gross charges*

The 2012 proposed regulations provided that a hospital facility must charge a FAP-eligible individual less than the gross charges for any medical care provided to that individual. Several commenters argued that, unlike the AGB requirement in section 501(r)(5)(A), the language regarding the prohibition on the use of gross charges in section 501(r)(5)(B) does not refer to FAP-eligible individuals, in particular. As a result, these commenters recommended that the final regulations prohibit the use of gross charges for all individuals, not just FAP-eligible individuals.

The Treasury Department and the IRS believe it is reasonable to interpret section 501(r)(5)(B)'s prohibition on gross charges in the context of section 501(r)(5) as a whole, which is intended to limit the amounts charged to FAP-eligible individuals. The JCT clarified this intent in the Technical Explanation, remarking that "[a] hospital facility may not use gross charges . . . when billing individuals who qualify for financial assistance." *See* Technical Explanation, at 82. Thus, the final regulations continue to apply the prohibition on gross charges only to FAP-eligible individuals.

The 2012 proposed regulations applied the AGB limitation only to charges to FAP-eligible individuals for emergency or other medically necessary care, while the prohibition on charging FAP-eligible individuals gross charges would also apply to "all other medical care." A few commenters interpreted this language to mean that the prohibition on gross charges applies even to elective procedures not covered under the FAP. In response, the final regulations clarify that this limitation applies only to charges for care covered under a hospital facility's FAP, which may, but need not, cover care that is neither emergency nor medically necessary care.

c. *Safe harbor for certain charges in excess of AGB*

The 2012 proposed regulations included a safe harbor under which a hospital facility would not violate section 501(r)(5) if it charged more than AGB for emergency or other medically necessary care, or charged gross charges for any medical care, to a FAP-eligible individual who had not submitted a complete FAP application as of the time of the charge, provided that the hospital facility made and continued to make reasonable efforts to determine whether the individual was FAP-eligible (within the meaning of and during the periods required by the regulations under section 501(r)(6)).

Because the steps to notify individuals about the FAP that remain in the regulations under section 501(r)(6) (as opposed to those that have been moved to the regulations under section 501(r)(4)) are focused on the individuals against whom a hospital facility actually intends to initiate extraordinary collection actions, the § 1.501(r)–5(d) safe harbor in the final regulations does not retain the requirement in the 2012 proposed regulations that the hospital facility make reasonable efforts to determine whether the individual is FAP-eligible within the meaning of the section 501(r)(6) regulations. Instead, the safe harbor focuses on remedying the overcharging by requiring that, if an individual submits a complete FAP application and is determined to be FAP-eligible for care, the hospital facility must refund any amount the individual has paid for the care that exceeds the amount he or she is determined to be personally responsible for paying as a FAP-eligible individual. For reasons discussed in section 6.b.v.B of this preamble, the § 1.501(r)–5(d) safe harbor in the final regulations also contains an exception to this general requirement to refund under which a hospital facility is not required to refund excess payments of less than $5.

One commenter suggested that the § 1.501(r)–5(d) safe harbor should only require a hospital facility to refund amounts paid by a FAP-eligible individual in excess of AGB. As part of properly implementing their FAPs, hospital facilities should charge FAP-eligible individuals only the amounts they are determined to owe as FAP-eligible individuals. Thus, a hospital facility should not be permitted to charge FAP-eligible individuals more than AGB and be able to avail itself of the § 1.501(r)–5(d) safe harbor unless it is willing to refund any amounts paid by a FAP-eligible individual that exceed the amount he or she is determined to owe as a FAP-eligible individual.

Two commenters recommended that the safe harbor under the section 501(r)(5) regulations require a hospital facility to charge all individuals AGB or less during the application period unless it has affirmatively determined that the individual is not FAP-eligible. The Treasury Department and the IRS expect that a hospital facility will not be able to affirmatively determine whether most of its patients are FAP-eligible because most of its patients who are not FAP-eligible will not apply for financial assistance. Accordingly, such a rule would undercut the purpose of the safe harbor and is not adopted by these final regulations.

As discussed further in section 6.a.iv of this preamble, two commenters noted that charging individuals an upfront payment as a condition of receiving care may be tantamount to denying that care in the case of medically indigent people, and the final regulations consider demanding payment of a past bill as a condition of receiving future medically necessary care to be an extraordinary collection action. In addition, the Treasury Department and the IRS believe that the § 1.501(r)–5(d) safe harbor should not protect hospital organizations that charge an upfront payment in excess of AGB to FAP-eligible individuals. Accordingly, the final regulations provide that the § 1.501(r)–5(d) safe harbor does not apply to charges made or requested as a pre-condition of providing medically necessary care to a FAP-eligible individual. Thus, if a hospital facility requires an individual to make an upfront payment for medically necessary care that exceeds the AGB for the care and the individual turns out to be FAP-eligible, the hospital facility will have failed to meet the requirements of section 501(r)(5).

6. *Billing and Collection*

Consistent with the statute, the final regulations provide that a hospital organization meets the requirements of section 501(r)(6) with respect to a hospital facility it operates only if the hospital facility does not engage in extraordinary collection actions (ECAs) against an individual to obtain payment for care before making reasonable efforts to determine whether the individual is FAP-eligible for the care. For these purposes, and consistent with the 2012 proposed regulations, a hospital facility will be considered to have engaged in ECAs against an individual to obtain payment for care if the hospital facility engages in such ECAs against any other individual who has accepted or is required to accept responsibility for the first individual's hospital bill for the care.

One commenter interpreted the provision in the 2012 proposed regulations regarding ECAs against individuals with responsibility for a patient's hospital bill as applying to private and public insurers covering all or a portion of the patient's hospital bill. Under the Code, the term "individual" does not include any trust, estate, partnership, association, company, corporation, or governmental entity and, thus, would not include any private or public insurer. Accordingly, the final regulations retain the provision in the 2012 proposed regulations regarding ECAs against individuals with responsibility for a patient's hospital bill. This provision does not require a hospital facility to make reasonable efforts to determine FAP-eligibility before engaging in ECAs against private or public insurers or any other liable third parties that are not individuals.

The 2012 proposed regulations also provided that a hospital facility will be considered to have engaged in an ECA against an individual to obtain payment for care if any purchaser of the individual's debt or any debt collection agency or other party to which the hospital facility has referred the individual's debt has engaged in an ECA against the individual to obtain payment for the care. Many commenters asked that the regulations relieve hospital facilities from strict liability under section 501(r)(6) for the actions of third parties, provided that the hospital facility acts in good faith to supervise and enforce the section 501(r)(6) obligations of its contractual agreements with collection agents and takes remedial steps with respect to any contractual violations it discovers. These commenters argued that a hospital's tax-exempt status should not be placed in jeopardy by a debt collection agency's actions of which it is unaware. Other commenters, however, recommended that the final regulations retain the provision holding hospital facilities accountable for the billing and collection actions of third-party contractors and debt buyers.

The Treasury Department and the IRS continue to believe that hospital facilities must be held accountable for the ECAs of the debt collection agencies and debt buyers to which they refer or sell debt. Otherwise, hospital facilities could easily avoid their responsibilities under section 501(r)(6) by referring or selling their debt to third parties. Nonetheless, the Treasury Department and the IRS expect that the concerns of these commenters are largely addressed by the provision, outlined in section 2.b of this preamble, under which a hospital facility's failure to meet the requirements of section 501(r)(6) will be excused if the failure is not willful or egregious and the hospital facility both corrects and discloses the failure in accordance with published guidance. Under this provision, if a hospital facility acts reasonably and in good faith to supervise and enforce the section 501(r)(6) obligations of its contractual agreements with debt collectors or purchasers and corrects any contractual violations it discovers, then an error on the part of the debt collectors or purchasers should not be willful and, provided that it is not egregious, could be excused if the hospital facility corrects and discloses the failure in accordance with the procedures outlined in the revenue procedure described in § 1.501(r)–2(c). Accordingly, the final regulations retain the provision holding a hospital facility accountable for the ECAs of the third parties collecting debt on its behalf or to which it sells debt.

One commenter interpreted the 2012 proposed regulations as suggesting that a hospital facility must meet the section 501(r)(6) requirements with respect to all care provided by the hospital facility, even if that care is elective and not medically necessary. Section § 1.501(r)–6(b) of these final regulations and the 2012 proposed regulations define ECAs as actions related to obtaining payment of bills "for care covered under the hospital facility's FAP." Both the proposed and final regulations under section 501(r)(4) only require a FAP to cover emergency and other medically necessary care. Because a hospital facility has discretion over whether its FAP covers elective procedures that are not medically necessary, it has discretion over whether or not it must meet the section 501(r)(6) requirements with respect to such elective care.

a. *Extraordinary collection actions*

The 2012 proposed regulations defined ECAs as actions taken by a hospital facility against an individual related to obtaining payment of a bill for care covered under the hospital facility's FAP that require a legal or judicial process, involve selling an individual's debt to another party, or involve reporting adverse information about an individual to consumer credit reporting agencies or credit bureaus (collectively, "credit agencies").

Some commenters asked that the final regulations clarify that certain additional actions, such as writing off an account to bad debt, sending a patient a bill, or calling a patient by telephone to make reasonable inquiries, are not ECAs. These actions do not require a legal or judicial process or involve reporting adverse information to a credit agency or the selling of an individual's debt and would not come within the definition of ECAs under either the 2012 proposed regulations or the final regulations. However, because there are many possible actions that would not be ECAs and such actions cannot be exhaustively listed in the regulations, the final regulations do not respond to these comments by enumerating actions that are not ECAs (although they do provide for some exceptions with respect to the ECAs that are enumerated, as described in sections 6.a.ii and 6.a.iii of the preamble).

i. Reports to Credit Agencies

Many commenters argued that reporting adverse information to a credit agency should not be considered an ECA because such reporting is not a collection action and is a common practice of hospital facilities. One commenter argued that Congress could not have intended credit agency reporting to be an ECA because section 501(r)(4)(A)(iv) provides that a tax-exempt hospital facility's FAP or separate billing and collection policy must include, among other items, "the actions the organization may take in the event of non-payment, including collections action[s] and reporting to credit agencies." Other commenters supported defining ECAs to include reporting an individual's non-payment of a debt to a credit agency, noting that such an action is a tool in collecting debt and can have extraordinarily detrimental consequences for individuals by resulting in bad credit records for many years.

The Treasury Department and the IRS view reporting to credit agencies as a collection action because it is a tool to collect delinquent debts, and bad credit reports can have extraordinarily detrimental consequences for the affected individuals. Moreover, the requirement under section 501(r)(4)(A)(iv) that a hospital facility describe reporting to credit agencies in its FAP or billing and collections policy evidences Congress's concern regarding such reporting. In addition, the JCT's Technical Explanation states that "'reasonable efforts' includes notification . . . before collection action or reporting to credit agencies is initiated." Technical Explanation, at 82. Because section 501(r)(6) only requires a hospital facility to make reasonable efforts before initiating an ECA, this statement supports the conclusion that reporting to credit agencies is an ECA. Accordingly, the final regulations continue to include the reporting of adverse information to credit agencies as an ECA.

ii. Certain Liens

The 2012 proposed regulations provided a non-exclusive list of examples of actions that require a legal or judicial process, which included the placement of a lien on an individual's property. Numerous commenters noted that, when a patient has sued a third party due to an auto accident or other type of accident and, as a part of the settlement, is entitled to receive reimbursement for medical bills, state laws commonly allow hospitals to place a lien on that portion of potential settlement proceeds. Commenters stated that they often need to move quickly if they will ever be able to take possession of such funds and asked that the final rule confirm that this common practice will not be treated as an ECA against the patient.

The proceeds of settlements, judgments, or compromises arising from a patient's suit against a third party who caused the patient's injuries come from the third party, not from the injured patient, and thus hospital liens to obtain such proceeds should not be treated as collection actions against the patient. In addition, the portion of the proceeds of a judgment, settlement, or compromise attributable under state law to care that a hospital facility has provided may appropriately be viewed as compensation for that care. Accordingly, in response to comments, the final regulations expressly provide that these liens are not ECAs.

iii. Sale of an Individual's Debt to Another Party

A number of commenters argued that debt sales should not be considered ECAs because they are an important way for hospitals to avoid having to collect debt themselves. Some commenters noted that holding hospital facilities accountable for the actions of debt buyers should be sufficient to ensure that debt buyers do not themselves engage in ECAs before reasonable efforts are made. In addition, several commenters argued that certain debt sales are beneficial to the patient as well as to the hospital facility because, for example, the buyer may service the debt more efficiently or be able to offer extended payment plans at no or low interest that the hospital facility cannot. These commenters recommended that debt sales should not be considered ECAs if the purchaser of the debt is contractually obligated not to take any actions that are ECAs and/or the debt is returnable to or recallable by the hospital facility.

Other commenters stated that hospital facilities lose control of the debt once they sell it and that debt buyers typically purchase medical debts for pennies on the dollar, without full information about the individual patients, and are thus more likely to pursue flawed claims and engage in abusive practices. These commenters recommended that debt sales be prohibited altogether, even after reasonable efforts are made to determine an individual's FAP-eligibility.

The Treasury Department and the IRS note that section 501(r)(6) does not prohibit any collection actions outright; therefore, the final regulations do not prohibit debt sales altogether. The final regulations do, however, retain the general rule that debt sales are ECAs because the Treasury Department and the IRS agree with those commenters who noted that hospitals have less control over a debt once it has been sold and that debt buyers will generally have less information regarding the individual and the debt and more incentive to engage in ECAs before making reasonable efforts to determine whether an individual is FAP-eligible.

Nonetheless, the Treasury Department and the IRS believe these concerns about debt sales are mitigated in certain cases in which contractual arrangements with debt buyers both allow hospital facilities to retain control over the debt and benefit patients. Accordingly, the final regulations provide that the sale of an individual's debt is not an ECA if, prior to the sale, the hospital facility enters into a legally binding written agreement with the purchaser of the debt containing four conditions. First, the purchaser must agree not to engage in any ECAs to obtain payment of the debt. Second, the purchaser must agree not to charge interest on the debt in excess of the rate in effect under section 6621(a)(2) at the time the debt is sold (or such other interest rate set by notice or other guidance published in the Internal Revenue Bulletin).[9] Third, the debt must be returnable to or recallable by the hospital facility upon a determination by the hospital facility or the purchaser that the individual is FAP-eligible. And, fourth, if the individual is determined to be FAP-eligible and the debt is not returned to or recalled by the hospital facility, the purchaser must adhere to procedures specified in the agreement that ensure that the individual does not pay, and has no obligation to pay, the purchaser and the hospital facility together more than he or she is personally responsible for paying as a FAP-eligible individual. Because debt sales subject to these four conditions are not considered to be ECAs under the final regulations, a hospital facility may make these debt sales without first having made reasonable efforts to determine FAP-eligibility. Debt sales that do not satisfy

[9]The interest rate in effect under section 6621(a)(2) was 3 percent at the time these final regulations were published. *See* Rev. Rul. 2014-29, 2014-52 IRB 960 (Dec. 22, 2014).

these four conditions are ECAs and therefore may not be made until after a hospital facility has made reasonable efforts to determine FAP-eligibility, as described in section 6.b of this preamble.

iv. Including Additional Actions as ECAs

The preamble to the 2012 proposed regulations asked whether deferring or denying care based on a pattern of nonpayment, requiring deposits before providing care, or charging interest on medical debts should constitute ECAs. Some commenters opined that these actions should be categorized as ECAs to protect patients, with two commenters adding that requiring deposits is tantamount to denying care for medically indigent people. Other commenters recommended that these activities should not be ECAs, noting that requiring some deposit from patients prior to scheduling non-emergency care is a common practice among health care providers and that interest is charged by many credit providers. One of these commenters also stated that it is not inappropriate or extraordinary for a hospital to defer provision of care to a patient who has a documented pattern of non-payment unless that patient is seeking emergency care covered under EMTALA through the emergency department.

The Treasury Department and the IRS view the charging of interest on medical debt as a charge for the extension of credit rather than a collection action. In addition, the Treasury Department and the IRS interpret the term "collection action" as applying to actions to collect debts owed for services already rendered, not conditions imposed before any services have been provided or any debts have been incurred. Thus, the Treasury Department and the IRS do not believe that requiring a payment (whether partial or full) before providing care is a collection action unless it is related to an attempt to collect a prior medical bill. Accordingly, the final regulations do not include these activities as ECAs.

However, if a hospital facility defers or denies, or requires a payment before providing, medically necessary care because of an individual's nonpayment of one or more bills for previously provided care, such actions constitute actions to collect the unpaid bills. Moreover, these collection actions can properly be viewed as extraordinary, given that such actions can potentially jeopardize the health of the debtor. While one commenter asserted that "it is not inappropriate" for a hospital to defer the provision of care on the basis of a documented pattern of nonpayment unless it is care sought through the emergency department covered under EMTALA, the relevant question for purposes of section 501(r)(6) is not whether deferring or denying care based on past nonpayment is permitted under EMTALA but rather whether it is a collection action that is extraordinary. In addition, as two commenters pointed out, requiring deposits can be tantamount to denying care for medically indigent people, and thus requiring payment before providing medically necessary care because of nonpayment of past bills is also an ECA with respect to those past bills. Therefore, the final regulations include such collection actions within the definition of ECAs. The final regulations also elaborate on when a requirement for payment will be considered to be "because of" an individual's nonpayment of one or more bills for previously provided care. In particular, the final regulations provide that, if a hospital facility requires payment before providing care to an individual with one or more outstanding bills, such a payment requirement will be presumed to be because of the individual's nonpayment of the outstanding bill(s) unless the hospital facility can demonstrate that it required the payment from the individual based on factors other than, and without regard to, his or her nonpayment of past bills.

Several commenters also recommended that patients who are eligible for hospital financial assistance, means-tested public programs, or subsidies should not be subject to any ECAs or other collection actions. Section 501(r)(6) requires hospital facilities to determine whether an individual is FAP-eligible before engaging in ECAs but does not bar ECAs altogether against individuals that have been determined to be FAP-eligible or eligible for assistance under public programs. Therefore, the final regulations do not adopt this comment.

b. *Reasonable efforts*

The 2012 proposed regulations provided that, with respect to any care provided by a hospital facility to an individual, the hospital facility would have made reasonable efforts to determine whether the individual is FAP-eligible only if the hospital facility notified the individual about the FAP, provided a reasonably sufficient amount of time for the individual to apply for financial assistance, and processed FAP applications received from the individual during a specified period. For purposes of meeting these requirements, the 2012 proposed regulations described both an initial 120-day "notification period" during which the hospital facility was required to notify an individual about the FAP and a 240-day "application period" during which a hospital facility was required to process any application submitted by the individual, with both periods starting on the date of the first bill. A hospital facility providing the necessary notification during the 120-day notification period could begin to engage in ECAs against an individual after the end of the 120-day notification period but was required to suspend any such ECAs if the individual submitted a FAP application during the remainder of the application period (and to reverse such ECAs if the individual was determined to be FAP-eligible).

Many commenters stated that the reasonable efforts regime set forth in the 2012 proposed regulations was too detailed and prescriptive and asked that the final regulations adopt this regime as a safe harbor rather than as a requirement. These commenters asked that hospital facilities be allowed to maintain current practices regarding the manner and timeframe of notification about the FAP and processing of FAP applications, provided that these practices are made transparent, such as by requiring that these practices be disclosed in FAPs, billing and collection policies, or the hospital facility's Form 990.

The Treasury Department and the IRS do not believe that disclosure alone of a hospital facility's notification and FAP-eligibility determination processes constitutes reasonable efforts to determine whether individuals are FAP-eligible. While the regulations under section 501(r)(4) require such disclosure to be made in the FAP or a separate billing and collections policy, such disclosure will not meaningfully or adequately accomplish the requirement that Congress intended when it enacted section 501(r)(6) and expressly called for the Secretary to issue guidance defining reasonable efforts to determine FAP-eligibility.[10] Accordingly, the final regulations do not provide hospital facilities with complete discretion over how to make reasonable efforts to determine FAP-eligibility. However, the final regulations do make a number of modifications, as described further in this section of the preamble, that are designed to reduce the compliance burden on hospital facilities while at the same time ensuring that the reasonable efforts taken to determine whether individuals are FAP-eligible adequately protect patients.

The final regulations also contain a number of changes to § 1.501(r)–6(c) of the 2012 proposed regulations that are intended to streamline and simplify the presentation of the applicable rules and not to have a substantive effect.

i. Notification and Application Periods

The 2012 proposed regulations requested comments on whether the notification and application periods should start later than the date of the first billing statement, such as the date of discharge, in the case of patients staying at a hospital facility for a prolonged period of time and receiving billing statements in the mail before being discharged. The majority of commenters responding to this request for comments stated that the notification and application periods should start no earlier than the time of discharge so that the "clock" on the periods would not start until the patient was aware of the billing statements and able to focus on the notifications about the FAP. On the other hand, one commenter noted that inpatients present the best opportunity for in-person financial counseling activity and that there was therefore no need for the periods to begin after discharge rather than the first billing statement. Another commenter opined that the requirements relating to FAP notification and applications would be confusing to both providers and consumers if the FAP notification and application periods did not always start on the date of the first billing statement.

In response to the majority of comments on the issue and to ensure that patients who receive care over a prolonged period of time receive adequate notification about the FAP and impending ECAs and have an adequate opportunity to apply for financial assistance, the final regulations provide that the applicable 120- and 240-day periods start on the date that the first "post-discharge" billing statement is provided, rather than just the first billing statement. For these purposes, the final regulations clarify that a billing statement for care is considered "post-discharge" if it is provided to an individual after the care (whether inpatient or outpatient) is provided and the individual has left the hospital facility.

Many commenters asked that the lengths of the proposed 120-day notification period and/or 240-day application period be modified. Some commenters suggested a shorter application period of 90, 120, or 180 days, with the notification period either being concurrent with, or a shorter period within, the application period. Several of the commenters who requested one concurrent notification and application period noted the complexity associated with tracking two different, overlapping periods. In arguing for a shorter application period, many commenters stated that a 240-day application period would unduly interfere with hospital facilities' ability to recover from patients with resources available to pay the amounts due.

Other commenters, however, suggested longer notification or application periods. One commenter suggested one concurrent notification and application period of 240 days, stating that it would be more effective and less burdensome for all involved to simply prohibit all ECAs during the entire 240-day application period. Other commenters requested an application period of one or two years, noting that many times ECAs are not commenced until long after 240 days and that many patients may not realize that money is owed until after 240 days, particularly if they believe that outstanding charges might be covered by an insurer. Commenters also noted that FAP-eligible individuals may not promptly respond to notifications regarding a hospital facility's FAP if they are sick or have literacy issues. Several commenters recommended that patients be allowed to raise FAP-eligibility as an affirmative defense against ECAs at any time, not just during the application period. One commenter requested clarification that hospitals may extend the application period beyond 240 days.

The Treasury Department and the IRS continue to believe that 120 days from the first post-discharge billing statement is an appropriate amount of time for hospital facilities to wait before initiating ECAs against patients whose FAP-eligibility is undetermined so that patients have sufficient time to learn about the FAP and apply for financial assistance. As noted in the preamble to the 2012 proposed regulations, such a 120-day period is consistent with some state requirements or recommendations to wait 120 days before taking certain ECAs and, based on typical billing cycles reported by commenters, should ensure patients receive at least three bills before facing an ECA. Moreover, since the release of the 2012 proposed regulations, a taskforce of healthcare finance professionals, healthcare providers, consumer advocates, collections agencies, and credit agencies has recommended that hospitals wait 120 days from the date of the first billing statement before commencing ECAs "to protect patients from undue haste in use of ECAs." *See* Best Practices for Resolution of Medical Accounts: A Report from the Medical Debt Collection Task Force, at 9 (Jan. 2014), *available at http://www.hfma.org/medicaldebt/*. Therefore, the final regulations generally provide that a hospital facility may not initiate ECAs against an individual whose FAP-eligibility has not been determined before 120 days after the first post-discharge billing statement. However, due to changes made in the final regulations regarding the notification requirements described in section 6.b.iii of this preamble, the 120-day period during which a hospital facility may not initiate ECAs is no longer called a "notification period."

With respect to the application period, the Treasury Department and the IRS agree with some commenters that it is

[10] *See* section 501(r)(7) (providing that the Secretary "shall issue such regulations and guidance as may be necessary to carry out the provisions of [section 501(r)], including guidance relating to what constitutes reasonable efforts to determine the eligibility of a patient under a" FAP for purposes of section 501(r)(6)).

generally a good practice for hospital facilities to allow individuals to raise FAP-eligibility as a defense against ECAs at any time and not just during a limited application period. In fact, the Treasury Department and the IRS understand that many hospital facilities currently will accept and process FAP applications from patients at any time, and the definition of "application period" in the final regulations expressly states that hospital facilities may continue to do this. Moreover, many hospital facilities may prefer simply to allow FAP applications to be submitted at any time rather than track application periods for each patient on an episode-of-care basis. However, in the interest of sound tax administration and achieving certainty for hospital facilities, the question of whether a hospital facility has met the requirements of section 501(r)(6) should not be left open indefinitely. Accordingly, although hospital facilities may continue to accept and process FAP applications at any time, the final regulations provide an application period after which a hospital facility is not required to accept and process FAP applications for purposes of meeting section 501(r)(6).

The Treasury Department and the IRS continue to believe that about eight months (240 days) after the first post-discharge bill is a reasonable period of time for a hospital facility to give a patient to apply for financial assistance to be considered to have made reasonable efforts to determine whether the patient is FAP-eligible. As one commenter pointed out, individuals may commonly have to wait several months before they know how much of a charge for health care services an insurer will cover and how much they are personally responsible for paying. In addition, the amount of time allowed for FAP applications to be submitted should take into account the fact that a large proportion of applicants may face obstacles such as continuing illness, literacy issues, or language barriers.

While some commenters asserted that an application period of 240 days from the first bill would unduly interfere with hospitals' ability to collect debts from non-FAP-eligible individuals, they provided little support or further explanation for this general claim, and other commenters suggested that many ECAs are not commenced until long after 240 days from the first bill. Moreover, under both the 2012 proposed regulations and these final regulations, hospital facilities may initiate ECAs against an individual as early as 120 days after the first post-discharge bill without failing to meet the requirements of section 501(r)(6), provided the required notifications have been given prior to the initiation of the ECAs. Some of these ECAs may have to be suspended or reversed if the patients against whom the ECAs are taken subsequently submit FAP applications, but the Treasury Department and the IRS have no reason to believe that the costs associated with such possible suspensions or reversals only for the subset of patients who submit FAP applications during the application period will be so significant as to render it impractical to initiate any ECAs during the application period.

In addition, as discussed in section 6.b.vi of this preamble, many commenters indicated that hospital facilities use a variety of methods and sources of information other than FAP applications submitted by individuals to predict potential FAP-eligibility with a high degree of accuracy. Presumably, hospital facilities will be able to use such methods and information sources to focus ECAs on those patients unlikely to be FAP-eligible, thereby minimizing the risk that they will have to reverse a significant number of ECAs. If a hospital facility receives a complete FAP application during the application period from an individual after initiating an ECA against the individual, it must process the application, but, if the individual is determined to be ineligible for financial assistance, no reversal of ECAs will be necessary (and suspension will be necessary only for the period of time the application is being processed).

For all of these reasons, the Treasury Department and the IRS believe that an application period that ends no earlier than 240 days from the first post-discharge bill appropriately balances the need to protect FAP-eligible patients from ECAs before FAP-eligibility is determined with the need to avoid undue interference with hospital facilities' ability to collect debts from non-FAP-eligible individuals.

The final regulations further provide that the application period for the care of an individual who has not been presumptively determined to be FAP-eligible (as discussed in section 6.b.vi of the preamble) will be longer than 240 days if the hospital facility provides the individual with a written notice about available financial assistance and potential ECAs (described in section 6.b.iii.C of this preamble) that states a deadline that is after the 240th day from the first post-discharge bill. For example, if a hospital facility provides an individual with a written notice about potential ECAs to obtain payment for care on the 250th day after the first post-discharge bill for the care and informs the individual that he or she has 30 days to apply for financial assistance before the identified ECAs may be initiated (the minimum number of days the deadline may be from the date the written notice is provided), the hospital facility would be required to process any FAP application that the individual submits by the 280th day after the first post-discharge bill. Thus, with the exception of individuals who are presumptively determined to be FAP-eligible (as described further in section 6.b.vi of this preamble), an individual's application period will remain open until at least 30 days after the hospital facility provides the individual with a written notice that sets a deadline after which ECAs may be initiated.[11]

ii. Meeting the Section 501(r)(6) Requirements on an "Episode-of-Care" Basis

A number of commenters recommended that the reasonable efforts requirements be applied on an "individual patient" basis rather than on an "episode-of-care" basis to avoid unnecessary duplication of notifications to one individual and complexity in tracking multiple notification and application periods. In addi-

[11]If the hospital facility never intends to initiate an ECA against an individual, and therefore never sends a written notice about potential ECAs (and/or a notice with a deadline for applying) to the individual, the application period is irrelevant because section 501(r)(6) only requires a hospital facility to make reasonable efforts to determine FAP-eligibility before engaging in an ECA.

tion, one commenter noted that, at such time as a hospital would engage in an ECA, it would seek to identify and aggregate all outstanding and delinquent bills for a patient and then initiate an ECA to obtain payment of all the bills together rather than each bill separately.

In response to these comments, the final regulations clarify that a hospital facility may satisfy the notification requirements simultaneously for multiple episodes of care for purposes of notifying the individual about its FAP and potential ECAs. Notwithstanding this allowance for multiple episodes of care, the Treasury Department and the IRS continue to believe that patients should not have less opportunity or time to apply for financial assistance simply because they received care from a hospital facility in the past, especially since illness and accumulating hospital bills themselves could result in a deterioration of an individual's financial circumstances. Thus, the final regulations also provide that, if a hospital facility aggregates an individual's outstanding bills for multiple episodes of care before initiating one or more ECAs to obtain payment for those bills, it may not initiate the ECA(s) until 120 days after it provided the first post-discharge bill for the most recent episode of care included in the aggregation. Similarly, although, as a formal matter, a separate application period starts with each episode of care, as a practical matter, hospital facilities have the option of measuring the 240-day period from the first post-discharge bill for the most recent episode of care.

iii. Notification Requirements

To satisfy the notification component of "reasonable efforts" with respect to any care provided to an individual, the 2012 proposed regulations required a hospital facility to take the following actions: (1) distribute a plain language summary of the FAP, and offer a FAP application form, to the individual before discharge from the hospital facility; (2) include a plain language summary of the FAP with all (and at least three) billing statements for the care and with all other written communications regarding the bill provided during a 120-day notification period; (3) during the notification period, inform the individual about the FAP in all oral communications regarding the amount due for the care; and (4) provide the individual with at least one written notice informing the individual about the ECAs the hospital facility (or other authorized party) may take if the individual did not submit a FAP application or pay the amount due.

As discussed in section 4.a.iv.C of this preamble, the requirement to provide a plain language summary of the FAP as part of the discharge or intake process is included under § 1.501(r)–4 of the final regulations as part of widely publicizing the FAP, rather than under § 1.501(r)–6(c) of the final regulations. Rather than require that a plain language summary of the FAP be included with all (and at least three) billing statements and with all other written communications regarding the bill provided during a 120-day period after the first bill, § 1.501(r)–4 of the final regulations requires that all billing statements include a notice informing patients about the availability of financial assistance and how to get information about and a copy of the FAP, and § 1.501(r)–6(c) of the final regulations requires that a plain language summary of the FAP be included with one post-discharge written communication. The final regulations continue to require oral notification about the FAP as part of reasonable efforts to determine FAP-eligibility in § 1.501(r)–6(c), but amend this requirement to focus the oral notification on those patients against whom the hospital facility intends to engage in ECAs rather than require it for all patients who communicate with the hospital facility about the amount due for the care. Finally, § 1.501(r)–6(c) of the final regulations continues to require a notice about potential ECAs but requires notice only of the ECAs the hospital facility intends to initiate rather than all ECAs that may be initiated. The comments received on, and the modifications to the components of, the notification actions that remain in § 1.501(r)–6(c) of the final regulations are discussed in greater detail in this section 6.b.iii of the preamble. In general, the Treasury Department and the IRS expect that these modifications will significantly reduce the burden on hospital facilities without significantly reducing the notice given to patients about the availability of financial assistance.

A. Providing plain language summaries with written communications

Many commenters stated that requiring hospital facilities to include plain language summaries with all billing statements (as well as with all other written communications) during the notification period would result in significant programming, printing, and mailing costs. A number of commenters suggested that a reference to the availability of the FAP and a brief description of how to obtain more information should be sufficient information for patients, with some commenters adding that if plain language summaries had to be included with bills at all, the requirement should be limited to only one or two bills. Other commenters noted that multiple notices over time are important, as patients may be in varying states of readiness for information on financial assistance, and these commenters singled out notices with billing statements as especially effective.

In response to these comments, the notification component of reasonable efforts under the final regulations requires a hospital facility to provide a plain language summary of the FAP to an individual only if and when it sends that individual the written notice about potential ECAs described in section 6.b.iii.C of this preamble. Thus, hospital facilities need only incur the additional costs that may be associated with the provision of a plain language summary one time and only with respect to the smaller pool of patients against whom the hospital facility actually intends to engage in ECAs, not with respect to all patients against whom it might one day want to engage in ECAs. As a result, the final regulations significantly reduce the burden on hospital facilities in notifying individuals about their FAPs.

At the same time, many of the commenters who argued that including a plain language summary with every bill would be unnecessarily costly also noted that a brief description of how to obtain more information about the FAP should provide sufficient notification to patients. Other commenters stressed the importance of repeated notices about the FAP with bills. In response to these comments, and for reasons discussed in section 4.a.iv.C of this preamble, the final regulations require a conspicuous written notice about the FAP to be included on a hospital facility's billing statement as part of "widely publicizing" the FAP for purposes of meeting the requirements under section 501(r)(4). Because the final regulations require this conspicuous notice about the FAP to be included on billing statements, the Treasury Department and the IRS do not expect that the final regulations significantly reduce the information available to individuals who may be FAP-eligible or their opportunity to learn about or apply for financial assistance.

B. Oral notification

Some commenters stated that the requirement that the hospital facility inform the individual about the FAP in all oral communications regarding the amount due for care was overly burdensome, prohibitively difficult to document, prone to human error, and too dependent on the cooperation of the individual (who may, for example, hang up before receiving information about the FAP). A few commenters asked that the oral communication requirement be limited to those patients who indicate they may have difficulty paying their bill rather than applying to any patient with a question "regarding the amount due for care," as the latter could include many routine billing inquiries. Other commenters stated that orally-conveyed information can be the most effective way to ensure that patients know financial assistance is available, especially in the case of LEP populations or individuals with literacy issues.

In response to commenters, the final regulations replace the oral notification requirement in the 2012 proposed regulations with a requirement that a hospital facility make a reasonable effort to orally notify an individual about the hospital facility's FAP and about how the individual may obtain assistance with the FAP application process at least 30 days before the initiation of ECAs against the individual. By allowing hospital facilities to target their oral notifications to those individuals against whom they actually intend to engage in ECAs, the final regulations respond to the concern that the oral notification rule in the 2012 proposed regulations was too burdensome by greatly reducing the oral notifications that hospital facilities must make. At the same time, the final regulations ensure that individuals who may need financial assistance receive oral notification about a hospital facility's FAP prior to the hospital facility's initiation of ECAs, which addresses concerns raised by commenters who stressed the importance of orally-conveyed information for potentially FAP-eligible individuals.

C. Notification about impending ECAs

A few commenters would eliminate the requirement in the 2012 proposed regulations of a written notice informing individuals about the ECAs the hospital facility may take if the individual does not submit a FAP application or pay the amount due by the specified deadline, stating that such a written notice could be considered a "threatening" communication that is prohibited by the federal Fair Debt Collection Practices Act (FDCPA) (15 U.S.C. 1601 et seq).

The FDCPA does not prevent a debt collector from informing an individual about an ECA if the ECA is lawful and the debt collector "intends" or has a "present intention" to take the action. *See* 15 U.S.C. 1692e(4)–(5),1692f(6). In accordance with this language in the FDCPA and in response to comments, the final regulations amend the requirement regarding the written notice about ECAs to require that the notice state the ECA(s) that the hospital facility (or other authorized party) actually "intends to take," rather than requiring a description of every ECA a hospital "may" take in the future. Furthermore, like the 2012 proposed regulations, the final regulations do not require a hospital facility (or third party collecting a hospital facility's debt) to provide this notice unless and until it actually intends to initiate one or more ECA(s) against an individual. This ability to wait to send the notice not only should eliminate any conflict with the FDCPA but also limits the burden associated with providing the notice because a hospital facility need only send it to the subset of patients against whom it actually intends to initiate ECAs.

Similar to the 2012 proposed regulations, the final regulations also require the written notice to state a deadline after which the identified ECA(s) may be initiated that is no earlier than 30 days after the date that the written notice is provided. In addition, the final regulations require the written notice to generally indicate that financial assistance is available for eligible individuals.

D. Documenting notification

The 2012 proposed regulations provided that, if an individual had not submitted a FAP application and the hospital facility had notified the individual as described in the 2012 proposed regulations and documented that it had so notified the individual, the hospital facility would be deemed to have met the reasonable efforts requirements of section 501(r)(6) and could engage in ECAs against that individual. With respect to documenting compliance with the notification requirements, one commenter asked whether a hard copy or electronic image of every relevant piece of paper given to every individual would be required.

The final regulations eliminate any separate requirement under the section 501(r)(6) regulations to document notification. The Treasury Department and the IRS note, however, that hospital organizations will have to report whether and how they made reasonable efforts to determine FAP-eligibility before engaging in ECAs on their Forms 990 and, as a general matter, are responsible for maintaining records to substantiate any information required by the Form 990. *See* section 6033(a)(1); § 1.6001–1(c).

E. Miscellaneous issues involving written communications

Numerous commenters noted that hospital facilities' billing systems are transitioning from paper to electronic delivery and stated that the 2012 proposed regulations seemed to envision that most written communications would be provided in paper form. In response to these comments, the final regulations clarify that a hospital facility may provide any of the written notices or communications described in § 1.501(r)–6 of the final regulations electronically (for example by email) to any individual who indicates he or she prefers to receive the written notice or communication electronically.

A number of provisions in the 2012 proposed regulations referred to the date a written notice or communication was "provided," and one commenter asked whether "provides" means the date the statement is placed into the U.S. mail or the date the statement is received by the patient. The final regulations clarify that, in the case of any written notice or communication that is mailed, the communication will be considered "provided" on the date of mailing. A communication may also be considered provided on the date it is sent electronically or delivered by hand.

iv. Incomplete FAP Applications

In the case of an individual who submits an incomplete FAP application during the application period, the 2012 proposed regulations provided that a hospital facility must suspend ECAs (defined as not initiating any ECAs or taking further action on any previously initiated ECAs) taken against the individual until either the individual's FAP application was completed and processed or the "completion deadline" had passed without the individual's having completed the FAP application. The 2012 proposed regulations further provided that the completion deadline could be no earlier than the later of 30 days from the date of a written notice about impending ECAs or the last day of the application period. Some commenters expressed concern that these provisions in the 2012 proposed regulations effectively allowed an individual to submit a FAP application form with minimal information on it and thereby automatically defer ECAs for up to 240 days.

In response to this concern, and to provide hospital facilities with additional flexibility to work with individuals submitting incomplete FAP applications in a manner appropriate to the particular circumstances, the final regulations provide that a hospital facility must suspend ECAs against the individual until either the individual completes the FAP application and the hospital facility determines whether the individual is FAP-eligible or until the individual has failed to respond to requests for additional information and/or documentation within a reasonable period of time. The Treasury Department and the IRS expect the reasonableness of the period of time individuals are given to complete a FAP application before ECAs may resume will depend on the particular facts and circumstances, including the amount of additional information and/or documentation that is being requested. Although the final regulations potentially permit a hospital facility to initiate or resume ECAs before the end of the application period against an individual who has failed to respond to requests for additional information and/or documentation, if the individual subsequently completes the FAP application during the application period, the final regulations would require the hospital facility to again suspend any ECAs taken against the individual until the hospital determines whether the individual is FAP-eligible (and, if the individual is determined to be FAP-eligible, to reverse such ECAs).

A few commenters requested clarification that hospital facilities are required to suspend only those ECAs relating to the care at issue upon the submission of a FAP application, not ECAs relating to past care for which the hospital facility has already satisfied the reasonable efforts requirements. The final regulations include this clarification (in the context of processing both incomplete as well as complete FAP applications) by providing that a hospital facility must only suspend any ECAs taken against the individual "to obtain payment for the care" at issue.

Two commenters suggested that the requirement to suspend ECAs ignores specific time frames that must be followed to prevent a hospital facility's legal rights from being jeopardized, such as filing a claim in a bankruptcy proceeding and filing a responsive pleading or responding to a motion by prescribed deadlines in pending legal actions. One of these commenters recommended that the final regulations allow for ECAs to continue even when an incomplete FAP application is submitted if suspending the ECA would result in the hospital facility's legal rights being jeopardized.

In response to these comments, the final regulations add a provision stating that filing a claim in a bankruptcy proceeding is not an ECA, so the requirement to suspend ECAs will not jeopardize the ability to file such claims. The final regulations do not adopt the suggestion that ECAs be permitted to continue "if suspending the ECA would result in the hospital facility's legal rights being jeopardized," as this is a vague standard that would be difficult to enforce and could substantially diminish the protection afforded by the suspension requirement. The Treasury Department and the IRS also note that, under the final regulations, ECAs taken against an individual who has submitted an incomplete FAP application only have to be suspended for a "reasonable period of time," not a period of at least 240 days from the first post-discharge bill.

The final regulations require hospital facilities to provide a notice about potential ECAs (and an accompanying plain language summary of the FAP) to an individual who has submitted an incomplete FAP application under the provisions relating to notification about the FAP rather than separately requiring this notice under the provisions relating to incomplete FAP applications (as had been done in the 2012 proposed regulations). This change is made to simplify the regulations and is not intended to have any substantive effect for individuals who submit an incomplete FAP application before ECAs have been initiated.

Finally, to ensure that individuals who submit an incomplete FAP application during the application period know who they can contact for assistance in completing the application, and in response to commenters who stressed the importance of oral communication generally, the final regulations require a hospital facility to provide such individuals with the contact information of a hospital facility office or department (or, alternatively, a nonprofit organization or government agency) that can provide assistance with the FAP application process.

v. Complete FAP Applications

A. General requirements following receipt of complete FAP applications

Like the 2012 proposed regulations, the final regulations provide that, if a hospital facility receives a complete FAP application from an individual during the application period, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible only if it suspends any ECAs taken against the individual to obtain payment for the care, makes and documents an eligibility determination in a timely manner, and notifies the individual in writing of the determination and the basis for the determination.

A few commenters recommended that the final regulations require FAP-eligibility determinations to be made within a specified period of time, with the suggested time ranges being five business days, 30 days, and 45 days. However, another commenter agreed with the proposed rule that hospital facilities evaluate whether an applicant is eligible in "a timely manner" (while also adding that "30 days seems reasonable"). Yet another commenter noted that many FAPs will require individuals to apply for Medicaid before the individual is eligible for financial assistance from the hospital facility and requested that the regulations suspend the time period in which the hospital facility must make the FAP-eligibility determination to allow time for a Medicaid application to be filed and a Medicaid eligibility determination to be made.

The Treasury Department and the IRS believe that the reasonableness of the time period required to make an eligibility determination will vary depending upon particular facts and circumstances. For example, a hospital facility's receipt of an unusually large number of FAP applications in a particular week might reasonably result in that hospital facility taking longer to process the applications than would ordinarily be the case. In addition, the Treasury Department and the IRS note that the final regulations require hospital facilities to suspend ECAs between the time a complete FAP application is submitted and the time an eligibility determination is made, providing some protection for patients during this time period. Thus, the final regulations do not adopt a specific period of time in which a hospital facility must make a FAP-eligibility determination, opting instead to continue to require the determination to be made "in a timely manner" to provide hospital facilities with the appropriate flexibility to address varied situations. In addition, in cases in which a hospital facility believes an individual who has submitted a complete FAP application may qualify for Medicaid, the final regulations clarify that a hospital facility may postpone making a FAP-eligibility determination until after the individual's Medicaid application has been completed and submitted and a determination as to Medicaid eligibility has been made. However, as is generally the case when an individual has submitted a complete FAP application, a hospital facility may not initiate or resume any ECAs to obtain payment for the care at issue until a FAP-eligibility determination has been made.

Like the 2012 proposed regulations, the final regulations make clear that if a hospital facility determines whether an individual is FAP-eligible for care based on a complete FAP application before initiating any ECAs against the individual to obtain payment for the care, it has made reasonable efforts to determine whether the individual is FAP-eligible for the care, regardless of what notification about the FAP (or, if applicable, about what the individual needs to provide to complete an incomplete FAP application) had been or continues to be provided to the individual.

B. Requirements when an individual is determined to be FAP-eligible

The 2012 proposed regulations provided that if a hospital facility determines an individual to be FAP-eligible, the hospital facility must provide the individual with a billing statement that indicates the amount the individual owes as a FAP-eligible individual and shows (or describes how the individual can get information regarding) the AGB for the care and how the hospital facility determined the amount the individual owes as a FAP-eligible individual. The hospital facility would also be required to refund any excess payments made by the FAP-eligible individual and take all reasonably available measures to reverse any ECA (with the exception of a sale of debt) taken against the individual to obtain payment for the care at issue.

One commenter recommended that notification about FAP-eligibility be optional in cases in which 100 percent of a patient's account has been written off under a hospital facility's FAP. The Treasury Department and the IRS believe that providing a patient who has been determined to be eligible for free care with some written documentation of that eligibility determination is necessary both to notify the patient and to protect him or her in the event of any future erroneous charges for the care. However, the Treasury Department and the IRS do agree that a billing statement indicating a $0 balance is not necessary in addition to a written notification about eligibility for free care. Accordingly, the final regulations require written notification that an individual is determined to be eligible for free care but do not require a billing statement indicating that nothing is owed for the care (or stating or describing how the individual can get information regarding AGB for the care).

A few commenters asked about the time period to which the requirement to refund FAP-eligible patients applies and requested clarification that hospital facilities are not required to refund amounts previously paid to the hospital for care unless the individual is determined to be FAP-eligible for that care. The 2012 proposed regulations and the final regulations refer only to refunds of payments "for the care" at issue and are intended to require refunds only of payments for the episode(s) of care to which an individual's FAP application (and therefore his or her FAP-eligibility determination) relates. Thus, if an individual receives and pays for a hospital facility's care in both year 1 and year 3 but only applies for financial assistance in year 3 for the care received in year 3 and is determined to be FAP-eligible for the care provided in year 3, the hospital facility would only have to refund any excess amounts the individual paid for the year 3 care, not any amount the individual paid for the year 1 care. Because the 2012 proposed regulation required only refunds for "the care" at issue, the Treasury Department and the IRS do not believe that the final regulations need to be amended to further clarify this point.

Two commenters asked that the final regulations set a reasonable threshold, such as $5, for required refunds, noting that some states apply such thresholds. The Treasury Department and the IRS agree that the administrative costs associated with requiring hospital facilities to process refunds in amounts of less than $5 would outweigh the benefits to FAP-eligible patients. Accordingly, the final regulations do not require a hospital facility to refund any amount a FAP-eligible individual has paid for care that exceeds the discounted amount he or she owes for the care as a FAP-eligible individual if such excess amount is less than $5. In addition, recognizing that inflation and other factors may create the need to increase the $5 threshold in the future, the final regulations allow the Treasury Department or the IRS to increase the threshold in a notice or other guidance published in the Internal Revenue Bulletin.

One commenter sought clarification about whether hospital facilities are required to make refunds only to individuals determined to be FAP-eligible or also to their insurers. The 2012 proposed regulations required refunds only of the amounts the FAP-eligible individual had paid "in excess of the amount he or she is determined to owe as a FAP-eligible individual." Thus, only refunds to the individual were intended to be required. However, to clarify this intent, the final regulations require the hospital facility to provide refunds "to the individual" and refer to the amount the individual is "personally responsible for paying" rather than the amount the individual "owes."

One commenter recommended that reversal of ECAs only be required upon a determination that an individual is FAP-eligible to the extent of the adjustment to the bill made as a result of FAP-eligibility, so that, for example, if a patient were still liable for 50 percent of a bill after an adjustment for a FAP discount, ECAs could continue to be used to collect the discounted amount owed. Other commenters, however, supported the requirement to reverse ECAs, stating that it, along with the requirement to provide refunds, were reasonable and sufficient measures to protect patients.

As noted previously in this preamble, the Treasury Department and the IRS believe that reasonable efforts to determine FAP-eligibility necessitate giving patients a reasonable period of time of at least eight months (240 days) after the first post-discharge bill to learn about a hospital facility's FAP and apply for assistance. Nonetheless, the final regulations, like the 2012 proposed regulations, allow hospital facilities to initiate ECAs against individuals whose FAP-eligibility has not been determined as early as 120 days after the first post-discharge bill to avoid undue interference with hospital facilities' ability to collect debts from non-FAP-eligible individuals. However, if a hospital facility does initiate an ECA against an individual before the end of the 240-day application period and the individual is subsequently determined to be FAP-eligible, the Treasury Department and the IRS believe the hospital facility should reverse the ECA altogether and begin the collection process anew based on the adjusted amount. The Treasury Department and the IRS expect that such a rule will encourage hospital facilities not to begin ECAs during the application period against individuals they believe are likely to be FAP-eligible.

vi. Presumptive FAP-eligibility determinations based on third-party information or prior FAP-eligibility determinations

The 2012 proposed regulations provided that a hospital facility has made reasonable efforts to determine whether an individual is FAP-eligible if it determines that the individual is eligible for the most generous assistance available under the FAP based on information other than that provided by the individual, such as the individual's eligibility under one or more means-tested public programs. The 2012 proposed regulations also provided that a hospital facility will not have made reasonable efforts to determine whether an individual is FAP-eligible as a result of obtaining a signed waiver from the individual and defined a FAP-eligible individual as an individual eligible for FAP assistance without regard to whether the individual has applied for such assistance.

The Treasury Department and the IRS recognized that these provisions, together, effectively left a hospital facility with two options if it wanted to engage in an ECA against an individual who had not submitted a FAP application: either notify the individual about the FAP during the notification period or provide the individual with the most generous assistance available under the FAP. Accordingly, the preamble to the 2012 proposed regulations requested comments on how to provide additional flexibility under the regulations to hospital facilities seeking to determine whether an individual is FAP-eligible, and, in particular, on how a hospital facility might reasonably determine whether an individual is FAP-eligible in ways other than soliciting and processing FAP applications. The preamble to the 2012 proposed regulations also requested comments regarding whether a hospital facility might be able to rely on prior FAP-eligibility determinations for a period of time to avoid having to re-determine whether an individual is FAP-eligible every time he or she receives care.

Numerous commenters stated that hospitals can, and commonly do, rely on trustworthy methods and sources of information other than FAP applications to determine FAP-eligibility. Some noted the use of public and private records and data sources that, often in combination with predictive models and algorithms, could presumptively determine FAP-eligibility, including for discounts on a sliding scale that are less than the most generous available under the FAP. A number of these commenters suggested that allowing hospital facilities to use these information sources and methods to presumptively determine eligibility only for the most generous discounts under a FAP could inadvertently result in fewer individuals receiving financial assistance. Other commenters noted that hospital facilities could readily and accurately determine the insurance status or residency of particular individuals and, therefore, determine that such individuals are not FAP-eligible when such eligibility depends on being uninsured or on being a resident of the state in which the hospital facility is licensed. Most of these commenters generally recommended that hospital facilities be allowed to rely on information sources and methods other than FAP applications to determine FAP-eligibility as long as the sources and methods are disclosed (for example, in the FAP or on the hospital facility's Form 990) and/or the individual is given a reasonable opportunity to provide information indicating FAP-eligibility or eligibility for a greater discount than the one provided. A few commenters, however, recommended against the use of predictive models that rely on credit scores, noting that such methods assess creditworthiness rather than financial need. A few commenters also suggested that predictive models should only be used to approve someone for financial assistance, not to deem them ineligible for it.

In addition, commenters recommended that hospital facilities should be able to rely on prior FAP eligibility determinations, arguing that it would be burdensome and costly to require a hospital facility to re-determine whether an individual is FAP-eligible every time the individual receives care. Suggestions ranged from allowing reliance on prior

FAP applications for a certain time period (90 days, four months, six months, or twelve months) to allowing hospital facilities the flexibility to determine how long FAP-eligibility status may last. Most of these commenters recommended that a hospital facility's reliance on prior FAP-eligibility determinations should be disclosed in its FAP and/or that patients should be given a reasonable opportunity to resubmit an application if and when their financial situation changes.

In response to these comments and to encourage hospital facilities to provide discounts to potentially FAP-eligible individuals who have not submitted FAP applications, the final regulations provide that, in addition to presumptively determining that an individual is eligible for the most generous assistance available under its FAP, a hospital facility may also presumptively determine that an individual is eligible for less than the most generous assistance available under the FAP based on information other than that provided by the individual or based on a prior FAP-eligibility determination (hereinafter referred to as presumptive determinations). Most commenters recognized, though, that presumptive determinations that an individual is eligible for less than the most generous assistance available under a FAP should not relieve a hospital facility of the obligation to give patients a reasonable opportunity to seek more generous assistance by providing additional information related to FAP-eligibility. Accordingly, the final regulations provide that a presumptive determination that an individual is eligible for less than most generous assistance available under a FAP only constitutes reasonable efforts to determine FAP-eligibility if three conditions are met. First, the hospital facility must notify the individual regarding the basis for the presumptive FAP-eligibility determination and the way he or she may apply for more generous assistance available under the FAP. Second, the hospital facility must give the individual a reasonable period of time to apply for more generous assistance before initiating ECAs to obtain the discounted amounted owed for the care. And, third, the hospital facility must process any complete FAP application that the individual submits by the end of the application period or, if later, by the end of the reasonable time period given to apply for more generous assistance.

The final regulations do not treat as reasonable efforts a presumptive determination that an individual is not FAP-eligible. The Treasury Department and the IRS believe that before being subjected to ECAs, individuals who have received no financial assistance under a FAP and who have not submitted a complete FAP application should, at a minimum, receive a notice about the FAP (through a plain language summary) and about the deadline for submitting a FAP application before ECAs may be initiated, as described in section 6.b.iii of this preamble. The Treasury Department and the IRS note, however, that even though presumptive determinations of FAP-ineligibility do not constitute reasonable efforts to determine FAP-eligibility for purposes of section 501(r)(6), a hospital facility is not prohibited from using third-party information sources and prior FAP-eligibility determinations to try to predict which of its patients are unlikely to be FAP-eligible.

A number of commenters asked that the definition of "FAP-eligible individual" be revised such that it applies only to individuals "known to be eligible for financial assistance." Allowing hospital facilities to assume individuals are not FAP-eligible unless and until they obtain knowledge to the contrary would relieve hospital facilities of any obligation to make reasonable efforts to determine whether individuals are FAP-eligible and thereby undercut the purpose of section 501(r)(6). Accordingly, the definition of FAP-eligible individual is not amended to apply only to individuals known to be FAP-eligible.

Many commenters also asked that hospital facilities be allowed to use targeted and limited waivers in determining FAP-eligibility, such as waivers for individuals who the hospital facility has no reason to believe may be FAP-eligible or individuals with adequate insurance and the ability to meet any co-pays and deductibles. In addition, one commenter asked that the final regulations provide that making reasonable efforts to determine an individual is FAP-eligible includes obtaining an attestation from the individual that his or her income and/or assets exceed certain thresholds in the FAP and that the attestation was not made under coercion.

The Treasury Department and the IRS continue to believe that obtaining signatures from individuals on a waiver form is not a meaningful way to determine that they are not FAP-eligible. The Treasury Department and the IRS note, however, that the final regulations define a complete FAP application as information and documentation provided by an individual that is sufficient to determine the individual's FAP-eligibility, and an individual's attestation regarding his or her income or other criteria relevant to FAP-eligibility could be sufficient to determine FAP-eligibility and therefore could be considered a complete FAP application. Thus, if a hospital facility makes a determination as to whether an individual is FAP-eligible based an individual's attestation regarding his or her income or other relevant eligibility criteria—and the hospital facility has no reason to believe that the information on the statement is incorrect and did not obtain the information from the individual under duress or through the use of coercive practices—the hospital facility will have made a determination based on a complete FAP application and, thus, have made reasonable efforts to determine whether the individual is FAP-eligible for purposes of section 501(r)(6).

vii. Reasonable Efforts in the Case of Denying or Deferring Care Based on Past Nonpayment

As discussed in section 6.a.iv of this preamble and in response to comments, the final regulations include as an ECA the deferral or denial of (or the requirement of a payment before providing) medically necessary care because of the individual's nonpayment of one or more bills for previously provided care. Unlike other ECAs, the timing of this ECA involving the deferral or denial of care will depend on when an individual seeks medically necessary care from the hospital facility, a contingency over which the hospital facility has no control. In addition, if the provision of medically necessary care is at stake, the individual's application for financial assistance should be completed and his or her FAP-eligibility should be determined as quickly as possible to avoid jeopardizing the individual's health.

Based on these considerations, the final regulations provide that, in the case of an ECA involving deferral and denial of (or requiring payment before providing) care only, a hospital facility is not required to provide the oral and written notification about the FAP and potential ECAs discussed in section 6.b.iii of this preamble at least 30 days in advance of initiating this ECA to have made reasonable efforts to determine whether the individual is FAP-eligible. However, to avail itself of this exception, a hospital facility (or other authorized party) must satisfy several conditions. First, the hospital facility must provide the individual with a FAP application form (to ensure the individual may apply immediately, if necessary) and notify the individual in writing about the availability of financial assistance for eligible individuals and the deadline, if any, after which the hospital facility will no longer accept and process a FAP application submitted by the individual for the previously provided care at issue. This deadline must be no earlier than the later of 30 days after the date that the written notice is provided or 240 days after the date that the first post-discharge billing statement for the previously provided care was provided. Thus, although the ECA involving deferral or denial of care may occur immediately after the requisite written (and oral) notice is provided, the individual must be afforded at least 30 days after the notice to submit a FAP application for the previously provided care. In addition, the hospital facility must notify the individual about the FAP in the two other ways discussed in section 6.b.iii of the preamble (though without regard to the requirement to do so at least 30 days before the initiation of an ECA): namely, by providing a plain language summary of the FAP and by orally notifying the individual about the hospital facility's FAP and about how the individual may obtain assistance with the FAP application process. Finally, if an individual submits a FAP application for previously provided care during the application period, the hospital facility must process the application on an expedited basis, to ensure that medically necessary care is not unnecessarily delayed.

In the case of the ECA involving the deferral or denial of care, the final regulations also provide an exception to the general rule that reasonable efforts to determine FAP-eligibility ordinarily will require a hospital to wait at least 120 days after the first post-discharge bill before initiating ECAs. Under the exception, a hospital facility may defer or deny (or require payment before providing) medically necessary care[12] because of an individual's nonpayment of one or more bills for previously provided care even though such deferral or denial (or payment requirement) is within 120 days of the first post-discharge bill for the previously provided care. Without such an exception in the final regulations, hospital facilities would effectively be required to provide medically necessary care to individuals with past due bills when these individuals are seeking care within 120 days of the first post-discharge bill.

The Treasury Department and the IRS note that the modified reasonable efforts to determine FAP-eligibility discussed in this section 6.b.vii of the preamble would not be necessary if a hospital facility had already determined whether the individual was FAP-eligible for the previously provided care at issue based on a complete FAP application or had presumptively determined the individual was FAP-eligible for the previously provided care as described in section 6.b.vi of this preamble. The modified reasonable efforts would also not be needed in cases in which 120 days had passed since the first post-discharge bill for the previously provided care, and the hospital facility had already notified the individual about intended ECAs as described in section 6.b.iii of this preamble.

viii. Agreements with Other Parties

The 2012 proposed regulations provided that if a hospital facility refers or sells an individual's debt to another party during the application period, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible only if it first obtains a legally binding written agreement from the other party to abide by certain specified requirements. The 2012 proposed regulations requested comments regarding the feasibility of this rule. Commenters who responded to this request for comments generally indicated that imposing such contractual obligations on debt collection agencies or debt buyers was not especially unusual or unworkable, and, thus, the Treasury Department and the IRS adopt the provisions of the 2012 proposed regulations with only minor clarifying revisions that are not intended to be substantive changes. In the event a hospital facility does sell or refer an individual's debt and the debt buyer or collection agent takes one or more of the steps required to have made reasonable efforts to determine whether the individual is FAP-eligible, the final regulations also clarify the hospital facility will be treated as having taken those steps for purposes of making reasonable efforts under section 501(r)(6).

7. *Section 501(r) and State Law Requirements*

Numerous commenters noted that their states already had laws in effect covering some or most of the same subject matter as the requirements described in §§ 1.501(r)–3 through 1.501(r)–6 of the proposed regulations and argued that requiring compliance with the section 501(r) regulations in addition to what hospitals are already required to do under state law would create unnecessary duplication of effort and administrative burden. Others went further and argued that the requirements described in §§ 1.501(r)–3 through 1.501(r)–6 of the proposed regulations conflicted or were inconsistent with certain state law requirements. Areas of inconsistency noted by commenters included the timing and content of notices that must be provided to patients, rules regarding the limitations on charges, and the periods of time during which the hospital facilities must wait to commence certain collection actions. Most of these commenters recommended that a hospital facility should be deemed to have complied with the section 501(r) requirements

[12] With respect to deferring or denying (or requiring payment before providing) emergency medical care, in particular, hospital organizations are separately subject to the requirements under Subchapter G of Chapter IV of Title 42 of the Code of Federal Regulations, which includes the regulations under EMTALA, and the emergency medical care policy they adopt to meet the requirements of section 501(r)(4)(B) (as discussed in section 4.b of this preamble).

if it complies with the relevant state law(s) applicable to it. On the other hand, some commenters asked the Treasury Department and the IRS to clarify that nothing in the proposed regulations will preempt state laws that contain additional or more stringent requirements.

Given the wide variation among state laws covering some of the same subject matter as section 501(r), providing that compliance with section 501(r) requires only compliance with the applicable state law would result in widely divergent rules for charitable hospitals in different states. A rule equating compliance with state law to compliance with section 501(r) would also mean that IRS revenue agents assessing section 501(r) compliance would need to learn each state's laws or that the state office responsible for enforcing the particular state law would have to confirm a hospital facility's compliance with the relevant state law in each taxable year under audit.

More importantly, the language in many of the state laws cited by commenters as analogous does not match the statutory language in section 501(r)—for example, by not including concepts such as AGB, ECAs, or "reasonable efforts" to determine FAP-eligibility or by requiring CHNAs every five years as opposed to every three years. In these cases, simply deeming compliance with state law to result in compliance with section 501(r) would be inconsistent with the statutory language under section 501(r).

While many of the requirements in the state laws cited by commenters do not match the provisions in the 2012 or 2013 proposed regulations and while some state laws might require more or less of hospital facilities than the comparable provision in the proposed regulations, commenters failed to cite any state laws that conflict with the proposed regulations in a way that would make it impossible for a hospital facility to comply with both the state and the federal requirement. For example, although some state laws set forth a limitation on charges that is different from the limit that would result from the AGB methods described in the 2012 proposed regulations, none of the state laws identified by commenters prohibit hospital facilities from charging FAP-eligible individuals less than the state law limit. Similarly, AGB under section 501(r)(5) is only a maximum amount that hospital facilities can charge FAP-eligible individuals, and hospital facilities are free to provide more generous discounts in their FAPs (including free care). As a result, hospital facilities are always free to charge the lesser of AGB or a limitation on charges imposed by state law or to establish a uniform discount that will always fall below both the state and federal maximum charges. Similarly, the periods of time during which hospital facilities must wait to commence certain collection activities in both the 2012 proposed regulations and certain state laws cited by commenters are minimum periods, and a hospital facility is always free to wait for the longer of the two applicable periods without violating either section 501(r)(6) or state law requirements.

Accordingly, the final regulations do not contain any provisions equating compliance with one or more requirements in applicable state law to compliance with one or more of the requirements in the final regulations. In addition, the final regulations are not intended to preempt any state laws or regulations, and the Treasury Department and the IRS expect that any additional or stricter requirements under a state's laws or regulations will continue to apply to hospital facilities licensed in that state.

8. *Reporting Requirements Related to CHNAs*

The final regulations state, consistent with the statute and the 2013 proposed regulations, that a hospital organization must provide with its Form 990 a description of how it is addressing the community health needs identified for each facility it operates, its audited financial statements, and the amount of the excise tax imposed on the organization under section 4959 during the taxable year.

a. *Description of how community health needs are being addressed*

In accordance with section 6033(b)(15)(A), the 2013 proposed regulations required a hospital organization to furnish annually on its Form 990 a description of the actions taken during the taxable year to address the significant health needs identified through its most recently conducted CHNA, or, if no actions were taken with respect to one or more of those health needs, the reasons no actions were taken. Numerous commenters expressed support for this requirement to annually furnish a description of how a hospital facility is addressing health needs identified through a CHNA, with some commenters stating that it increases transparency and accountability and would provide written documentation of progress over time. Other commenters stated that the annual updates would be burdensome and duplicative, given that the 2013 proposed regulations also required hospital facilities to attach to their Forms 990 their most recently adopted implementation strategies (or provide the URL where the implementation strategies are made widely available on a Web site).

As discussed in section 3.b of this preamble, it is true that a hospital facility's implementation strategy must describe, with respect to each significant health need identified through the CHNA, how the hospital facility plans to address the health need or why the hospital facility does not intend to address the health need. However, as noted in the preamble to the 2013 proposed regulations, section 6033(b)(15)(A) contemplates an annual furnishing of information regarding how a hospital facility is actually addressing needs identified through a CHNA each year, while an implementation strategy is a plan for addressing these needs that only has to be updated every three years. Accordingly, the final regulations retain the requirement that hospital facilities annually furnish information on their Form 990s about how they are addressing the significant health needs identified through their CHNAs.

b. *Audited financial statements*

The 2013 proposed regulations reiterated the requirement of section 6033(b)(15)(B) that a hospital organization attach to its Form 990 a copy of its audited financial statements for the taxable year—or, in the case of an organization the financial statements of which are included in consolidated financial statements with other organizations, such consolidated financial statements. In the preamble to the 2013 proposed regulations, the Treasury Department and the IRS requested comments regarding whether hospital organizations whose financial statements are included in consolidated financial statements should be able to redact financial information about any taxable organizations that are members of the consolidated group.

Two commenters stated that information about taxable organizations should be redacted from publicly available financial statements without further elaboration while another commenter stated that the information provided on the Form 990 should be as detailed as possible to keep tax-exempt hospitals accountable. Consolidated financial statements are fully integrated, making redaction of one particular organization's financial information difficult. The few comments received did not provide any explanation as to how such redactions could be accomplished without compromising the clarity of the statement. Accordingly, the final regulations adopt the proposed requirement without change.

c. *Reporting requirements for government hospital organizations*

A number of commenters have asked whether and how government hospital organizations can satisfy the reporting requirements related to CHNAs, since they are excused from filing a Form 990 under Rev. Proc. 95–48. As noted in the preamble to the 2013 proposed regulations, the Affordable Care Act did not change the requirements regarding which organizations are required to file a Form 990. Accordingly, a government hospital organization (other than one that is described in section 509(a)(3)) that has been excused from filing a Form 990 under Rev. Proc. 95–48 or a successor revenue procedure is not required to file a Form 990. Because government hospital organizations described in Rev. Proc. 95–48 are relieved from the annual filing requirements under section 6033, they are also relieved from any new reporting requirements imposed on hospital organizations under section 6033, including under section 6033(b)(10)(D) and (b)(15) and the requirement to attach one or more implementation strategies to a Form 990. However, to be treated as described in section 501(c)(3), government hospital organizations still must meet all section 501(r) requirements that do not involve disclosure on or with the Form 990, including making their CHNA reports and FAPs widely available on a Web site.

9. *Excise Tax on Failure to Meet CHNA Requirements*

Section 4959 imposes a $50,000 excise tax on a hospital organization that fails to meet the CHNA requirements with respect to any taxable year. The 2013 proposed regulations provided that the excise tax applies on a facility-by-facility basis and may be imposed on a hospital organization for each taxable year that a hospital facility fails to meet the section 501(r)(3) requirements.

One commenter suggested that the full $50,000 excise tax should apply only in instances where a hospital facility fails to conduct a CHNA altogether, with a sliding scale of tax applied to organizations that conduct a CHNA but fail to substantially comply with all of the CHNA requirements. Another commenter suggested applying the $50,000 excise tax separately for each failure of a hospital facility to meet each component of the section 501(r)(3) requirements.

Section 4959 applies the $50,000 excise tax to a hospital organization that fails to meet the requirements of section 501(r)(3) for any taxable year. Section 501(r)(3) requires that, in conducting a CHNA, a hospital must take into account input from persons who represent the broad interests of the community, make the CHNA widely available to the public, and adopt an implementation strategy to meet the needs identified through the CHNA. Section 4959 appears to provide for one $50,000 excise tax if a hospital facility fails one or any combination of those components of satisfying section 501(r)(3). It does not appear to provide for either a separate $50,000 excise tax for each component or a tax of less than $50,000 if a hospital facility fails some, but not all, of those components. Thus, the final regulations do not adopt these commenters' suggestions.

However, as discussed in section 2.b of this preamble, a hospital facility's omission or error with respect to the CHNA requirements will not be considered a failure to meet the CHNA requirements if the omission or error was minor and either inadvertent or due to reasonable cause and the hospital facility corrects the omission or error in accordance with § 1.501(r)–2(b)(1)(ii). If, as a result of this rule, an omission or error with respect to the CHNA requirements is not considered a failure to meet the CHNA requirements, the omission or error will not give rise to a $50,000 excise tax under section 4959.[13]

10. *Requirement of a Section 4959 Excise Tax Return and Time for Filing the Return*

Final and temporary regulations and a cross-reference notice of proposed rulemaking published on August 15, 2013, amended the existing regulations under sections 6011 and 6071 to require hospital organizations liable for the excise tax imposed by section 4959 in any taxable year to file Form 4720 by the 15th day of the fifth month after the end of the taxable year. No public comments were received on these amendments to sections 6011 and 6071. Therefore, these final regulations adopt the text of the temporary and proposed regulations without substantive change and remove the temporary regulations. The final regulations make one nonsubstantive change by moving the content of § 53.6011–1T(c) into existing paragraph § 53.6011–1(b).

Effective/Applicability Dates

Numerous commenters requested a transition period for hospital facilities to come into compliance with the final regulations to provide adequate time for hospital facilities to make needed changes in personnel, policies, procedures, and information systems. Specific transition periods of six months and one year were recommended. Several commenters also requested that the final regulations clarify how hospital facilities' compliance with section 501(r) will be assessed for the period between the date section 501(r)

[13]On the other hand, a hospital facility's failure to meet the CHNA requirements will give rise to the excise tax under section 4959 notwithstanding its correction and disclosure pursuant to the guidance described in section 2.c of this preamble.

was enacted (March 23, 2010) and the date the final regulations are applicable.

In response to these comments, the final regulations under section 501(r) apply to a hospital facility's taxable years beginning after December 29, 2015, which will give all hospital facilities at least a year to come into compliance with the final regulations. For taxable years beginning on or before December 29, 2015, the final regulations provide that a hospital facility may rely on a reasonable, good faith interpretation of section 501(r). A hospital facility will be deemed to have operated in accordance with a reasonable, good faith interpretation of section 501(r) if it has complied with the provisions of the 2012 and/or 2013 proposed regulations or these final regulations.

The final regulations under sections 4959 and 6033 either clarify or confirm compliance with statutory requirements that are already in effect and therefore do not require a transition period. Thus, the final regulations under section 4959 apply on and after December 29, 2014, and the final regulations under section 6033 apply to returns filed on or after December 29, 2014.

The temporary regulations under section 6071 have applied since August 15, 2013, and this Treasury decision adopts the proposed regulations that cross-referenced the text of those temporary regulations without substantive change. Thus, the final regulations under section 6071 apply on and after August 15, 2013.

Availability of IRS Documents

IRS notices, revenue rulings, and revenue procedures cited in this preamble are made available by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Effect on Other Documents

The following publication is obsolete as of December 29, 2014: Notice 2014–2 (2014–3 IRB 1).

Special Analyses

It has been determined that this rule is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to the final regulations. It is hereby certified the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. The collection of information is in § 1.501(r)–3, § 1.501(r)–4, § 1.501(r)–6(c), § 1.6033–2(a)(2)(ii)(*l*), § 53.6011–1, and § 53.6071–1 of the regulations. The certification is based on the following:

Consistent with the requirements imposed by section 501(r)(3), § 1.501(r)–3 of the regulations requires hospital facilities to conduct a CHNA and adopt an implementation strategy. However, these requirements need only be satisfied once over a period of three taxable years. Moreover, some hospital facilities already conduct similar community needs assessments under state law, and the Treasury Department and the IRS expect that these facilities will be able to draw upon pre-existing processes and resources to some extent. In addition, section 501(r)(3) itself already requires a hospital facility to conduct and widely publicize a CHNA that takes into account input of persons representing the broad interests of the community and to adopt an implementation strategy, so much of the collection of information burden associated with CHNAs is imposed by statute, not by these regulations.

Consistent with the requirements imposed by section 501(r)(4), § 1.501(r)–4 of the regulations requires hospital facilities to establish two written policies—a financial assistance policy (FAP) and an emergency medical care policy—but much of the work involved in putting such policies into writing will be performed once, with updates made periodically thereafter. Moreover, while hospital facilities may need to periodically modify these policies to reflect changed circumstances, the proposed regulations attempt to minimize that ongoing burden by giving hospital facilities the option of providing certain information separately from the policy, as long as the policy explains how members of the public can readily obtain this information free of charge. In addition, section 501(r)(4) itself already requires a hospital facility to establish a FAP that includes eligibility criteria and other specified elements and an emergency medical care policy, so much of the collection of information burden associated with these policies is imposed by statute, not by regulations.

In addition, as a general matter, §§ 1.501(r)–4(b)(5) and 1.501(r)–6(c) of the regulations, which, respectively, describe how a hospital facility widely publicizes its FAP and makes reasonable efforts to determine eligibility for assistance under its FAP, are designed to ensure that a hospital facility can meet these requirements by providing basic information about its FAP using pre-existing processes (such as the issuance of billing statements) and resources (such as its Web site and physician networks) in providing this information.

The applicability date under the final regulations also gives all hospital facilities at least one year to come into compliance with all of the final regulations under section 501(r).

Consistent with the requirements imposed by section 6033(b)(15), § 1.6033–2(a)(2)(ii)(*l*) of the regulations requires affected organizations to report annually on a Form 990 actions taken during the year to address community health needs and to attach audited financial statements to the Form 990. To assist the IRS and the public, the regulations also require affected organizations to attach to the Form 990 a copy of the most recently adopted implementation strategy or provide the URL of a Web page where it is available to the public. For affected organizations, the burden of providing either a copy of the implementation strategy or the address of a Web site where it can be found will be minimal. Consequently, the regulations under section 6033 do not add significantly to the impact on small entities imposed by the statutory scheme.

Sections 53.6011–1 and 53.6071–1 of the regulations merely provide guidance as to the timing and filing of Form 4720 for charitable hospital organizations liable for the section 4959 excise tax, and completing the applicable portion (Schedule M) of the Form 4720 for this purpose imposes little incremental burden in time or expense. The liability for the section 4959 excise tax is imposed by statute, and not these regulations. In addition, a charitable hospital organization may already be required to file the Form 4720 under the existing final regulations in §§ 53.6011–1 and 53.6071–1 if it is liable for another Chapter 41 or 42 excise tax.

For these reasons, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the 2012 and 2013 proposed regulations (as well the cross-reference notice of proposed rulemaking under sections 6011 and 6071) preceding these final regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small entities and no comments were received.

Drafting Information

The principal authors of these final regulations are Preston J. Quesenberry, Amy F. Giuliano, Amber L. MacKenzie, and Stephanie N. Robbins, Office of the Chief Counsel (Tax-Exempt and Government Entities). However, other personnel from the Treasury Department and the IRS participated in their development.

*** * * * ***

* * * * *

* * * **

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 53, and 602 are 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 1.501(r)–0 is added to read as follows:

§ 1.501(r)–0 Outline of regulations.

This section lists the table of contents for §§ 1.501(r)–1 through 1.501(r)–7.

§ 1.501(r)–1 Definitions.

(a) Application.
(b) Definitions.
(1) Amounts generally billed (AGB).
(2) AGB percentage.
(3) Application period.
(4) Authorized body of a hospital facility.
(5) Billing and collections policy.
(6) Date provided.
(7) Discharge.
(8) Disregarded entity.
(9) Emergency medical care.
(10) Emergency medical conditions.
(11) Extraordinary collection action (ECA).
(12) Financial assistance policy (FAP).
(13) FAP application.
(14) FAP application form.
(15) FAP-eligible.
(16) Gross charges.
(17) Hospital facility.
(18) Hospital organization.
(19) Medicaid.
(20) Medicare fee-for-service.
(21) Noncompliant facility income.
(22) Operating a hospital facility.
(23) Partnership agreement.
(24) Plain language summary of the FAP.
(25) Presumptive FAP-eligibility determination.
(26) Private health insurer.
(27) Referring.
(28) Substantially-related entity.
(29) Widely available on a Web site.

§ 1.501(r)–2 Failures to satisfy section 501(r).

(a) Revocation of section 501(c)(3) status.
(b) Minor omissions and errors.
(1) In general.
(2) Minor.
(3) Inadvertent.
(4) Reasonable cause.
(c) Excusing certain failures if hospital facility corrects and discloses.
(d) Taxation of noncompliant hospital facilities.
(1) In general.
(2) Noncompliant facility income.
(3) No aggregation.
(4) Interaction with other Code provisions.
(e) Instances in which a hospital organization is not required to meet section 501(r).

§ 1.501(r)–3 Community health needs assessments.

(a) In general.
(b) Conducting a CHNA.
(1) In general.
(2) Date a CHNA is conducted.
(3) Community served by a hospital facility.
(4) Assessing community health needs.
(5) Persons representing the broad interests of the community.
(6) Documentation of a CHNA.
(7) Making the CHNA report widely available to the public.
(c) Implementation strategy.
(1) In general.
(2) Description of how the hospital facility plans to address a significant health need.
(3) Description of why a hospital facility is not addressing a significant health need.
(4) Joint implementation strategies.
(5) When the implementation strategy must be adopted.
(d) Exception for acquired, new, and terminated hospital facilities.
(1) Acquired hospital facilities.
(2) New hospital organizations.
(3) New hospital facilities.
(4) Transferred or terminated hospital facilities.
(e) Transition rule for CHNAs conducted in taxable years beginning before March 23, 2012.

§ 1.501(r)–4 Financial assistance policy and emergency medical care policy.

(a) In general.
(b) Financial assistance policy.
(1) In general.
(2) Eligibility criteria and basis for calculating amounts charged to patients.
(3) Method for applying for financial assistance.
(4) Actions that may be taken in the event of nonpayment.
(5) Widely publicizing the FAP.
(6) Readily obtainable information.
(7) Providing documents electronically.
(8) Medically necessary care.
(c) Emergency medical care policy.
(1) In general.

(2) Interference with provision of emergency medical care.

(3) Relation to federal law governing emergency medical care.

(4) Examples.

(d) Establishing the FAP and other policies.

(1) In general.

(2) Implementing a policy.

(3) Establishing a policy for more than one hospital facility.

§ 1.501(r)–5 Limitation on charges.

(a) In general.

(b) Amounts generally billed.

(1) In general.

(2) Meaning of charged.

(3) Look-back method.

(4) Prospective Medicare or Medicaid method.

(5) Examples.

(c) Gross charges.

(d) Safe harbor for certain charges in excess of AGB.

(e) Medically necessary care.

§ 1.501(r)–6 Billing and collection.

(a) In general.

(b) Extraordinary collection actions.

(1) In general.

(2) Certain debt sales that are not ECAs.

(3) Liens on certain judgments, settlements, or compromises.

(4) Bankruptcy claims.

(c) Reasonable efforts.

(1) In general.

(2) Presumptive FAP-eligibility determinations based on third-party information or prior FAP-eligibility determinations.

(3) Reasonable efforts based on notification and processing of applications.

(4) Notification.

(5) Incomplete FAP applications.

(6) Complete FAP applications.

(7) When no FAP application is submitted.

(8) Suspending ECAs while a FAP application is pending.

(9) Waiver does not constitute reasonable efforts.

(10) Agreements with other parties.

(11) Clear and conspicuous placement.

(12) Providing documents electronically.

§ 1.501(r)–7 Effective/applicability date.

(a) Effective/applicability date.

(b) Reasonable interpretation for taxable years beginning on or before December 29, 2015.

Par. 3. Sections 1.501(r)–1 through 1.501(r)–7 are added to read as follows:

§ 1.501(r)–1 Definitions.

(a) *Application*. The definitions set forth in this section apply to §§ 1.501(r)–2 through 1.501(r)–7.

(b) *Definitions*—(1) *Amounts generally billed* (*AGB*) means the amounts generally billed for emergency or other medically necessary care to individuals who have insurance covering such care, determined in accordance with § 1.501(r)–5(b).

(2) *AGB percentage* means a percentage of gross charges that a hospital facility uses under § 1.501(r)–5(b)(3) to determine the AGB for any emergency or other medically necessary care it provides to an individual who is eligible for assistance under its financial assistance policy (FAP).

(3) *Application period* means the period during which a hospital facility must accept and process an application for financial assistance under its FAP submitted by an individual in order to have made reasonable efforts to determine whether the individual is FAP-eligible under § 1.501(r)–6(c). A hospital facility may accept and process an individual's FAP application submitted outside of the application period. With respect to any care provided by a hospital facility to an individual, the application period begins on the date the care is provided and ends on the later of the 240th day after the date that the first post-discharge billing statement for the care is provided or either—

(i) In the case of an individual who the hospital facility is notifying as described in § 1.501(r)–6(c)(4), the deadline specified by a written notice described in § 1.501(r)–6(c)(4); or

(ii) In the case of an individual who the hospital facility has presumptively determined to be eligible for less than the most generous assistance available under the FAP as described in § 1.501(r)–6(c)(2), the end of the reasonable period of time described in § 1.501(r)–6(c)(2)(i)(B).

(4) *Authorized body of a hospital facility* means—

(i) The governing body (that is, the board of directors, board of trustees, or equivalent controlling body) of the hospital organization that operates the hospital facility or a committee of, or other party authorized by, that governing body to the extent such committee or other party is permitted under state law to act on behalf of the governing body; or

(ii) The governing body of an entity that is disregarded or treated as a partnership for federal tax purposes that operates the hospital facility or a committee of, or other party authorized by, that governing body to the extent such committee or other party is permitted under state law to act on behalf of the governing body.

(5) *Billing and collections policy* means a written policy that includes all of the elements described in § 1.501(r)–4(b)(4)(i).

(6) *Date provided* means, in the case of any billing statement, written notice, or other written communication that is mailed, the date of mailing. The date that a billing statement, written notice, or other written communication is provided can also be the date such communication is sent electronically or delivered by hand.

(7) *Discharge* means to release from a hospital facility after the care at issue has been provided, regardless of whether that care has been provided on an inpatient or outpatient basis. Thus, a billing statement for care is considered "post-discharge" if it is provided to an individual after the care has been provided and the individual has left the hospital facility.

(8) *Disregarded entity* means an entity that is generally disregarded as separate from its owner for federal tax purposes under § 301.7701–3 of this chapter. One example of a disregarded entity is a domestic single member limited liability company that does not elect to be classified as an association taxable as a corporation for federal tax purposes.

(9) *Emergency medical care* means care provided by a hospital facility for emergency medical conditions.

(10) *Emergency medical conditions* means emergency medical conditions as defined in section 1867 of the Social Security Act (42 U.S.C. 1395dd).

(11) *Extraordinary collection action* (*ECA*) means an action described in § 1.501(r)–6(b)(1).

(12) *Financial assistance policy* (*FAP*) means a written policy that meets the requirements described in § 1.501(r)–4(b).

(13) *FAP application* means the information and accompanying documentation that an individual submits to apply for financial assistance under a hospital facility's FAP. An individual is considered to have submitted a complete FAP application if he or she provides information and documentation sufficient for the hospital facility to determine whether the individual is FAP-eligible and an incomplete FAP application if he or she provides some, but not sufficient, information and documentation to determine FAP-eligibility. The term "FAP application" does not refer only to written submissions, and a hospital facility may obtain information from an individual in writing or orally (or a combination of both).

(14) *FAP application form* means the application form (and any accompanying instructions) that a hospital facility makes available for individuals to submit as part of a FAP application.

(15) *FAP-eligible* means eligible for financial assistance under a hospital facility's FAP for care covered by the FAP, without regard to whether an individual has applied for assistance under the FAP.

(16) *Gross charges*, or the *chargemaster rate*, means a hospital facility's full, established price for medical care that the hospital facility consistently and uniformly charges patients before applying any contractual allowances, discounts, or deductions.

(17) *Hospital facility* means a facility that is required by a state to be licensed, registered, or similarly recognized as a hospital. Multiple buildings operated under a single state license are considered to be a single hospital facility. For purposes of this paragraph (b)(17), the term "state" includes only the 50 states and the District of Columbia and not any U.S. territory or foreign country. References to a hospital facility taking actions include instances in which the hospital organization operating the hospital facility takes actions through or on behalf of the hospital facility.

(18) *Hospital organization* means an organization recognized (or seeking to be recognized) as described in section 501(c)(3) that operates one or more hospital facilities. If the section 501(c)(3) status of such an organization is revoked, the organization will, for purposes of section 4959, continue to be treated as a hospital organization during the taxable year in which such revocation becomes effective.

(19) *Medicaid* means any medical assistance program administered by the state in which a hospital facility is licensed in accordance with Title XIX of the Social Security Act (42 U.S.C. 1396 through 1396w–5), including programs in which such medical assistance is provided through a contract between the state and a Medicaid managed care organization or a prepaid inpatient health plan.

(20) *Medicare fee-for-service* means health insurance available under Medicare Part A and Part B of Title XVIII of the Social Security Act (42 U.S.C. 1395c through 1395w–5).

(21) *Noncompliant facility income* means income that a hospital organization operating more than one hospital facility derives from a hospital facility that fails to meet one or more of the requirements of section 501(r) during a taxable year as determined in accordance with § 1.501(r)–2(d).

(22) *Operating a hospital facility*—(i) *In general*. Operating a hospital facility includes operating the facility through the organization's own employees or contracting out to another organization to operate the facility. For example, if an organization hires a management company to operate the facility, the hiring organization is considered to operate the facility. An organization also operates a hospital facility if it is the sole member or owner of a disregarded entity that operates the hospital facility. In addition, an organization operates a hospital facility if it owns a capital or profits interest in an entity treated as a partnership for federal tax purposes that operates the hospital facility, unless paragraph (b)(22)(ii) of this section applies. For purposes of this paragraph (b)(22), an organization is considered to own a capital or profits interest in an entity treated as a partnership for federal tax purposes if it owns such an interest directly or indirectly through one or more lower-tier entities treated as partnerships for federal tax purposes.

(ii) *Exception for certain partnerships*. An organization does not operate a hospital facility despite owning a capital or profits interest in an entity treated as a partnership for federal tax purposes that operates the hospital facility if—

(A) The organization does not have control over the operation of the hospital facility operated by the partnership sufficient to ensure that the operation of the hospital facility furthers an exempt purpose described in section 501(c)(3) and thus treats the operation of the hospital facility, including the facility's provision of medical care, as an unrelated trade or business described in section 513 with respect to the hospital organization; or

(B) At all times since March 23, 2010, the organization has been organized and operated primarily for educational or scientific purposes and has not engaged primarily in the operation of one or more hospital facilities and, pursuant to a partnership agreement entered into before March 23, 2010—

(*1*) Does not own more than 35 percent of the capital or profits interest in the partnership (determined in accordance with section 707(b)(3));

(*2*) Does not own a general partner interest, managing-member interest, or similar interest in the partnership; and

(*3*) Does not have control over the operation of the hospital facility sufficient to ensure that the hospital facility complies with the requirements of section 501(r).

(23) *Partnership agreement* means, for purposes of paragraph (b)(22)(ii)(B) of this section, all written agreements among the partners, or between one or more partners and the partnership, and concerning affairs of the partnership and responsibilities of the partners, whether or not embodied in a document referred to by the partners as the partnership agreement. A partnership agreement also includes any modifications to the agreement agreed to by all partners, or adopted in any other manner provided by the partnership agreement, except for modifications adopted on or after March 23, 2010, that affect whether or not the agreement is described in paragraph (b)(22)(ii)(B) of this section.

In addition, a partnership agreement includes provisions of federal, state, or local law that were in effect before March 23, 2010, and continue to be in effect that govern the affairs of the partnership or are considered under such law to be part of the partnership agreement.

(24) *Plain language summary of the FAP* means a written statement that notifies an individual that the hospital facility offers financial assistance under a FAP and provides the following additional information in language that is clear, concise, and easy to understand:

(i) A brief description of the eligibility requirements and assistance offered under the FAP.

(ii) A brief summary of how to apply for assistance under the FAP.

(iii) The direct Web site address (or URL) and physical locations where the individual can obtain copies of the FAP and FAP application form.

(iv) Instructions on how the individual can obtain a free copy of the FAP and FAP application form by mail.

(v) The contact information, including telephone number and physical location, of the hospital facility office or department that can provide information about the FAP and of either—

(A) The hospital facility office or department that can provide assistance with the FAP application process; or

(B) If the hospital facility does not provide assistance with the FAP application process, at least one nonprofit organization or government agency that the hospital facility has identified as an available source of assistance with FAP applications.

(vi) A statement of the availability of translations of the FAP, FAP application form, and plain language summary of the FAP in other languages, if applicable.

(vii) A statement that a FAP-eligible individual may not be charged more than AGB for emergency or other medically necessary care.

(25) *Presumptive FAP-eligibility determination* means a determination that an individual is FAP-eligible based on information other than that provided by the individual or based on a prior FAP-eligibility determination, as described in § 1.501(r)–6(c)(2).

(26) *Private health insurer* means any organization that is not a governmental unit that offers health insurance, including nongovernmental organizations administering a health insurance plan under Medicare Advantage (Part C of Title XVIII of the Social Security Act, 42 U.S.C. 1395w–21 through 1395w–29). For purposes of § 1.501(r)–5(b), medical assistance provided through a contract between the state and a Medicaid managed care organization or a prepaid inpatient health plan is not considered to be a reimbursement from or a claim allowed by a private health insurer.

(27) *Referring* an individual's debt to a debt collection agency or other party means contracting with, delegating to, or otherwise using the debt collection agency or other party to collect amounts owed by the individual to the hospital facility while still maintaining ownership of the debt.

(28) *Substantially-related entity* means, with respect to a hospital facility operated by a hospital organization, an entity treated as a partnership for federal tax purposes in which the hospital organization owns a capital or profits interest, or a disregarded entity of which the hospital organization is the sole member or owner, that provides emergency or other medically necessary care in the hospital facility, unless the provision of such care is an unrelated trade or business described in section 513 with respect to the hospital organization. Notwithstanding the preceding sentence, a partnership that qualifies for the exception described in paragraph (b)(22)(ii)(B) of this section is not considered a substantially-related entity within the meaning of this paragraph (b)(28).

(29) *Widely available on a Web site* means—

(i) The hospital facility conspicuously posts a complete and current version of the document on—

(A) The hospital facility's Web site;

(B) If the hospital facility does not have its own Web site separate from the hospital organization that operates it, the hospital organization's Web site; or

(C) A Web site established and maintained by another entity, but only if the Web site of the hospital facility or hospital organization (if the facility or organization has a Web site) provides a conspicuously-displayed link to the Web page where the document is posted, along with clear instructions for accessing the document on that Web site;

(ii) Individuals with access to the Internet can access, download, view, and print a hard copy of the document from the Web site—

(A) Without requiring special computer hardware or software (other than software that is readily available to members of the public without payment of any fee);

(B) Without paying a fee to the hospital facility, hospital organization, or other entity maintaining the Web site; and

(C) Without creating an account or being otherwise required to provide personally identifiable information; and

(iii) The hospital facility provides individuals who ask how to access a copy of the document online with the direct Web site address, or URL, of the Web page where the document is posted.

§ 1.501(r)–2 Failures to satisfy section 501(r).

(a) *Revocation of section 501(c)(3) status*. Except as otherwise provided in paragraphs (b) and (c) of this section, a hospital organization failing to meet one or more of the requirements of section 501(r) separately with respect to one or more hospital facilities it operates may have its section 501(c)(3) status revoked as of the first day of the taxable year in which the failure occurs. In determining whether to continue to recognize the section 501(c)(3) status of a hospital organization that fails to meet one or more of the requirements of section 501(r) with respect to one or more hospital facilities, the Commissioner will consider all relevant facts and circumstances including, but not limited to, the following:

(1) Whether the organization has previously failed to meet the requirements of section 501(r), and, if so, whether the same type of failure previously occurred.

(2) The size, scope, nature, and significance of the organization's failure(s).

(3) In the case of an organization that operates more than one hospital facility, the number, size, and significance of the facilities that have failed to meet the section 501(r) requirements relative to those

that have complied with these requirements.

(4) The reason for the failure(s).

(5) Whether the organization had, prior to the failure(s), established practices or procedures (formal or informal) reasonably designed to promote and facilitate overall compliance with the section 501(r) requirements.

(6) Whether the practices or procedures had been routinely followed and the failure(s) occurred through an oversight or mistake in applying them.

(7) Whether the organization has implemented safeguards that are reasonably calculated to prevent similar failures from occurring in the future.

(8) Whether the organization corrected the failure(s) as promptly after discovery as is reasonable given the nature of the failure(s).

(9) Whether the organization took the measures described in paragraphs (a)(7) and (a)(8) of this section before the Commissioner discovered the failure(s).

(b) *Minor omissions and errors*—(1) *In general*. A hospital facility's omission of required information from a policy or report described in § 1.501(r)–3 or § 1.501(r)–4, or error with respect to the implementation or operational requirements described in §§ 1.501(r)–3 through 1.501(r)–6, will not be considered a failure to meet a requirement of section 501(r) if the following conditions are satisfied:

(i) Such omission or error was minor and either inadvertent or due to reasonable cause.

(ii) The hospital facility corrects such omission or error as promptly after discovery as is reasonable given the nature of the omission or error. Such correction must include establishment (or review and, if necessary, revision) of practices or procedures (formal or informal) that are reasonably designed to promote and facilitate overall compliance with the requirements of section 501(r).

(2) *Minor*. In the case of multiple omissions or errors, the omissions or errors are considered minor for purposes of this paragraph (b) only if they are minor in the aggregate.

(3) *Inadvertent*. For purposes of this paragraph (b), the fact that the same omission or error has been made and corrected previously is a factor tending to show that an omission or error is not inadvertent.

(4) *Reasonable cause*. For purposes of this paragraph (b), the fact that a hospital facility has established practices or procedures (formal or informal) reasonably designed to promote and facilitate overall compliance with the section 501(r) requirements prior to the occurrence of an omission or error is a factor tending to show that the omission or error is due to reasonable cause.

(c) *Excusing certain failures if hospital facility corrects and discloses*. A hospital facility's failure to meet one or more of the requirements described in §§ 1.501(r)–3 through 1.501(r)–6 that is neither willful nor egregious shall be excused for purposes of this section if the hospital facility corrects and makes disclosure in accordance with rules set forth by revenue procedure, notice, or other guidance published in the Internal Revenue Bulletin. For purposes of this paragraph (c), a "willful" failure includes a failure due to gross negligence, reckless disregard, or willful neglect, and an "egregious" failure includes only a very serious failure, taking into account the severity of the impact and the number of affected persons. Whether a failure is willful or egregious will be determined based on all of the facts and circumstances. A hospital facility's correction and disclosure of a failure in accordance with the relevant guidance is a factor tending to show that the failure was not willful.

(d) *Taxation of noncompliant hospital facilities*—(1) *In general*. Except as otherwise provided in paragraphs (b) and (c) of this section, if a hospital organization that operates more than one hospital facility fails to meet one or more of the requirements of section 501(r) separately with respect to a hospital facility during a taxable year, the income derived from the noncompliant hospital facility ("noncompliant facility income") during that taxable year will be subject to tax computed as provided in section 11 (or as provided in section 1(e) if the hospital organization is a trust described in section 511(b)(2)), but substituting the term "noncompliant facility income" for "taxable income," if—

(i) The hospital organization continues to be recognized as described in section 501(c)(3) during the taxable year; but

(ii) The hospital organization would not continue to be recognized as described in section 501(c)(3) during the taxable year based on the facts and circumstances described in paragraph (a) of this section (but disregarding paragraph (a)(3) of this section) if the noncompliant hospital facility were the only hospital facility operated by the organization.

(2) *Noncompliant facility income*—(i) *In general*. For purposes of this paragraph (d), the noncompliant facility income derived from a hospital facility during a taxable year will be the gross income derived from that hospital facility during the taxable year, less the deductions allowed by chapter 1 that are directly connected to the operation of that hospital facility during the taxable year, excluding any gross income and deductions taken into account in computing any unrelated business taxable income described in section 512 that is derived from the facility during the taxable year.

(ii) *Directly connected deductions*. For purposes of this paragraph (d), to be directly connected with the operation of a hospital facility that has failed to meet the requirements of section 501(r), an item of deduction must have proximate and primary relationship to the operation of the hospital facility. Expenses, depreciation, and similar items attributable solely to the operation of a hospital facility are proximately and primarily related to such operation, and therefore qualify for deduction to the extent that they meet the requirements of section 162, section 167, or other relevant provisions of the Internal Revenue Code (Code). Where expenses, depreciation, and similar items are attributable to a noncompliant hospital facility and other hospital facilities operated by the hospital organization (and/or to other activities of the hospital organization unrelated to the operation of hospital facilities), such items shall be allocated among the hospital facilities (and/or other activities) on a reasonable basis. The portion of any such item so allocated to a noncompliant hospital facility is proximately and primarily related to the operation of that facility and shall be allowable as a deduction in computing the facility's noncompliant facility income in the manner and to the extent it would meet the requirements of section 162, section 167, or other relevant provisions of the Code.

(3) *No aggregation*. In computing the noncompliant facility income of a hospital facility, the gross income from (and the deductions allowed with respect to) the hospital facility may not be aggregated with the gross income from (and the deductions allowed with respect to) the hospital organization's other noncompliant hospital facilities subject to tax under this paragraph (d) or its unrelated trade or business activities described in section 513.

(4) *Interaction with other Code provisions*—(i) *Hospital organization operating a noncompliant hospital facility continues to be treated as tax-exempt*. A hospital organization operating a noncompliant hospital facility subject to tax under this paragraph (d) shall continue to be treated as an organization that is exempt from tax under section 501(a) because it is described in section 501(c)(3) for all purposes of the Code. In addition, the application of this paragraph (d) shall not, by itself, result in the operation of the noncompliant hospital facility being considered an unrelated trade or business described in section 513 with respect to the hospital organization. Thus, for example, the application of this paragraph (d) shall not, by itself, affect the tax-exempt status of bonds issued to finance the noncompliant hospital facility.

(ii) *Noncompliant hospital facility operated by a tax-exempt hospital organization is subject to tax*. A noncompliant hospital facility described in paragraph (d)(1) of this section is subject to tax under this paragraph (d), notwithstanding the fact that the hospital organization operating the hospital facility is otherwise exempt from tax under section 501(a) and subject to tax under section 511(a) and that § 1.11–1(a) of this chapter states such organizations are not liable for the tax imposed under section 11.

(iii) *Noncompliant hospital facility not a business entity*. A noncompliant hospital facility subject to tax under this paragraph (d) is not considered a business entity for purposes of § 301.7701–2(b)(7) of this chapter.

(e) *Instances in which a hospital organization is not required to meet section 501(r)*. A hospital organization is not required to meet the requirements of section 501(r) (and, therefore, is not subject to any consequence described in this section for failing to meet the requirements of section 501(r)) with respect to—

(1) Any hospital facility it is not "operating" within the meaning of § 1.501(r)–1(b)(22);

(2) The operation of a facility that is not required by a state to be licensed, registered, or similarly recognized as a hospital; or

(3) Any activities that constitute an unrelated trade or business described in section 513 with respect to the hospital organization.

§ 1.501(r)–3 Community health needs assessments.

(a) *In general*. With respect to any taxable year, a hospital organization meets the requirements of section 501(r)(3) with respect to a hospital facility it operates only if—

(1) The hospital facility has conducted a community health needs assessment (CHNA) that meets the requirements of paragraph (b) of this section in such taxable year or in either of the two taxable years immediately preceding such taxable year (except as provided in paragraph (d) of this section); and

(2) An authorized body of the hospital facility (as defined in § 1.501(r)–1(b)(4)) has adopted an implementation strategy to meet the community health needs identified through the CHNA, as described in paragraph (c) of this section, on or before the 15th day of the fifth month after the end of such taxable year.

(b) *Conducting a CHNA*—(1) *In general*. To conduct a CHNA for purposes of paragraph (a) of this section, a hospital facility must complete all of the following steps:

(i) Define the community it serves.

(ii) Assess the health needs of that community.

(iii) In assessing the health needs of the community, solicit and take into account input received from persons who represent the broad interests of that community, including those with special knowledge of or expertise in public health.

(iv) Document the CHNA in a written report (CHNA report) that is adopted for the hospital facility by an authorized body of the hospital facility.

(v) Make the CHNA report widely available to the public.

(2) *Date a CHNA is conducted*. For purposes of this section, a hospital facility will be considered to have conducted a CHNA on the date it has completed all of the steps described in paragraph (b)(1) of this section. Solely for purposes of determining the taxable year in which a CHNA has been conducted under this paragraph (b)(2), a hospital facility will be considered to have completed the step of making a CHNA report widely available to the public on the date it first makes the CHNA report widely available to the public as described in paragraph (b)(7)(i) of this section.

(3) *Community served by a hospital facility*. In defining the community it serves for purposes of paragraph (b)(1)(i) of this section, a hospital facility may take into account all of the relevant facts and circumstances, including the geographic area served by the hospital facility, target population(s) served (for example, children, women, or the aged), and principal functions (for example, focus on a particular specialty area or targeted disease). However, a hospital facility may not define its community to exclude medically underserved, low-income, or minority populations who live in the geographic areas from which the hospital facility draws its patients (unless such populations are not part of the hospital facility's target patient population(s) or affected by its principal functions) or otherwise should be included based on the method the hospital facility uses to define its community. In addition, in determining its patient populations for purposes of defining its community, a hospital facility must take into account all patients without regard to whether (or how much) they or their insurers pay for the care received or whether they are eligible for assistance under the hospital facility's financial assistance policy. In the case of a hospital facility consisting of multiple buildings that operate under a single state license and serve different geographic areas or populations, the

community served by the hospital facility is the aggregate of such areas or populations.

(4) *Assessing community health needs*. To assess the health needs of the community it serves for purposes of paragraph (b)(1)(ii) of this section, a hospital facility must identify significant health needs of the community, prioritize those health needs, and identify resources (such as organizations, facilities, and programs in the community, including those of the hospital facility) potentially available to address those health needs. For these purposes, the health needs of a community include requisites for the improvement or maintenance of health status both in the community at large and in particular parts of the community (such as particular neighborhoods or populations experiencing health disparities). These needs may include, for example, the need to address financial and other barriers to accessing care, to prevent illness, to ensure adequate nutrition, or to address social, behavioral, and environmental factors that influence health in the community. A hospital facility may determine whether a health need is significant based on all of the facts and circumstances present in the community it serves. In addition, a hospital facility may use any criteria to prioritize the significant health needs it identifies, including, but not limited to, the burden, scope, severity, or urgency of the health need; the estimated feasibility and effectiveness of possible interventions; the health disparities associated with the need; or the importance the community places on addressing the need.

(5) *Persons representing the broad interests of the community*—(i) *In general*. For purposes of paragraph (b)(1)(iii) of this section, a hospital facility must solicit and take into account input received from all of the following sources in identifying and prioritizing significant health needs and in identifying resources potentially available to address those health needs:

(A) At least one state, local, tribal, or regional governmental public health department (or equivalent department or agency), or a State Office of Rural Health described in section 338J of the Public Health Service Act (42 U.S.C. 254r), with knowledge, information, or expertise relevant to the health needs of that community.

(B) Members of medically underserved, low-income, and minority populations in the community served by the hospital facility, or individuals or organizations serving or representing the interests of such populations. For purposes of this paragraph (b), medically underserved populations include populations experiencing health disparities or at risk of not receiving adequate medical care as a result of being uninsured or underinsured or due to geographic, language, financial, or other barriers.

(C) Written comments received on the hospital facility's most recently conducted CHNA and most recently adopted implementation strategy.

(ii) *Additional sources of input*. In addition to the sources described in paragraph (b)(5)(i) of this section, a hospital facility may solicit and take into account input received from a broad range of persons located in or serving its community, including, but not limited to, health care consumers and consumer advocates, nonprofit and community-based organizations, academic experts, local government officials, local school districts, health care providers and community health centers, health insurance and managed care organizations, private businesses, and labor and workforce representatives.

(6) *Documentation of a CHNA*—(i) *In general*. For purposes of paragraph (b)(1)(iv) of this section, the CHNA report adopted for the hospital facility by an authorized body of the hospital facility must include—

(A) A definition of the community served by the hospital facility and a description of how the community was determined;

(B) A description of the process and methods used to conduct the CHNA;

(C) A description of how the hospital facility solicited and took into account input received from persons who represent the broad interests of the community it serves;

(D) A prioritized description of the significant health needs of the community identified through the CHNA, along with a description of the process and criteria used in identifying certain health needs as significant and prioritizing those significant health needs;

(E) A description of the resources potentially available to address the significant health needs identified through the CHNA; and

(F) An evaluation of the impact of any actions that were taken, since the hospital facility finished conducting its immediately preceding CHNA, to address the significant health needs identified in the hospital facility's prior CHNA(s).

(ii) *Process and methods used to conduct the CHNA*. A hospital facility's CHNA report will be considered to describe the process and methods used to conduct the CHNA for purposes of paragraph (b)(6)(i)(B) of this section if the CHNA report describes the data and other information used in the assessment, as well as the methods of collecting and analyzing this data and information, and identifies any parties with whom the hospital facility collaborated, or with whom it contracted for assistance, in conducting the CHNA. In the case of data obtained from external source material, the CHNA report may cite the source material rather than describe the method of collecting the data.

(iii) *Input from persons who represent the broad interests of the community served by the hospital facility*. A hospital facility's CHNA report will be considered to describe how the hospital facility took into account input received from persons who represent the broad interests of the community it serves for purposes of paragraph (b)(6)(i)(C) of this section if the CHNA report summarizes, in general terms, any input provided by such persons and how and over what time period such input was provided (for example, whether through meetings, focus groups, interviews, surveys, or written comments and between what approximate dates); provides the names of any organizations providing input and summarizes the nature and extent of the organization's input; and describes the medically underserved, low-income, or minority populations being represented by organizations or individuals that provided input. A CHNA report does not need to name or otherwise identify any specific individual providing input on the CHNA. In the event a hospital facility solicits, but cannot obtain, input from a source described in paragraph (b)(5)(i) of this section, the hospital facility's CHNA report also must describe the hospital facility's efforts to solicit input from such source.

(iv) *Separate CHNA reports*. While a hospital facility may conduct its CHNA in collaboration with other organizations and facilities (including, but not limited to, related and unrelated hospital organizations and facilities, for-profit and government hospitals, governmental departments, and nonprofit organizations), every hospital facility must document the information described in this paragraph (b)(6) in a separate CHNA report to satisfy paragraph (b)(1)(iv) of this section unless it adopts a joint CHNA report as described in paragraph (b)(6)(v) of this section. However, if a hospital facility is collaborating with other facilities and organizations in conducting its CHNA or if another organization (such as a state or local public health department) has conducted a CHNA for all or part of the hospital facility's community, portions of the hospital facility's CHNA report may be substantively identical to portions of a CHNA report of a collaborating hospital facility or other organization conducting a CHNA, if appropriate under the facts and circumstances. For example, if two hospital facilities with overlapping, but not identical, communities are collaborating in conducting a CHNA, the portions of each hospital facility's CHNA report relevant to the shared areas of their communities might be identical. Similarly, if the state or local public health department with jurisdiction over the community served by a hospital facility conducts a CHNA for an area that includes the hospital facility's community, the hospital facility's CHNA report might include portions of the state or local public health department's CHNA report that are relevant to its community.

(v) *Joint CHNA reports*—(A) *In general*. A hospital facility that collaborates with other hospital facilities or other organizations (such as state or local public health departments) in conducting its CHNA will satisfy paragraph (b)(1)(iv) of this section if an authorized body of the hospital facility adopts for the hospital facility a joint CHNA report produced for the hospital facility and one or more of the collaborating facilities and organizations, provided that the following conditions are met:

(*1*) The joint CHNA report meets the requirements of paragraph (b)(6)(i) of this section.

(*2*) The joint CHNA report is clearly identified as applying to the hospital facility.

(*3*) All of the collaborating hospital facilities and organizations included in the joint CHNA report define their community to be the same.

(B) *Example*. The following example illustrates this paragraph (b)(6)(v):

Example. P is one of 10 hospital facilities located in and serving the populations of a particular Metropolitan Statistical Area (MSA). P and seven other facilities in the MSA, some of which are unrelated to P, decide to collaborate in conducting a CHNA for the MSA and to each define their community as constituting the entire MSA. The eight hospital facilities work together with the state and local health departments of jurisdictions in the MSA to assess the health needs of the MSA and collaborate in conducting surveys and holding public forums to solicit and receive input from the MSA's residents, including its medically underserved, low-income, and minority populations. The hospital facilities also consider the written comments received on their most recently conducted CHNAs and most recently adopted implementation strategies. The hospital facilities then work together to prepare a joint CHNA report documenting this joint CHNA process that contains all of the elements described in paragraph (b)(6)(i) of this section. The joint CHNA report identifies all of the collaborating hospital facilities included in the report, including P, by name, both within the report itself and on the cover page. The board of directors of the hospital organization operating P adopts the joint CHNA report for P. P has complied with the requirements of this paragraph (b)(6)(v) and, accordingly, has satisfied paragraph (b)(1)(iv) of this section.

(7) *Making the CHNA report widely available to the public*—(i) *In general*. For purposes of paragraph (b)(1)(v) of this section, a hospital facility's CHNA report is made widely available to the public only if the hospital facility—

(A) Makes the CHNA report widely available on a Web site, as defined in § 1.501(r)–1(b)(29), at least until the date the hospital facility has made widely available on a Web site its two subsequent CHNA reports; and

(B) Makes a paper copy of the CHNA report available for public inspection upon request and without charge at the hospital facility at least until the date the hospital facility has made available for public inspection a paper copy of its two subsequent CHNA reports.

(ii) *Making draft CHNA reports widely available*. Notwithstanding paragraph (b)(7)(i) of this section, if a hospital facility makes widely available on a Web site (and/or for public inspection) a version of the CHNA report that is expressly marked as a draft on which the public may comment, the hospital facility will not be considered to have made the CHNA report widely available to the public for purposes of determining the date on which the hospital facility has conducted a CHNA under paragraph (b)(2) of this section.

(c) *Implementation strategy*—(1) *In general*. For purposes of paragraph (a)(2) of this section, a hospital facility's implementation strategy to meet the community health needs identified through the hospital facility's CHNA is a written plan that, with respect to each significant health need identified through the CHNA, either—

(i) Describes how the hospital facility plans to address the health need; or

(ii) Identifies the health need as one the hospital facility does not intend to address and explains why the hospital facility does not intend to address the health need.

(2) *Description of how the hospital facility plans to address a significant health need*. A hospital facility's implementation strategy will have described a plan to address a significant health need identified through a CHNA for purposes of paragraph (c)(1)(i) of this section if the implementation strategy—

(i) Describes the actions the hospital facility intends to take to address the health need and the anticipated impact of these actions;

(ii) Identifies the resources the hospital facility plans to commit to address the health need; and

(iii) Describes any planned collaboration between the hospital facility and other facilities or organizations in addressing the health need.

(3) *Description of why a hospital facility is not addressing a significant health need*. In explaining why it does not intend to address a significant health need for purposes of paragraph (c)(1)(ii) of this section, a brief explanation of the hospital facility's reason for not addressing the health need is sufficient. Such reasons may include, for example, resource con-

straints, other facilities or organizations in the community addressing the need, a relative lack of expertise or competency to effectively address the need, the need being a relatively low priority, and/or a lack of identified effective interventions to address the need.

(4) *Joint implementation strategies*. A hospital facility may develop an implementation strategy in collaboration with other hospital facilities or other organizations, including, but not limited to, related and unrelated hospital organizations and facilities, for-profit and government hospitals, governmental departments, and nonprofit organizations. In general, a hospital facility that collaborates with other facilities or organizations in developing its implementation strategy must still document its implementation strategy in a separate written plan that is tailored to the particular hospital facility, taking into account its specific resources. However, a hospital facility that adopts a joint CHNA report described in paragraph (b)(6)(v) of this section may also adopt a joint implementation strategy that, with respect to each significant health need identified through the joint CHNA, either describes how one or more of the collaborating facilities or organizations plan to address the health need or identifies the health need as one the collaborating facilities or organizations do not intend to address and explains why they do not intend to address the health need. For a collaborating hospital facility to meet the requirements of paragraph (a)(2) of this section, such a joint implementation strategy adopted for the hospital facility must—

(i) Be clearly identified as applying to the hospital facility;

(ii) Clearly identify the hospital facility's particular role and responsibilities in taking the actions described in the implementation strategy and the resources the hospital facility plans to commit to such actions; and

(iii) Include a summary or other tool that helps the reader easily locate those portions of the joint implementation strategy that relate to the hospital facility.

(5) *When the implementation strategy must be adopted*—(i) *In general*. For purposes of paragraph (a)(2) of this section, an authorized body of the hospital facility must adopt the implementation strategy on or before the 15th day of the fifth month after the end of the taxable year in which the hospital facility completes the final step for the CHNA described in paragraph (b)(1) of this section, regardless of whether the hospital facility began working on the CHNA in a prior taxable year.

(ii) *Example*. The following example illustrates this paragraph (c)(5):

Example. M is a hospital facility that last conducted a CHNA and adopted an implementation strategy in Year 1. In Year 3, M defines the community it serves, assesses the significant health needs of that community, and solicits and takes into account input received from persons who represent the broad interests of that community. In Year 4, M documents its CHNA in a CHNA report that is adopted by an authorized body of M, makes the CHNA report widely available on a Web site, and makes paper copies of the CHNA report available for public inspection. To meet the requirements of paragraph (a)(2) of this section, an authorized body of M must adopt an implementation strategy to meet the health needs identified through the CHNA completed in Year 4 by the 15th day of the fifth month of Year 5.

(d) *Exception for acquired, new, and terminated hospital facilities*—(1) *Acquired hospital facilities*. A hospital organization that acquires a hospital facility (whether through merger or acquisition) must meet the requirements of section 501(r)(3) with respect to the acquired hospital facility by the last day of the organization's second taxable year beginning after the date on which the hospital facility was acquired. In the case of a merger between two organizations that results in the liquidation of one organization and the survival of the other organization, the hospital facility or facilities formerly operated by the liquidated organization will be considered "acquired" for purposes of this paragraph (d)(1).

(2) *New hospital organizations*. An organization that becomes newly subject to the requirements of section 501(r) because it is recognized as described in section 501(c)(3) and is operating a hospital facility must meet the requirements of section 501(r)(3) with respect to any hospital facility by the last day of the second taxable year beginning after the later of the effective date of the determination letter or ruling recognizing the organization as described in section 501(c)(3) or the first date that a facility operated by the organization was licensed, registered, or similarly recognized by a state as a hospital.

(3) *New hospital facilities*. A hospital organization must meet the requirements of section 501(r)(3) with respect to a new hospital facility it operates by the last day of the second taxable year beginning after the date the facility was licensed, registered, or similarly recognized by its state as a hospital.

(4) *Transferred or terminated hospital facilities*. A hospital organization is not required to meet the requirements of section 501(r)(3) with respect to a hospital facility in a taxable year if, before the end of that taxable year, the hospital organization transfers all ownership of the hospital facility to another organization or otherwise ceases its operation of the hospital facility or the facility ceases to be licensed, registered, or similarly recognized as a hospital by a state.

(e) *Transition rule for CHNAs conducted in taxable years beginning before March 23, 2012*. A hospital facility that conducted a CHNA described in section 501(r)(3) in either its first taxable year beginning after March 23, 2010, or its first taxable year beginning after March 23, 2011, does not need to meet the requirements of section 501(r)(3) again until the third taxable year following the taxable year in which the hospital facility conducted that CHNA, provided that the hospital facility adopted an implementation strategy to meet the community health needs identified through that CHNA on or before the 15th day of the fifth calendar month following the close of its first taxable year beginning after March 23, 2012.

§ 1.501(r)–4 Financial assistance policy and emergency medical care policy.

(a) *In general*. A hospital organization meets the requirements of section 501(r)(4) with respect to a hospital facility it operates only if the hospital organization establishes for that hospital facility—

(1) A written financial assistance policy (FAP) that meets the requirements of paragraph (b) of this section; and

(2) A written emergency medical care policy that meets the requirements of paragraph (c) of this section.

(b) *Financial assistance policy*—(1) *In general*. To satisfy paragraph (a)(1) of this section, a hospital facility's FAP must—

(i) Apply to all emergency and other medically necessary care provided by the hospital facility, including all such care provided in the hospital facility by a substantially-related entity (as defined in § 1.501(r)–1(b)(28));

(ii) Be widely publicized as described in paragraph (b)(5) of this section; and

(iii) Include—

(A) The eligibility criteria for financial assistance and whether such assistance includes free or discounted care;

(B) The basis for calculating amounts charged to patients;

(C) The method for applying for financial assistance;

(D) In the case of a hospital facility that does not have a separate billing and collections policy, the actions that may be taken in the event of nonpayment;

(E) If applicable, any information obtained from sources other than an individual seeking financial assistance that the hospital facility uses, and whether and under what circumstances it uses prior FAP-eligibility determinations, to presumptively determine that the individual is FAP-eligible, as described in § 1.501(r)–6(c)(2); and

(F) A list of any providers, other than the hospital facility itself, delivering emergency or other medically necessary care in the hospital facility that specifies which providers are covered by the hospital facility's FAP and which are not.

(2) *Eligibility criteria and basis for calculating amounts charged to patients*—(i) *In general*. To satisfy paragraphs (b)(1)(iii)(A) and (b)(1)(iii)(B) of this section, the FAP must specify the following:

(A) All financial assistance available under the FAP, including all discounts and free care available under the FAP and, if applicable, the amount(s) (for example, gross charges) to which any discount percentages available under the FAP will be applied.

(B) The eligibility criteria that an individual must satisfy to receive each discount, free care, or other level of assistance available under the FAP.

(C) The method under § 1.501(r)–5(b) the hospital facility uses to determine the amounts generally billed to individuals who have insurance covering emergency or other medically necessary care (AGB). If the hospital facility uses the look-back method described in § 1.501(r)–5(b)(3), the FAP also must state the AGB percentage(s) that the hospital facility uses to determine AGB and describe how the hospital facility calculated such percentage(s) or, alternatively, explain how members of the public may readily obtain such percentage(s) and accompanying description of the calculation in writing and free of charge. In addition, the FAP must indicate that, following a determination of FAP-eligibility, a FAP-eligible individual may not be charged more than AGB for emergency or other medically necessary care.

(ii) *Examples*. The following examples illustrate this paragraph (b)(2):

Example 1. (i) Q is a hospital facility that establishes a FAP that provides assistance to all uninsured and underinsured individuals whose family income is less than or equal to x% of the Federal Poverty Level (FPL), with the level of discount for which an individual is eligible under Q's FAP determined based upon the individual's family income as a percentage of FPL. Q's FAP defines the meaning of "uninsured," "underinsured," "family income," and "Federal Poverty Level." Q's FAP also states that Q determines AGB by multiplying the gross charges for any emergency or other medically necessary care it provides to a FAP-eligible individual by an AGB percentage of 56%. The FAP states, further, that Q calculated the AGB percentage of 56% based on all claims allowed by Medicare and private health insurers over a specified 12-month period, divided by the associated gross charges for those claims. Q's FAP contains the following chart, specifying each discount available under the FAP, the amounts (gross charges) to which these discounts will be applied, and the specific eligibility criteria for each such discount:

Family income as % of FPL	Discount off of gross charges
>y% – x%	50%
>z% – y%	75%
≤z%	Free

(ii) Q's FAP also contains a statement that no FAP-eligible individual will be charged more for emergency or other medically necessary care than AGB because Q's AGB percentage is 56% of gross charges and the most a FAP-eligible individual will be charged is 50% of gross charges. Q's FAP satisfies the requirements of this paragraph (b)(2).

Example 2. (i) R is a hospital facility that establishes a FAP that provides assistance based on household income. R's FAP defines the meaning of "household income." R's FAP contains the following chart specifying the assistance available under the FAP and the specific eligibility criteria for each level of assistance offered, which R updates occasionally to account for inflation:

Household income	Maximum amount individual will be responsible for paying
>$b – $a	40% of gross charges, up to the lesser of AGB or x% of household income
>$c – $b	20% of gross charges, up to the lesser of AGB or y% of household income
≤$c	$0 (free)

(ii) R's FAP contains a statement that no FAP-eligible individual will be charged more for emergency or other medically necessary care than AGB. R's FAP also states that R determines AGB by multiplying the gross charges for any emergency or other medically necessary care it provides by AGB percentages, which are based on claims allowed under Medicare. In addition, the FAP provides a Web site address individuals can visit, and a telephone number they can call, if they would like to obtain an information sheet stating R's AGB percentages and explaining how these AGB percentages were calculated. This information sheet, which R makes available on its Web site and provides to any individual who requests it, states that R's AGB percentages are 35% of gross charges for inpatient care and 61% of gross charges for outpatient care. It also states that these percentages were based on all claims allowed for R's emergency or other medically necessary inpatient and outpatient care by Medicare over a specified 12-month period, divided by the associated gross charges for those claims. R's FAP satisfies the requirements of this paragraph (b)(2).

(3) *Method for applying for financial assistance*—(i) *In general*. To satisfy paragraph (b)(1)(iii)(C) of this section, a hospital facility's FAP must describe how an individual applies for financial assistance under the FAP. In addition, either the hospital facility's FAP or FAP application form (including accompanying instructions) must describe the information and documentation the hospital facility may require an individual to provide as part of his or her FAP application and provide the contact information described in § 1.501(r)–1(b)(24)(v). A hospital facility may not deny financial assistance under its FAP based on an applicant's failure to provide information or documentation unless that information or documentation is described in the FAP or FAP application form. However, a hospital facility may grant financial assistance under its FAP notwithstanding an applicant's failure to provide information or documentation described in the FAP or FAP application form and may, for example, rely on other evidence of eligibility or an attestation by the applicant to determine that the applicant is FAP-eligible.

(ii) *Example*. The following example illustrates this paragraph (b)(3):

Example. S is a hospital facility with a FAP that bases eligibility solely on an individual's household income. S's FAP provides that an individual may apply for financial assistance by completing and submitting S's FAP application form. S's FAP also describes how individuals can obtain copies of the FAP application form. S's FAP application form contains lines on which the applicant lists all items of household income received by the applicant's household over the last month and the names of the applicant's household members. The instructions to S's FAP application form tell applicants where to submit the application and provide that an applicant must attach to his or her FAP application form proof of household income in the form of payroll check stubs from the last month or, if last month's wages are not representative of the applicant's annual income, a copy of the applicant's most recent federal tax return. Alternatively, the instructions state that an applicant may provide documentation of his or her qualification for certain specified state means-tested programs. The instructions also state that if an applicant does not have any of the listed documents proving household income, he or she may call S's financial assistance office and discuss other evidence that may be provided to demonstrate eligibility. S does not deny financial assistance to FAP applicants based on a failure to submit any information or documentation not mentioned in the FAP application form or instructions. S's FAP application form instructions also provide the contact information of the hospital facility office that can provide an applicant with information about the FAP and assistance with the FAP application process. S's FAP satisfies the requirements of this paragraph (b)(3).

(4) *Actions that may be taken in the event of nonpayment*—(i) *In general*. To satisfy paragraph (b)(1)(iii)(D) of this section, either a hospital facility's FAP or a separate written billing and collections policy established for the hospital facility must describe—

(A) Any actions that the hospital facility (or other authorized party) may take related to obtaining payment of a bill for medical care, including, but not limited to, any extraordinary collection actions (ECAs) described in § 1.501(r)–6(b);

(B) The process and time frames the hospital facility (or other authorized party) uses in taking the actions described in paragraph (b)(4)(i)(A) of this section, including, but not limited to, the reasonable efforts it will make to determine whether an individual is FAP-eligible before engaging in any ECAs, as described in § 1.501(r)–6(c); and

(C) The office, department, committee, or other body with the final authority or responsibility for determining that the hospital facility has made reasonable efforts to determine whether an individual is FAP-eligible and may therefore engage in ECAs against the individual.

(ii) *Separate billing and collections policy*. In the case of a hospital facility that satisfies paragraph (b)(1)(iii)(D) of this section by establishing a separate written billing and collections policy, the hospital facility's FAP must state that the actions the hospital facility may take in the event of nonpayment are described in a separate billing and collections policy and explain how members of the public may readily obtain a free copy of this separate policy.

(5) *Widely publicizing the FAP*—(i) *In general*. To satisfy the requirement in paragraph (b)(1)(ii) of this section to widely publicize its FAP, a hospital facility must—

(A) Make the FAP, FAP application form, and plain language summary of the FAP (as defined in § 1.501(r)–1(b)(24)) widely available on a Web site (as defined in § 1.501(r)–1(b)(29));

(B) Make paper copies of the FAP, FAP application form, and plain language summary of the FAP available upon request and without charge, both by mail and in public locations in the hospital facility, including, at a minimum, in the emergency room (if any) and admissions areas;

(C) Notify and inform members of the community served by the hospital facility about the FAP in a manner reasonably calculated to reach those members who are most likely to require financial assistance from the hospital facility; and

(D) Notify and inform individuals who receive care from the hospital facility about the FAP by—

(*1*) Offering a paper copy of the plain language summary of the FAP to patients as part of the intake or discharge process;

(*2*) Including a conspicuous written notice on billing statements that notifies and informs recipients about the availability of financial assistance under the hospital facility's FAP and includes the telephone number of the hospital facility office or department that can provide information about the FAP and FAP application process and the direct Web site address (or URL) where copies of the FAP, FAP application form, and plain language summary of the FAP may be obtained; and

(*3*) Setting up conspicuous public displays (or other measures reasonably calculated to attract patients' attention) that notify and inform patients about the FAP in public locations in the hospital facility, including, at a minimum, the emergency room (if any) and admissions areas.

(ii) *Accessibility to limited English proficient individuals*. To widely publicize its FAP, a hospital facility must accommodate all significant populations that have limited English proficiency (LEP) by translating its FAP, FAP application form, and plain language summary of the FAP into the primary language(s) spoken by such populations. A hospital facility will satisfy this translation requirement in a taxable year if it makes available translations of its FAP, FAP application form, and plain language summary of the FAP in the language spoken by each LEP language group that constitutes the lesser of 1,000 individuals or 5 percent of the community served by the hospital facility or the population likely to be affected or encountered by the hospital facility. For purposes of this paragraph (b)(5)(ii), a hospital facility may determine the percentage or number of LEP individuals in the hospital facility's community or likely to be affected or encountered by the hospital facility using any reasonable method.

(iii) *Meaning of notify and inform*. For purposes of paragraphs (b)(5)(i)(C) and (b)(5)(i)(D)(*3*) of this section, a measure will notify and inform members of a community or patients about the hospital facility's FAP if the measure, at a minimum, notifies the reader or listener that the hospital facility offers financial assistance under a FAP and informs him or her about how or where to obtain more information about the FAP and FAP application process and to obtain copies of the FAP, FAP application form, and plain language summary of the FAP.

(iv) *Meaning of reasonably calculated*. Whether one or more measures to widely publicize a hospital facility's FAP are reasonably calculated to notify and inform members of a community or patients about the hospital facility's FAP in the manner described in paragraphs (b)(5)(i)(C) and (b)(5)(i)(D)(*3*) of this section will depend on all of the facts and circumstances, including the primary language(s) spoken by the members of the community served by the hospital facility and other attributes of the community and the hospital facility.

(v) *Examples*. The following examples illustrate this paragraph (b)(5):

Example 1. (i) Z is a hospital facility. The home page and main billing page of Z's Web site conspicuously display the following message: "Need help paying your bill? You may be eligible for financial assistance. Click *here* for more information." When readers click on the link, they are taken to a Web page that explains the various discounts available under Z's FAP and the specific eligibility criteria for each such discount. This Web page also provides all of the other information required to be included in a plain language summary of the FAP (as defined in § 1.501(r)–1(b)(24)), including a telephone number of Z that individuals can call and a room number of Z that individuals can visit for more information about the FAP and assistance with FAP applications. In addition, the Web page contains prominently-displayed links that allow readers to download PDF files of the FAP and the FAP application form, free of charge and without being required to create an account or provide personally identifiable information. Z provides any individual who asks how to access a copy of the FAP, FAP application form, or plain language summary of the FAP online with the URL of this Web page. By implementing these measures, Z has made its FAP widely available on a Web site within the meaning of paragraph (b)(5)(i)(A) of this section.

(ii) Z distributes copies of the plain language summary of its FAP and its FAP application form to all of its referring staff physicians and to the community health centers serving its community. Z also distributes copies of these documents to the local health department and to numerous public agencies and nonprofit organizations in its community that address the health issues and other needs of low-income populations, in quantities sufficient to meet demand. In addition, every issue of the quarterly newsletter that Z mails to the individuals in its customer database contains a prominently-displayed advertisement informing readers that Z offers financial assistance and that people having trouble paying their hospital bills may be eligible for financial assistance. The advertisement provides readers with the URL of the Web page where Z's FAP and FAP application form can be accessed and a telephone number of Z that individuals can call and a room number of Z that individuals can visit with questions about the FAP or assistance with the FAP application process. By implementing these measures, Z notifies and informs members of its community about the FAP within the meaning of paragraph (b)(5)(i)(C) of this section.

(iii) Z makes paper copies of the FAP, FAP application form, and plain language summary of the FAP available upon request and without charge, both by mail and in its admissions areas and emergency room. Z also conspicuously displays a sign in large font regarding the FAP in its admissions areas and emergency room. The sign says: "Uninsured? Having trouble paying your hospital bill? You may be eligible for financial assistance." The sign also provides the URL of the Web page where Z's FAP and FAP application form can be accessed. In addition, the sign provides a telephone number of Z that individuals can call and a room number of Z that individuals can visit with questions about the FAP or assistance with the FAP application process. Underneath each sign, Z conspicuously displays copies of a brochure that contains all of the information required to be included in a plain language summary of the FAP (as defined in § 1.501(r)–1(b)(24)). Z makes these brochures available in quantities sufficient to meet visitor demand. Z also offers a plain language summary of the FAP as part of its intake process. Z's billing statements include a conspicuously-placed statement in large font containing the same information that Z includes on its signs. By implementing these measures, Z makes a paper copy of the FAP, FAP application form, and plain language summary of the FAP available upon request within the meaning of paragraph (b)(5)(i)(B) of this section and notifies and informs individuals who receive care from the hospital facility about the FAP within the meaning of paragraph (b)(5)(i)(D) of this section.

(iv) Because Z takes measures to widely publicize the FAP described in paragraphs (b)(5)(i)(A), (b)(5)(i)(B), (b)(5)(i)(C), and (b)(5)(i)(D) of this section, Z meets the requirement to widely publicize its FAP under paragraph (b)(1)(ii) of this section.

Example 2. Assume the same facts as *Example 1*, except that Z serves a community in which 6% of the members speak Spanish and have limited proficiency in English. Z translates its FAP, FAP application form, and FAP brochure (which constitutes a plain language summary of the FAP) into Spanish, and displays and distributes both Spanish and English versions of these documents in its hospital facility using all of the measures described in *Example 1*. Z also distributes Spanish versions of its FAP application form and FAP brochure to organizations serving Spanish-speaking members of its community. Moreover, the home page and main billing page of Z's Web site conspicuously display an "¿Habla Español?" link that takes readers to a Web page that summarizes the FAP in Spanish and contains links that allow readers to download PDF files of the Spanish versions of the FAP and FAP application form, free of charge and without being required to create an account or provide personally identifiable information. Z meets the requirement to widely publicize its FAP under paragraph (b)(1)(ii) of this section.

(6) *Readily obtainable information*. For purposes of paragraphs (b)(2)(i)(C) and (b)(4)(ii) of this section, information is readily obtainable by members of the public if a hospital facility—

(i) Makes the information available free of charge on a Web site and via a paper copy upon request in a manner similar to that described in paragraphs (b)(5)(i)(A) and (b)(5)(i)(B) of this section; and

(ii) Provides translations of the information as described in paragraph (b)(5)(ii) of this section.

(7) *Providing documents electronically*. A hospital facility may provide electronically (for example, on an electronic screen, by email, or by providing the direct Web site address, or URL, of the Web page where the document or information is posted) any document or information that is required by this paragraph (b) to be provided in the form of a paper copy to any individual who indicates he or she prefers to receive or access the document or information electronically.

(8) *Medically necessary care*. For purposes of meeting the requirements of this section, a hospital facility may (but is not required to) use a definition of medically necessary care applicable under the laws of the state in which it is licensed, including the Medicaid definition, or a definition that refers to the generally accepted standards of medicine in the community or to an examining physician's determination.

(c) *Emergency medical care policy*—(1) *In general*. To satisfy paragraph (a)(2) of this section, a hospital organization must establish a written policy for a hospital facility that requires the hospital facility to provide, without discrimination, care for emergency medical conditions to individuals regardless of whether they are FAP-eligible.

(2) *Interference with provision of emergency medical care*. A hospital facility's emergency medical care policy will not be described in paragraph (c)(1) of this section unless it prohibits the hospital facility from engaging in actions that discourage individuals from seeking emergency medical care, such as by demanding that emergency department patients pay before receiving treatment for emergency medical conditions or by permitting debt collection activities that interfere with the provision, without discrimination, of emergency medical care.

(3) *Relation to federal law governing emergency medical care*. Subject to paragraph (c)(2) of this section, a hospital facility's emergency medical care policy will be described in paragraph (c)(1) of this section if it requires the hospital facility to provide the care for emergency medical conditions that the hospital facility is required to provide under Subchapter G of Chapter IV of Title 42 of the Code of Federal Regulations (or any successor regulations).

(4) *Examples*. The following examples illustrate this paragraph (c):

Example 1. F is a hospital facility with a dedicated emergency department that is subject to the Emergency Medical Treatment and Labor Act (EMTALA) and is not a critical access hospital. F establishes a written emergency medical care policy requiring F to comply with EMTALA by providing medical screening examinations and stabilizing treatment and referring or transferring an individual to another facility, when appropriate, and providing emergency services in accordance with 42 CFR 482.55 (or any successor regulation). F's emergency medical care policy also states that F prohibits any actions that would discourage individuals from seeking emergency medical care, such as by demanding that emergency department patients pay before receiving treatment for emergency medical conditions or permitting debt collection activities that interfere with the provision, without discrimination, of emergency medical care. F's emergency medical care policy is described in paragraph (c)(1) of this section.

Example 2. G is a rehabilitation hospital facility. G does not have a dedicated emergency department, nor does it have specialized capabilities that would make it appropriate to accept transfers of individuals who need stabilizing treatment for an emergency medical condition. G establishes a written emergency medical care policy that addresses how it appraises emergencies, provides initial treatment, and refers or transfers an individual to another facility, when appropriate, in a manner that complies with 42 CFR 482.12(f)(2) (or any successor regulation). G's emergency medical care policy also prohibits G from engaging in actions that discourage individuals from seeking emergency medical care, such as by demanding that patients pay before receiving initial treatment for emergency medical conditions or permitting debt collection activities that interfere with the facility's appraisal and provision, without discrimination, of such initial treatment. G's emergency medical care policy is described in paragraph (c)(1) of this section.

(d) *Establishing the FAP and other policies*—(1) *In general*. A hospital organization has established a FAP, a billing and collections policy, or an emergency medical care policy for a hospital facility only if an authorized body of the hospital facility (as defined in § 1.501(r)–1(b)(4)) has adopted the policy for the hospital facility and the hospital facility has implemented the policy.

(2) *Implementing a policy*. For purposes of this paragraph (d), a hospital facility will be considered to have implemented a policy if the hospital facility has consistently carried out the policy.

(3) *Establishing a policy for more than one hospital facility*. A hospital organization may establish a FAP, billing and collections policy, and/or emergency medical care policy for a hospital facility that is identical to that of other hospital facilities or a joint policy that is shared with multiple hospital facilities provided that any joint policy clearly identifies each facility to which it applies. However, hospital facilities that have different AGB percentages or use different methods to determine AGB must include in their FAPs (or, in the case of information related to AGB percentages, otherwise make readily obtainable) different information regarding AGB to meet the requirements of paragraph (b)(2)(i)(C) of this section.

§ 1.501(r)–5 Limitation on charges.

(a) *In general*. A hospital organization meets the requirements of section 501(r)(5) with respect to a hospital facility it operates only if the hospital facility (and any substantially-related entity, as defined in § 1.501(r)–1(b)(28)) limits the amount charged for care it provides to any individual who is eligible for assistance under its financial assistance policy (FAP) to—

(1) In the case of emergency or other medically necessary care, not more than the amounts generally billed to individuals who have insurance covering such care (AGB), as determined under paragraph (b) of this section; and

(2) In the case of all other medical care covered under the FAP, less than the gross charges for such care, as described in paragraph (c) of this section.

(b) *Amounts generally billed*—(1) *In general*. For purposes of meeting the requirements of paragraph (a)(1) of this section, a hospital facility must determine AGB for emergency or other medically necessary care using a method described in paragraph (b)(3) or (b)(4) of this section or any other method specified in regulations or other guidance published in the Internal Revenue Bulletin. A hospital facility may use only one of these methods to determine AGB at any one time, but different hospital facilities operated by the same hospital organization may use different methods. A hospital facility may change the method it uses to determine AGB at any time.

(2) *Meaning of charged*. For purposes of paragraph (a)(1) of this section, a FAP-eligible individual is considered to be "charged" only the amount he or she is personally responsible for paying, after all deductions, discounts (including discounts available under the FAP), and insurance reimbursements have been applied. Thus, in the case of a FAP-eligible individual who has health insurance coverage, a hospital facility will meet the requirements of paragraph (a)(1) of this section if the FAP-eligible individual is not personally responsible for paying (for example, in the form of co-payments, co-insurance, and deductibles) more than AGB for the care after all reimbursements by the health insurer have been applied, even if the total amount paid by the FAP-eligible individual and his or her health insurer together exceeds AGB.

(3) *Look-back method*—(i) *In general*. A hospital facility may determine AGB for any emergency or other medically necessary care it provides to a FAP-eligible individual by multiplying the hospital facility's gross charges for the care by one or more percentages of gross charges (AGB percentage(s)). A hospital facility using this method must calculate its AGB percentage(s) at least annually by dividing the sum of the amounts of all of its claims for emergency and other medically necessary care that have been allowed by health insurers described in paragraph (b)(3)(ii) of this section during a prior 12-month period by the sum of the associated gross charges for those claims. Whether a claim is used in calculating a hospital facility's AGB percentage(s) depends on whether the claim was allowed by a health insurer during the 12-month period used in the calculation, not on whether the care resulting in the claim was provided during that 12-month period. If the amount a health insurer will allow for a claim has not been finally determined as of the last day of the 12-month period used to calculate the AGB percentage(s), a hospital facility should exclude the amount of the claim from that calculation and include it in the subsequent 12-month period during which the amount allowed is finally determined. When including allowed claims in calculating its AGB percentage(s), the hospital facility should include the full amount that has been allowed by the health insurer, including both the amount the insurer will pay or reimburse and the amount (if any) the individual is personally responsible for paying in the form of co-payments, co-insurance, and deductibles, regardless of whether or when the full amount allowed is actually paid and disregarding

any discounts applied to the individual's portion.

(ii) *Health insurers used in calculating AGB percentage(s)*. In calculating its AGB percentage(s), a hospital facility must include the claims allowed during a prior 12-month period by—

(A) Medicare fee-for-service;

(B) Medicare fee-for-service and all private health insurers that pay claims to the hospital facility; or

(C) Medicaid, either alone or in combination with the insurer(s) described in paragraph (b)(3)(ii)(A) or (b)(3)(ii)(B) of this section.

(iii) *One or multiple AGB percentages*. A hospital facility's AGB percentage that is calculated using the method described in this paragraph (b)(3) may be one average percentage of gross charges for all emergency and other medically necessary care provided by the hospital facility. Alternatively, a hospital facility may calculate multiple AGB percentages for separate categories of care (such as inpatient and outpatient care or care provided by different departments) or for separate items or services, as long as the hospital facility calculates AGB percentages for all emergency and other medically necessary care provided by the hospital facility.

(iv) *Start date for applying AGB percentages*. For purposes of determining AGB under this paragraph (b)(3), with respect to any AGB percentage that a hospital facility has calculated, the hospital facility must begin applying the AGB percentage by the 120th day after the end of the 12-month period the hospital facility used in calculating the AGB percentage.

(v) *Use of all claims for medical care*. A hospital facility determining AGB under this paragraph (b)(3) may use claims allowed for all medical care during a prior 12-month period rather than just those allowed for emergency and other medically necessary care.

(vi) *Determining AGB percentages for more than one hospital facility*. Although generally a hospital organization must calculate AGB percentage(s) separately for each hospital facility it operates, hospital facilities that are covered under the same Medicare provider agreement (as defined in 42 CFR 489.3 or any successor regulations) may calculate one AGB percentage (or multiple AGB percentages for separate categories of care or for separate items or services) using the method described in this paragraph (b)(3) based on the claims and gross charges for all such hospital facilities and implement the AGB percentage(s) across all such hospital facilities.

(4) *Prospective Medicare or Medicaid method*. A hospital facility may determine AGB for any emergency or other medically necessary care provided to a FAP-eligible individual by using the billing and coding process the hospital facility would use if the FAP-eligible individual were a Medicare fee-for-service or Medicaid beneficiary and setting AGB for the care at the amount the hospital facility determines would be the total amount Medicare or Medicaid would allow for the care (including both the amount that would be reimbursed by Medicare or Medicaid and the amount the beneficiary would be personally responsible for paying in the form of co-payments, co-insurance, and deductibles). A hospital facility using the method described in this paragraph (b)(4) may base AGB on Medicare fee-for-service or Medicaid or both, provided that, if it uses both, its FAP describes the circumstance under which it will use Medicare fee-for-service or Medicaid in determining AGB.

(5) *Examples*. The following examples illustrate this paragraph (b):

Example 1. On March 15 of Year 1, Y, a hospital facility, generates data on the amount of all of Y's claims for emergency and other medically necessary care that were allowed by all private health insurers and Medicare fee-for-service over the immediately preceding calendar year. Y determines that the private health insurers allowed a total amount of $250 million and Medicare fee-for-service allowed a total amount of $150 million, with the total allowed amounts including both the portion the insurers agreed to reimburse and the portion that the insured patients were personally responsible for paying. Y's gross charges for these claims totaled $800 million. Y calculates that its AGB percentage is 50% of gross charges ($400 million/$800 million). Y updates its FAP to reflect the new AGB percentage of 50% and makes the updated FAP widely available (both on its Web site and via paper copies upon request) on April 1 of Year 1. Between April 1 of Year 1 (less than 120 days after the end of the preceding calendar year) and March 31 of Year 2, Y determines AGB for any emergency or other medically necessary care it provides to a FAP-eligible individual by multiplying the gross charges for the care provided to the individual by 50%. Y has determined AGB between April 1 of Year 1 and March 31 of Year 2 in accordance with this paragraph (b) by using the look-back method described in paragraph (b)(3) of this section.

Example 2. On August 20 of Year 1, X, a hospital facility, generates data on the amount of all of X's claims for emergency and other medically necessary care that were allowed by Medicare fee-for-service over the 12 months ending on July 31 of Year 1. X determines that, of these claims for inpatient services, Medicare allowed a total amount of $100 million (including both the portion Medicare agreed to reimburse and the portion Medicare beneficiaries were personally responsible for paying). X's gross charges for these inpatient claims totaled $250 million. Of the claims for outpatient services, Medicare allowed a total amount of $125 million. X's gross charges for these outpatient claims totaled $200 million. X calculates that its AGB percentage for inpatient services is 40% of gross charges ($100 million/$250 million) and its AGB percentage for outpatient services is 62.5% of gross charges ($125 million/$200 million). Y discloses its AGB percentages and describes how they were calculated on the Web page where its FAP can be accessed, and it updates this Web page to reflect the new AGB percentages on November 1. Y also starts making an updated information sheet with the new AGB percentages available upon request on and after November 1. Between November 1 of Year 1 (less than 120 days after the end of the 12-month claim period) and October 31 of Year 2, X determines AGB for any emergency or other medically necessary inpatient care it provides to a FAP-eligible individual by multiplying the gross charges for the inpatient care it provides to the individual by 40% and AGB for any emergency or other medically necessary outpatient care it provides to a FAP-eligible individual by multiplying the gross charges for the outpatient care it provides to the individual by 62.5%. X has determined AGB between November 1 of Year 1 and October 31 of Year 2 in accordance with this paragraph (b) by using the look-back method described in paragraph (b)(3) of this section.

Example 3. Whenever Z, a hospital facility, provides emergency or other medically necessary care to a FAP-eligible individual, Z determines the AGB for the care by using the billing and coding process it would use if the individual were a Medicare fee-for-service beneficiary and setting AGB for the care at the amount it determines Medicare and the Medicare beneficiary together would be expected to pay for the care. Z has determined AGB in accordance with this paragraph (b) by using the prospective Medicare method described in paragraph (b)(4) of this section.

Example 4. Using the look-back method described in paragraph (b)(3) of this section, W, a hospital facility, calculates that its AGB percentage for Year 1 is 60% of gross charges. Under W's FAP, which applies to all emergency and other medically necessary care provided by W and which has been updated to reflect the AGB percentage for Year 1, the most that W charges a FAP-eligible individual is 50% of gross charges. W properly implements its FAP and charges no FAP-eligible individual more for emergency or other medically necessary care than 50% of gross charges in Year 1. W has met the requirements of paragraphs (a)(1) and (b) of this section in Year 1.

Example 5. A, an individual, receives medically necessary care from hospital facility V for which the AGB is $3y. A is insured by U, a health insurer. Under U's contracts with V and A, the amount allowed for the care V provided to A is $5y. Of that amount allowed, A is personally responsible for paying $1y (in co-payments and deductibles) while U is responsible for paying $4y. Based on the eligibility criteria specified in its FAP, V determines that A is FAP-eligible. Pursuant to paragraph (b)(2) of this section, V may charge U and A collectively $5y while still meeting the requirements of paragraph (a)(1) of this section because the amount A is personally responsible for paying in co-payments and deductibles ($1y) is less than the AGB for the care ($3y).

Example 6. Assume the same facts as *Example 5*, except that under U's contracts with V and A, A is personally responsible for paying $4y (in co-payments and deductibles) for the care while U is responsible for paying V $1y. Because A is FAP-eligible under V's FAP, paragraph (a)(1) of this section requires that A not be personally responsible for paying V more than $3y (the AGB for the care provided).

(c) *Gross charges*. A hospital facility must charge a FAP-eligible individual less than the gross charges for any medical care covered under the hospital facility's FAP. A billing statement issued by a hospital facility to a FAP-eligible individual for medical care covered under the FAP may state the gross charges for such care and apply contractual allowances, discounts, or deductions to the gross charges, provided that the actual amount the individual is personally responsible for paying is less than the gross charges for such care.

(d) *Safe harbor for certain charges in excess of AGB*. A hospital facility will be deemed to meet the requirements of paragraph (a) of this section, even if it charges more than AGB for emergency or other medically necessary care (or gross charges for any medical care covered under the FAP) provided to a FAP-eligible individual, if—

(1) The charge in excess of AGB was not made or requested as a pre-condition of providing medically necessary care to the FAP-eligible individual (for example, an upfront payment that a hospital facility requires before providing medically necessary care);

(2) As of the time of the charge, the FAP-eligible individual has not submitted a complete FAP application to the hospital facility to obtain financial assistance for the care or has not otherwise been determined by the hospital facility to be FAP-eligible for the care; and

(3) If the individual subsequently submits a complete FAP application and is determined to be FAP-eligible for the care, the hospital facility refunds any amount the individual has paid for the care (whether to the hospital facility or any other party to whom the hospital facility has referred or sold the individual's debt for the care) that exceeds the amount he or she is determined to be personally responsible for paying as a FAP-eligible individual, unless such excess amount is less than $5 (or such other amount set by notice or other guidance published in the Internal Revenue Bulletin).

(e) *Medically necessary care*. For purposes of meeting the requirements of this section, a hospital facility may (but is not required to) use a definition of medically necessary care applicable under the laws of the state in which it is licensed, including the Medicaid definition, or a definition that refers to the generally accepted standards of medicine in the community or to an examining physician's determination.

§ 1.501(r)–6 Billing and collection.

(a) *In general*. A hospital organization meets the requirements of section 501(r)(6) with respect to a hospital facility it operates only if the hospital facility does not engage in extraordinary collection actions (ECAs), as defined in paragraph (b) of this section, against an individual to obtain payment for care before the hospital facility has made reasonable efforts to determine whether the individual is eligible for assistance for the care under its financial assistance policy (FAP), as described in paragraph (c) of this section. For purposes of this section, with respect to any debt owed by an individual for care provided by a hospital facility—

(1) ECAs against the individual include ECAs to obtain payment for the care against any other individual who has accepted or is required to accept responsibility for the individual's hospital bill for the care; and

(2) The hospital facility will be deemed to have engaged in an ECA against the individual to obtain payment for the care, or to have taken one or more of the steps necessary to have made reasonable efforts to determine whether the individual is FAP-eligible for the care, if any purchaser of the individual's debt, any debt collection agency or other party to which the hospital facility has referred the individual's debt, or any substantially-related entity (as defined in § 1.501(r)–1(b)(28)) has engaged in such an ECA or taken such steps (whichever is applicable).

(b) *Extraordinary collection actions*—(1) *In general*. Except as otherwise provided in this paragraph (b), the following actions taken by a hospital facility against an individual related to obtaining payment of a bill for care covered under the hospital facility's FAP are ECAs:

(i) Selling an individual's debt to another party (other than debt sales described in paragraph (b)(2) of this section).

(ii) Reporting adverse information about the individual to consumer credit reporting agencies or credit bureaus.

(iii) Deferring or denying, or requiring a payment before providing, medically necessary care because of an individual's nonpayment of one or more bills for previously provided care covered under the hospital facility's FAP (which is considered an ECA to obtain payment for the previously provided care, not the care being potentially deferred or denied). If a hospital facility requires a payment before providing medically necessary care to an individual with one or more outstanding bills for previously provided care, such a requirement for payment will be presumed to be because of the individual's nonpayment of such bill(s) unless the hospital facility can demonstrate that it required the payment from the individual based on factors other than, and without regard to, the individual's nonpayment of past bills.

(iv) Actions that require a legal or judicial process, including but not limited to—

(A) Placing a lien on an individual's property (other than a lien described in paragraph (b)(3) of this section);

(B) Foreclosing on an individual's real property;

(C) Attaching or seizing an individual's bank account or any other personal property;

(D) Commencing a civil action against an individual;

(E) Causing an individual's arrest;

(F) Causing an individual to be subject to a writ of body attachment; and

(G) Garnishing an individual's wages.

(2) *Certain debt sales that are not ECAs*. A hospital facility's sale of an individual's debt for care provided by the hospital facility will not be considered an ECA if, prior to the sale, the hospital facility has entered into a legally binding written agreement with the purchaser of the debt pursuant to which—

(i) The purchaser is prohibited from engaging in any ECAs to obtain payment for the care;

(ii) The purchaser is prohibited from charging interest on the debt in excess of the rate in effect under section 6621(a)(2) at the time the debt is sold (or such other interest rate set by notice or other guidance published in the Internal Revenue Bulletin);

(iii) The debt is returnable to or recallable by the hospital facility upon a determination by the hospital facility or the purchaser that the individual is FAP-eligible; and

(iv) If the individual is determined to be FAP-eligible and the debt is not returned to or recalled by the hospital facility, the purchaser is required to adhere to procedures specified in the agreement that ensure that the individual does not pay, and has no obligation to pay, the purchaser and the hospital facility together more than he or she is personally responsible for paying as a FAP-eligible individual.

(3) *Liens on certain judgments, settlements, or compromises*. Any lien that a hospital facility is entitled to assert under state law on the proceeds of a judgment, settlement, or compromise owed to an individual (or his or her representative) as a result of personal injuries for which the hospital facility provided care is not an ECA.

(4) *Bankruptcy claims*. The filing of a claim in any bankruptcy proceeding is not an ECA.

(c) *Reasonable efforts*—(1) *In general*. A hospital facility will have made reasonable efforts to determine whether an individual is FAP-eligible for care only if the hospital facility meets the requirements described in paragraph (c)(2) or (c)(3) of this section.

(2) *Presumptive FAP-eligibility determinations based on third-party information or prior FAP-eligibility determinations*—(i) *In general*. With respect to any care provided by a hospital facility to an individual, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible for the care if it determines that the individual is FAP-eligible for the care based on information other than that provided by the individual or based on a prior FAP-eligibility determination and, if the individual is presumptively determined to be eligible for less than the most generous assistance available under the FAP, the hospital facility—

(A) Notifies the individual regarding the basis for the presumptive FAP-eligibility determination and the way to apply for more generous assistance available under the FAP;

(B) Gives the individual a reasonable period of time to apply for more generous assistance before initiating ECAs to obtain the discounted amount owed for the care; and

(C) If the individual submits a complete FAP application seeking more generous assistance during the application period (as defined in § 1.501(r)–1(b)(3)), determines whether the individual is eligible for a more generous discount and otherwise meets the requirements described in paragraph (c)(6) of this section with respect to that complete FAP application.

(ii) *Examples*. The following examples illustrate this paragraph (c)(2):

Example 1. V is a hospital facility with a FAP under which the specific assistance for which an individual is eligible depends exclusively upon that individual's household income. The most generous assistance offered for care under V's FAP is free care. V's FAP states that V uses enrollment in certain specified means-tested public programs to presumptively determine that individuals are FAP-eligible. D, an individual, receives care from V. Although D does not submit a FAP application to V, V learns that D is eligible for certain benefits under a state program that bases eligibility on household income. Based on this knowledge, V presumptively determines that D is eligible to receive free care under its FAP. V notifies D that it has determined he is eligible for free care based on his eligibility for the benefits under the state program and therefore does not owe V anything for the care he received. V has made reasonable efforts to determine whether D is FAP-eligible under this paragraph (c)(2).

Example 2. X is a hospital facility with a FAP that describes the data, including both hospital and publicly-available data, X uses to make presumptive FAP-eligibility determinations. On January 16, F, an individual, receives care from X. Using the hospital and publicly-available data described in its FAP, X presumptively determines that F is eligible for a 50% discount under its FAP, a discount that is not the most generous discount available under the FAP. The first billing statement that X sends to F indicates that F has been given a 50% discount under X's FAP, explains the basis for this presumptive FAP-eligibility determination, and informs F that she may apply for financial assistance if she believes she is eligible for a more generous discount. The billing statement indicates that F may call 1-800-888-xxxx or visit X's Web site at *www.hospitalX.org/FAP* to learn more about the FAP or the FAP application process. X sends F three more billing statements, each of which contains the standard written notice about the FAP that X includes on all of its billing statements in accordance with § 1.501(r)–4(b)(5), but F neither pays the amount she is personally responsible for paying nor applies for more generous financial assistance. The time between the first and fourth billing statement constitutes a reasonable period of time for F to apply for more generous assistance. V has made reasonable efforts to determine whether D is FAP-eligible under this paragraph (c)(2).

(3) *Reasonable efforts based on notification and processing of applications*. With respect to any care provided by a hospital facility to an individual, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible for the care if it—

(i) Notifies the individual about the FAP as described in paragraph (c)(4) of this section before initiating any ECAs to obtain payment for the care and refrains from initiating such ECAs (with the exception of an ECA described in paragraph (b)(1)(iii) of this section) for at least 120 days from the date the hospital facility provides the first post-discharge billing statement for the care;

(ii) In the case of an individual who submits an incomplete FAP application during the application period, notifies the individual about how to complete the FAP application and gives the individual a reasonable opportunity to do so as described in paragraph (c)(5) of this section; and

(iii) In the case of an individual who submits a complete FAP application during the application period, determines whether the individual is FAP-eligible for the care and otherwise meets the requirements described in paragraph (c)(6) of this section.

(4) *Notification*—(i) *In general*. With respect to any care provided by a hospital facility to an individual and except as provided in paragraph (c)(4)(iii) of this section, a hospital facility will have notified an individual about its FAP for purposes of paragraph (c)(3)(i) of this section only

if the hospital facility does the following at least 30 days before first initiating one or more ECA(s) to obtain payment for the care:

(A) Provides the individual with a written notice that indicates financial assistance is available for eligible individuals, that identifies the ECA(s) that the hospital facility (or other authorized party) intends to initiate to obtain payment for the care, and that states a deadline after which such ECA(s) may be initiated that is no earlier than 30 days after the date that the written notice is provided.

(B) Provides the individual with a plain language summary of the FAP (as defined in § 1.501(r)–1(b)(24)) with the written notice described in paragraph (c)(4)(i)(A) of this section (or, if applicable, paragraph (c)(4)(iii) of this section).

(C) Makes a reasonable effort to orally notify the individual about the hospital facility's FAP and about how the individual may obtain assistance with the FAP application process.

(ii) *Notification in the event of multiple episodes of care*. A hospital facility may satisfy the notification requirements described in paragraph (c)(4)(i) of this section simultaneously for multiple episodes of care and notify the individual about the ECA(s) the hospital facility intends to initiate to obtain payment for multiple outstanding bills for care. However, if a hospital facility aggregates an individual's outstanding bills for multiple episodes of care before initiating one or more ECAs to obtain payment for those bills, it will have not have made reasonable efforts to determine whether the individual is FAP-eligible under paragraph (c)(3) of this section unless it refrains from initiating the ECA(s) until 120 days after it provided the first post-discharge billing statement for the most recent episode of care included in the aggregation.

(iii) *Notification before deferring or denying care due to nonpayment for prior care*. In the case of an ECA described in paragraph (b)(1)(iii) of this section, a hospital facility may notify the individual about its FAP less than 30 days before initiating the ECA, provided that the hospital facility does the following:

(A) Otherwise meets the requirements of paragraph (c)(4)(i) of this section but, instead of the notice described in paragraph (c)(4)(i)(A) of this section, provides the individual with a FAP application form and a written notice indicating that financial assistance is available for eligible individuals and stating the deadline, if any, after which the hospital facility will no longer accept and process a FAP application submitted (or, if applicable, completed) by the individual for the previously provided care at issue. This deadline must be no earlier than the later of 30 days after the date that the written notice is provided or 240 days after the date that the first post-discharge billing statement for the previously provided care was provided.

(B) If the individual submits a FAP application for the previously provided care on or before the deadline described in paragraph (c)(4)(iii)(A) of this section (or at any time, if the hospital facility didn't provide any such deadline to the individual), processes the FAP application on an expedited basis.

(iv) *Examples*. The following example illustrates this paragraph (c)(4):

Example 1. A, an individual, receives care from T, a hospital facility, in February. T provides A with the first post-discharge billing statement for that care on March 3. This and subsequent billing statements that T sends to A contain the standard written notice about the FAP that X includes on all of its billing statements in accordance with § 1.501(r)–4(b)(5). A has not paid her bill or submitted a FAP application when T provides her with the third billing statement for the care, postmarked June 1. With this third billing statement, T includes a plain language summary of the FAP and a letter informing A that if she does not pay the amount owed or submit a FAP application by July 1, T intends to report A's delinquency to credit reporting agencies. T also calls A and informs her about the financial assistance available to eligible patients under T's FAP and about how to obtain assistance with the FAP application process. A does not pay her bill or submit a FAP application by July 1. T has made reasonable efforts to determine whether A is FAP-eligible, and thus may report A's delinquency to credit reporting agencies, as of July 2.

Example 2. G, an individual, receives care from Y, a hospital facility, on May 25 of Year 1. G does not pay or submit a FAP application over the next year, despite Y's sending out numerous bills beginning on June 24 that contain the standard written notice about the FAP that Y includes on all of its billing statements in accordance with the requirements under § 1.501(r)–4(b)(5). Y also makes numerous attempts to encourage G to apply for financial assistance, including by calling G to inform her about the financial assistance available to eligible patients under Y's FAP and to offer assistance with the FAP application process. By June 24 of Year 2, Y, which had not previously initiated any ECAs against G to obtain payment for the care, notifies G in writing that if G does not pay or complete a FAP application by July 24 of Year 2, Y intends to file a lawsuit seeking a judgment for the amount G owes for the care and to seek court permission to enforce the judgment by either seizing G's bank account or garnishing G's wages. The written notice also includes a plain language summary of the FAP. G fails to pay or submit a FAP application by July 24 of Year 2. Y has made reasonable efforts to determine whether G is FAP-eligible, and may seek a judgment for the amount G owes and court permission to enforce the judgment by seizing G's bank account or garnishing G's wages, as of July 25 of Year 2.

(5) *Incomplete FAP applications*—(i) *In general*. With respect to any care provided by a hospital facility to an individual, if an individual submits an incomplete FAP application during the application period, the hospital facility will have notified the individual about how to complete the FAP application and given the individual a reasonable opportunity to do so for purposes of paragraph (c)(3)(ii) of this section only if the hospital facility—

(A) Suspends any ECAs to obtain payment for the care as described in paragraph (c)(8) of this section; and

(B) Provides the individual with a written notice that describes the additional information and/or documentation required under the FAP or FAP application form that must be submitted to complete the FAP application and that includes the contact information described in § 1.501(r)–1(b)(24)(v).

(ii) *FAP application completed*. If an individual who has submitted an incomplete FAP application during the application period subsequently completes the FAP application during the application period (or, if later, within a reasonable timeframe given to respond to requests for additional information and/or documentation), the individual will be considered to have submitted a complete FAP application during the application period, and the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible only if it meets the requirements for complete FAP applications described in paragraph (c)(6) of this section.

(iii) *Examples*. The following examples illustrate this paragraph (c)(5):

Example 1. (i) Assume the same facts as *Example 1* in paragraph (c)(4)(iv) of this section and the following additional facts: A submits an incomplete FAP application to T on July 15, which is before the last day of the application period on October 29 but after T has already initiated ECAs. Eligibility for assistance under T's FAP is based solely on an individual's family income and the instructions to T's FAP application form require applicants to attach to their application forms certain documentation verifying family income. The FAP application form that A submits to T on July 15 includes all of the required income information, but A fails to attach the required documentation verifying her family income. On July 22, a member of T's staff calls A to inform her that she failed to attach any of the required documentation of her family income and explains what kind of documentation A needs to submit and how she can submit it. T indicates that the documentation should be provided by September 22. T also sends A a letter that describes the missing documentation that A must submit by September 22 (and how to submit it) and provides a telephone number A can call and room number she can visit to get assistance with the FAP application process. T does not initiate any new ECAs against A and does not take any further action on the ECAs T previously initiated against A between July 15 and September 22. A does not respond to T's letter and does not submit any missing documentation by September 22. T has made reasonable efforts to determine whether A is FAP-eligible, and may initiate or resume ECAs against A, as of September 23.

(ii) On October 10, before the last day of the application period on October 29, A provides T with the missing documentation. Because A has submitted a complete FAP application during the application period, to meet the requirements of paragraph (a) of this section, T must process the FAP application documentation to determine whether A is FAP-eligible and otherwise meet the requirements for complete FAP applications described in paragraph (c)(6) of this section.

Example 2. (i) B, an individual, receives care from U, a hospital facility, on January 10. U has established a FAP that provides assistance to all individuals whose household income is less than $y, and the instructions to U's FAP application form specify the documentation that applicants must provide to verify their household income. Shortly after receiving care, B submits a FAP application form to U indicating that he has household income of less than $y. B's FAP application form includes all of the required income information, but B fails to attach the required documentation verifying household income.

(ii) On February 9, U sends B the first post-discharge billing statement for the care that contains the standard written notice about the FAP that U includes on all of its billing statements in accordance with § 1.501(r)–4(b)(5). With this first post-discharge billing statement, U includes a letter informing B that the income information he provided on his FAP application form indicates that he may be eligible to pay only x% of the amount stated on the billing statement if he can provide documentation that verifies his household income. In addition, this letter describes the type of documentation (which is also described in the instructions to U's FAP application form) that B needs to provide to complete his FAP application and provides a telephone number that B may call and room number he may visit if he has questions or needs assistance with the FAP application process. By the time U is getting ready to send B a third billing statement for the care, B has not provided any response to U's request for the missing documentation. Accordingly, with the third billing statement postmarked May 10, U includes a plain language summary of the FAP plus a written notice informing B that U intends to report B's delinquency to credit reporting agencies if B does not submit the missing documentation or pay the amount due by June 9. U also calls B to inform B about the impending ECA and to see if he has questions about the missing documentation that U has requested. B does not provide any response to U's request for the missing documentation by June 9. U has made reasonable efforts to determine whether B is FAP-eligible, and thus may report B's delinquency to credit reporting agencies, as of June 10.

(6) *Complete FAP applications*—(i) *In general*. With respect to any care provided by a hospital facility to an individual, if an individual submits a complete FAP application during the application period, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible for the care only if the hospital facility does the following in a timely manner:

(A) Suspends any ECAs to obtain payment for the care as described in paragraph (c)(8) of this section.

(B) Makes a determination as to whether the individual is FAP-eligible for the care and notifies the individual in writing of this eligibility determination (including, if applicable, the assistance for which the individual is eligible) and the basis for this determination.

(C) If the hospital facility determines the individual is FAP-eligible for the care, does the following:

(*1*) If the individual is determined to be eligible for assistance other than free care, provides the individual with a billing statement that indicates the amount the individual owes for the care as a FAP-eligible individual and how that amount was determined and that states, or describes how the individual can get information regarding, the AGB for the care.

(*2*) Refunds to the individual any amount he or she has paid for the care (whether to the hospital facility or any other party to whom the hospital facility has referred or sold the individual's debt for the care) that exceeds the amount he or she is determined to be personally responsible for paying as a FAP-eligible individual, unless such excess amount is less than $5 (or such other amount set by notice or other guidance published in the Internal Revenue Bulletin).

(*3*) Takes all reasonably available measures to reverse any ECA (with the exception of a sale of debt and an ECA described in paragraph (b)(1)(iii) of this section) taken against the individual to obtain payment for the care. Such reasonably available measures generally include, but are not limited to, measures to vacate any judgment against the individual, lift any levy or lien (other than a lien described in paragraph (b)(3) of this section) on the individual's property, and remove from the individual's credit report any adverse information that was reported to a consumer reporting agency or credit bureau.

(ii) *Anti-abuse rule for complete FAP applications*. A hospital facility will not have made reasonable efforts to determine whether an individual is FAP-eligible if the hospital facility bases its determination that the individual is not FAP-eligible on information that the hospital facility has reason to believe is unreliable or incorrect or on information obtained from the individual under duress or through the use of coercive practices. For purposes of this paragraph (c)(6)(ii), a coercive practice includes delaying or denying emergency medical care to an individual until the individual has provided information requested to determine whether the individual is FAP-eligible for the care being delayed or denied.

(iii) *Determination based on complete FAP applications sufficient for reasonable efforts*. A hospital facility will have made reasonable efforts to determine whether an individual is FAP-eligible with respect to any ECAs it initiates to obtain payment for care if, before initiating any such ECAs, it determines whether the individual is FAP-eligible for the care based on a complete FAP application and otherwise meets the requirements described in this paragraph (c)(6). If these conditions are satisfied, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible for the care regardless of whether it has notified the individual as described in paragraph (c)(4) of this section or, if applicable, in paragraph (c)(5)(i)(B) of this section.

(iv) *Determining Medicaid eligibility*. A hospital facility will not fail to have made reasonable efforts to determine whether an individual is FAP-eligible for care if, upon receiving a complete FAP application from an individual who the hospital facility believes may qualify for Medicaid, the hospital facility postpones determining whether the individual is FAP-eligible for the care until after the individual's Medicaid application has been completed and submitted and a determination as to the individual's Medicaid eligibility has been made.

(v) *Examples*. The following examples illustrate this paragraph (c)(6):

Example 1. C, an individual, receives care from W, a hospital facility, on September 1. W has established a FAP that provides assistance only to individuals whose family income is less than or equal to x% of the Federal Poverty Level (FPL), which, in the case of C's family size, is $y. Upon discharge, W's staff gives C a plain language summary of the FAP and informs C that if she needs assistance filling out a FAP application form, W has a social worker on staff who can assist her. C expresses interest in getting assistance with a FAP application while she is still on site and is directed to K, one of W's social workers. K explains the eligibility criteria in W's FAP to C, and C realizes that to determine her family income as a percentage of FPL she needs to look at her prior year's tax returns. On September 20, after returning home and obtaining the necessary information, C submits a FAP application to W that contains all of the information and documentation required in the FAP application form instructions. W's staff promptly examines C's FAP application and, based on the information and documentation therein, determines that C's family income is well in excess of $y. On October 1, W sends C her first post-discharge billing statement for the care she received on September 1. With the billing statement, W includes a letter informing C that she is not eligible for financial assistance because her FAP application indicates that she has family income in excess of x% of FPL ($y for a family the size of C's family) and W only provides financial assistance to individuals with family income that is less than x% of FPL. W has made reasonable efforts to determine whether C is FAP-eligible as of October 1.

Example 2. E, an individual, receives care from P, a hospital facility, from February 24 to 28. E pays a co-payment of $30 at discharge and is determined by her insurer to be personally responsible for paying another $550 in deductibles. P sends E several billing statements starting on March 20 indicating that E owes $550. By July 30, E has not paid the $550 or submitted a FAP application. On July 30, P notifies E in writing that if E does not pay or complete a FAP application by August 30, P intends to report B's delinquency to credit reporting agencies. The written notice also includes a plain language summary of the FAP. In addition, P calls E and informs her about the financial assistance available to eligible patients under P's FAP and about how to obtain assistance with the FAP application process. E fails to pay or submit a FAP application by August 30. P subsequently reports E's delinquency to credit reporting agencies. E then provides a complete FAP application to P on November 10, before the last day of the application period on November 15. P promptly examines the application and determines that E is eligible for free care under P's FAP. P contacts the credit reporting agencies to which it had reported E's delinquency and asks them to remove the adverse information from E's credit report. P also sends E a letter that informs her that she is eligible for free care under P's FAP and explains the basis for this eligibility determination and includes with this letter a check for $30 (the co-payment E had paid). P has made reasonable efforts to determine whether E is FAP-eligible.

Example 3. R, a hospital facility, has established a FAP that provides financial assistance only to individuals whose family income is less than or equal to x% of the Federal Poverty Level (FPL), based on their prior year's federal tax return. L, an individual, receives care from R. While L is being discharged from R, she is approached by M, an employee of a debt collection company that has a contract with R to handle all of R's patient billing. M asks L for her family income information, telling L that this information is needed to determine whether L is eligible for financial assistance. L tells M that she does not know what her family income is and would need to consult her tax returns to determine it. M tells L that she can just provide a "rough estimate" of her family income. L states that her family income may be around $y, an amount slightly above the amount that would allow her to qualify for financial assistance. M enters $y on the income line of a FAP application form with L's name on it and marks L as not FAP-eligible. Based on M's information collection, R determines that L is not FAP-eligible and notifies L of this determination with her first billing statement. Because M had reason to believe that the income estimate provided by L was unreliable, R has violated the anti-abuse rule described in paragraph (c)(6)(ii) of this section. Thus, R has not made reasonable efforts to determine whether L is FAP-eligible.

(7) *When no FAP application is submitted*. Unless and until an individual submits a FAP application during the application period, any paragraphs of this section that are conditioned on an individual's submitting a FAP application (namely, paragraphs (c)(2)(i)(C), (c)(3)(ii), and (c)(3)(iii) of this section) do not apply, and the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible for care, and may initiate one or more ECAs to obtain payment for the care, once it has met the requirements of this section that are not contingent on an individual's submission of a FAP application. For example, unless and until a hospital facility receives a FAP application from an individual during the application period, the hospital facility has made reasonable efforts to determine whether the individual is FAP-eligible for care (and thus may initiate ECAs to obtain payment for the care) once it has notified the individual about the FAP as described in paragraph (c)(3)(i) of this section.

(8) *Suspending ECAs while a FAP application is pending*. With respect to any care provided by a hospital facility to an individual, if an individual submits a FAP application during the application period, the hospital facility (or other authorized party) will have suspended ECAs for purposes of this paragraph (c) only if, after receiving the application, the hospital facility (or other authorized party) does not initiate, or take further action on any previously-initiated, ECAs (with the exception of an ECA described in paragraph (b)(1)(iii) of this section) to obtain payment for the care until either—

(i) The hospital facility has determined whether the individual is FAP-eligible based on a complete FAP application and otherwise met the requirements of paragraph (c)(6) of this section; or

(ii) In the case of an incomplete FAP application, the individual has failed to respond to requests for additional information and/or documentation within a reasonable period of time given to respond to such requests.

(9) *Waiver does not constitute reasonable efforts*. For purposes of this paragraph (c), obtaining a signed waiver from an individual, such as a signed statement that the individual does not wish to apply for assistance under the FAP or receive the information described in paragraphs (c)(4) or (c)(5) of this section, will not itself constitute a determination that the individual is not FAP-eligible and will not satisfy the requirement to make reasonable efforts to determine whether the individual is FAP-eligible before engaging in ECAs against the individual.

(10) *Agreements with other parties*. With the exception of sales described in paragraph (b)(2) of this section, if a hospital facility sells or refers an individual's debt related to care to another party, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible for the care only if it first enters into (and, to the extent applicable, enforces) a legally binding written agreement with the party that is

reasonably designed to ensure that no ECAs are taken to obtain payment for the care until reasonable efforts have been made to determine whether the individual is FAP-eligible for the care. At a minimum, such an agreement must provide the following:

(i) If the individual submits a FAP application after the referral or sale of the debt but before the end of the application period, the party will suspend ECAs to obtain payment for the care as described in paragraph (c)(8) of this section.

(ii) If the individual submits a FAP application after the referral or sale of the debt but before the end of the application period and is determined to be FAP-eligible for the care, the party will do the following in a timely manner:

(A) Adhere to procedures specified in the agreement that ensure that the individual does not pay, and has no obligation to pay, the party and the hospital facility together more than he or she is required to pay for the care as a FAP-eligible individual.

(B) If applicable and if the party (rather than the hospital facility) has the authority to do so, take all reasonably available measures to reverse any ECA (other than the sale of a debt or an ECA described in paragraph (b)(1)(iii) of this section) taken against the individual as described in paragraph (c)(6)(i)(C)(*3*) of this section.

(iii) If the party refers or sells the debt to yet another party during the application period, the party will obtain a written agreement from that other party including all of the elements described in this paragraph (c)(10).

(11) *Clear and conspicuous placement*. A hospital facility may print any written notice or communication described in this paragraph (c), including any plain language summary of the FAP, on a billing statement or along with other descriptive or explanatory matter, provided that the required information is conspicuously placed and of sufficient size to be clearly readable.

(12) *Providing documents electronically*. A hospital facility may provide any written notice or communication described in this paragraph (c) electronically (for example, by email) to any individual who indicates he or she prefers to receive the written notice or communication electronically.

§ 1.501(r)–7 Effective/applicability date.

(a) *Effective/applicability date*. The rules of §§ 1.501(r)–1 through 1.501(r)–6 apply to taxable years beginning after December 29, 2015.

(b) *Reasonable interpretation for taxable years beginning on or before December 29, 2015*. For taxable years beginning on or before December 29, 2015, a hospital facility may rely on a reasonable, good faith interpretation of section 501(r). A hospital facility will be deemed to have operated in accordance with a reasonable, good faith interpretation of section 501(r) if it has complied with the provisions of the proposed or final regulations under section 501(r) (REG–130266–11 and/or REG–106499–12). Accordingly, a hospital facility may rely on § 1.501(r)–3 of the proposed or final regulations, or another reasonable interpretation of section 501(r)(3), for any CHNA conducted or implementation strategy adopted before the first day of the hospital organization's first taxable year beginning after December 29, 2015.

Par. 4. Section 1.6012–2 is amended by redesignating paragraphs (i) through (k) as paragraphs (j) through (l) and adding new paragraph (i) to read as follows:

§ 1.6012–2 Corporations required to make returns of income.

* * * * *

(i) *Hospital organizations with noncompliant hospital facilities*. Every hospital organization (as defined in § 1.501(r)–1(b)(18)) that is subject to the tax imposed by § 1.501(r)–2(d) shall make a return on Form 990–T. The filing of a return to pay the tax described in § 1.501(r)–2(d) does not relieve the organization of the duty of filing other required returns.

* * * * *

Par. 5. Section 1.6012–3 is amended by adding new paragraph (a)(10) to read as follows:

§ 1.6012–3 Returns by fiduciaries.

(a) * * *

(10) *Hospital organizations organized as trusts with noncompliant hospital facilities*. Every fiduciary for a hospital organization (as defined in § 1.501(r)–1(b)(18)) organized as a trust described in section 511(b)(2) that is subject to the tax imposed by § 1.501(r)–2(d) shall make a return on Form 990–T. The filing of a return to pay the tax described in § 1.501(r)–2(d) does not relieve the organization of the duty of filing other required returns.

* * * * *

Par. 6. Section 1.6033–2 is amended by adding paragraphs (a)(2)(ii)(*l*) and (k)(4) to read as follows:

§ 1.6033–2 Returns by exempt organizations (taxable years beginning after December 31, 1969) and returns by certain nonexempt organizations (taxable years beginning after December 31, 1980).

(a) * * *

(2) * * *

(ii) * * *

(*l*) In the case of a hospital organization (as defined in § 1.501(r)–1(b)(18)) described in section 501(c)(3) during the taxable year—

(*1*) A copy of its audited financial statements for the taxable year (or, in the case of an organization the financial statements of which are included in consolidated financial statements with other organizations, such consolidated financial statements);

(*2*) Either a copy of the most recently adopted implementation strategy, within the meaning of § 1.501(r)–3(c), for each hospital facility it operates or the URL of each Web page where it has made each such implementation strategy widely available on a Web site within the meaning of § 1.501(r)–1(b)(29) along with or as part of the report documenting the community health needs assessment (CHNA) to which the implementation strategy relates;

(*3*) For each hospital facility it operates, a description of the actions taken during the taxable year to address the significant health needs identified through its most recently conducted CHNA, within the meaning of § 1.501(r)–3(b), or, if no actions were taken with respect to one or more of these health needs, the reason(s) why no actions were taken; and

(*4*) The amount of the excise tax imposed on the organization under section 4959 during the taxable year.

* * * * *

(k) * * *

(4) The applicability of paragraph (a)(2)(ii)(*l*) of this section shall be limited to returns filed on or after December 29, 2014.

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Par. 7. The authority citation for part 53 continues to read in part as follows:

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

Par. 8. Section 53.4959–1 is added to read as follows:

§ 53.4959–1 Taxes on failures by hospital organizations to meet section 501(r)(3).

(a) *Excise tax for failure to meet the section 501(r)(3) requirements*—(1) *In general*. If a hospital organization (as defined in § 1.501(r)–1(b)(18)) fails to meet the requirements of section 501(r)(3) separately with respect to a hospital facility it operates in any taxable year, there is imposed on the hospital organization a tax equal to $50,000. If a hospital organization operates multiple hospital facilities and fails to meet the requirements of section 501(r)(3) with respect to more than one facility it operates, the $50,000 tax is imposed on the hospital organization separately for each hospital facility's failure. The tax is imposed for each taxable year that a hospital facility fails to meet the requirements of section 501(r)(3).

(2) *Examples*. The following examples illustrate this paragraph (a):

Example 1. (i) U is a hospital organization that operates only one hospital facility, V. In Year 1, V conducts a community health needs assessment (CHNA) and adopts an implementation strategy to meet the health needs identified through the CHNA. In Years 2 and 3, V does not conduct a CHNA. V fails to conduct a CHNA by the last day of Year 4. Accordingly, U has failed to meet the requirements of section 501(r)(3) with respect to V in Year 4 because V has failed to conduct a CHNA in Years 2, 3, and 4. U is subject to a tax equal to $50,000 for Year 4.

(ii) V also fails to conduct a CHNA by the last day of Year 5. Accordingly, U has failed to meet the requirements of section 501(r)(3) with respect to V in Year 5 because V has failed to conduct a CHNA in Years 3, 4, and 5. U is subject to a tax equal to $50,000 for Year 5.

Example 2. P is a hospital organization that operates only one hospital facility, Q. In Year 1, Q conducts a CHNA and adopts an implementation strategy to meet the health needs identified through the CHNA. In Years 2 and 3, Q does not conduct a CHNA. In Year 4, Q conducts a CHNA but does not adopt an implementation strategy to meet the health needs identified through that CHNA by the 15th day of the fifth month of Year 5. Accordingly, P has failed to meet the requirements of section 501(r)(3) with respect to Q in Year 4 because Q has failed to adopt an implementation strategy by the 15th day of the fifth month after the end of the taxable year in which Q conducted its CHNA. P is subject to a tax equal to $50,000 for Year 4.

Example 3. R is a hospital organization that operates two hospital facilities, S and T. In Year 1, S and T each conduct a CHNA and adopt an implementation strategy to meet the health needs identified through the CHNA. In Years 2 and 3, S and T do not conduct a CHNA. S and T each fail to conduct a CHNA by the last day of Year 4. Accordingly, R has failed to meet the requirements of section 501(r)(3) with respect to both S and T in Year 4. R is subject to a tax equal to $100,000 ($50,000 for S's failure plus $50,000 for T's failure) for Year 4.

(b) *Interaction with other provisions*—(1) *Correction*. Unless a hospital organization's failure to meet the requirements of section 501(r)(3) involves an omission or error that is described in and corrected in accordance with § 1.501(r)–2(b) (and is thus not considered a failure), a failure to meet the requirements of section 501(r)(3) will result in a tax being imposed on the organization under this section, notwithstanding the organization's correction and disclosure of the failure in accordance with the guidance described in § 1.501(r)–2(c).

(2) *Interaction with other taxes*. The tax imposed by this section is in addition to any tax imposed by § 1.501(r)–2(d) or as a result of revocation of a hospital organization's section 501(c)(3) status.

(c) *Effective/applicability date*. Paragraph (a) of this section applies on and after December 29, 2014.

Par. 9. Section 53.6011–1 is amended by:

1. Removing from the first sentence of paragraph (b) the language "or 4965(a)," and adding "4959, or 4965(a)," in its place.
2. Adding a sentence at the end of paragraph (b).
3. Removing paragraphs (c) and (g).
4. Redesignating paragraphs (d) through (f) as (c) through (e).

The addition reads as follows:

§ 53.6011–1 General requirement of return, statement, or list.

* * * * *

(b) * * * In the case of a tax imposed by section 4959 on a hospital organization (as defined in § 1.501(r)–1(b)(18)), the annual return must include the required information for each of the organization's hospital facilities that failed to meet the requirements of section 501(r)(3) for the taxable year.

* * * * *

§ 53.6011–1T [Removed]

Par. 10. Section 53.6011–1T is removed.

Par. 11. Section 53.6071–1 is amended by revising paragraphs (h) and (i)(2) to read as follows:

§ 53.6071–1 Time for filing returns.

* * * * *

(h) *Taxes on failures by charitable hospital organizations to satisfy the community health needs assessment requirements of section 501(r)(3)*. A hospital organization (as defined in § 1.501(r)–1(b)(18)) liable for tax imposed by section 4959 must file a Form 4720 as required by § 53.6011–1(b), on or before the 15th day of the fifth month after the end of the hospital organization's taxable year for which it failed to meet the requirements of section 501(r)(3).

(i) * * *

(2) Paragraph (h) of this section applies on and after August 15, 2013.

§ 53.6071–1T [Removed]

Par. 12. Section 53.6071–1T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 13. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 14. In § 602.101, paragraph (b) is amended by adding the following entries in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB Control No.
* * * * *	
1.501(r)–3	1545–0047
1.501(r)–4	1545–0047
1.501(r)–6	1545–0047
* * * *	

John M. Dalrymple,
Deputy Commissioner for Services and Enforcement.

Approved December 22, 2014,

Mark J. Mazur,
Assistant Secretary of the Treasury (Tax Policy).

(Filed by the Office of the Federal Register on December 29, 2014, 8:45 a.m., and published in the issue of the Federal Register for December 31, 2014, 79 F.R. 78954).

Part III. Administrative, Procedural, and Miscellaneous

Property Qualifying for the Energy Credit under Section 48

Notice 2015–4

SECTION 1: PURPOSE

This notice provides guidance on the energy credit under section 48 of the Internal Revenue Code (Code). Specifically, this notice provides performance and quality standards that small wind energy property must meet to qualify for the energy credit under section 48.

SECTION 2: BACKGROUND

For purposes of computing the investment credit under section 46 of the Code, section 48(a)(1) provides, in part, that the energy credit for any taxable year is the energy percentage of the basis of each energy property placed in service during such taxable year. Section 48(a)(3)(A)(vi) provides that energy property includes qualified small wind energy property. Section 48(a)(2)(A)(i)(IV) provides that the energy percentage in the case of qualified small wind energy property is 30 percent for periods ending before January 1, 2017.

Under section 48(a)(3), energy property includes qualified small wind energy property that is constructed, reconstructed, or erected by the taxpayer (or acquired by the taxpayer if the original use of the property commences with the taxpayer), subject to depreciation (or amortization in lieu of depreciation), and meets the performance and quality standards (if any) that have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy) and are in effect at the time of the acquisition of the property.

Section 48(c)(4) defines qualified small wind energy property as property that uses a "qualifying small wind turbine" to generate electricity. A qualifying small wind turbine is a wind turbine that has a nameplate capacity of not more than 100 kilowatts (kW). Qualified small wind energy property shall not include any property for any period after December 31, 2016.

SECTION 3: SMALL WIND ENERGY PROPERTY STANDARDS

.01 *Performance and Quality Standards*. To qualify as small wind energy property under section 48, the property must use a wind turbine that has a nameplate capacity of not more than 100 kW and meets the performance and quality standards as set forth in either of the following:

(1) American Wind Energy Association Small Wind Turbine Performance and Safety Standard 9.1–2009 (AWEA); or

(2) International Electrotechnical Commission 61400–1, 61400–12, and 61400–11 (IEC).

.02 *Time of Acquisition*. For these purposes, a small wind turbine must meet the performance and quality standards of the AWEA or the IEC that are in effect at the time of acquisition of the small wind turbine. In the case of a small wind turbine constructed, reconstructed, or erected by the taxpayer, the time of acquisition for purposes of this section 3.02 of this Notice shall be the time the small wind turbine is placed in service.

SECTION 4: CERTIFICATION

.01 *In General*. The manufacturer of the small wind turbine may certify to a taxpayer that the small wind turbine meets the performance and quality standards of AWEA or IEC by providing the taxpayer with a certification that satisfies the requirements of this section 4. The manufacturer may provide the certification by including a written copy of the certification in printable form on the manufacturer's website, or in any other manner that will permit the taxpayer to retain the certification for tax recordkeeping purposes.

.02 *Content of the Certification*. The certification must be issued by an eligible certifier and must contain the following:

(a) The name and address of the manufacturer;

(b) The property name and model number;

(c) The name and address of the eligible certifier;

(d) The nameplate capacity of the wind turbine; and

(e) A signed and dated statement by the eligible certifier that the property complies with the performance and quality standards of AWEA or IEC.

.03 *Eligible Certifier*. An eligible certifier is a third party that is accredited by the American Association for Laboratory Accreditation or other similar accreditation body.

.04 *Manufacturer's Records*. A manufacturer that certifies to a taxpayer that a small wind turbine meets the performance and quality standards of AWEA or IEC must retain in its records documentation establishing that the turbine meets the requirements of this section 4. The manufacturer must, upon request, make such documentation, including any test reports conforming to AWEA or IEC, available for inspection by the Internal Revenue Service (Service).

.05 *Taxpayer Reliance*. Except as provided in section 4.06 of this notice, a taxpayer may rely on a manufacturer's certification that a small wind turbine meets the performance and quality standards of AWEA or IEC. A taxpayer is not required to attach a certification or any other documentation to the return on which the credit is claimed. However, § 1.6001–1(a) of the Income Tax Regulations requires that taxpayers maintain such books and records as are sufficient to establish the entitlement to, and amount of, any credit claimed by the taxpayer. Accordingly, a taxpayer claiming a credit for a small wind turbine should retain the certification statement as part of the taxpayer's records for purposes of § 1.6001–1(a).

.06 *Effect of Erroneous Certification or Failure to Satisfy Documentation Requirements.* The Service may, upon examination, determine that a small wind turbine that has been certified under this section 4 does not meet the performance and quality standards of AWEA or IEC. In that event, or if the manufacturer fails to satisfy the requirements relating to documentation in section 4.04 of this notice, the manufacturer's right to provide a certification on which future purchasers of small wind turbines may rely will be withdrawn, and taxpayers purchasing turbines after the date on which the Service publishes an announcement of the withdrawal may not rely on the manufacturer's certification. Taxpayers may continue to rely on the certification for small wind turbines purchased on or before the date on which the announcement of the withdrawal is published (even if the property is not installed or the credit is not claimed before the announcement of the withdrawal is published). This notice reminds manufacturers that an erroneous certification may result in the imposition of penalties –

(a) Under section 7206 for fraud and making false statements; and

(b) Under section 6701 for aiding and abetting an understatement of tax liability (in the amount of $1,000 per return on which a credit is claimed in reliance on the certification).

.07 *Examples*. The following examples illustrate appropriate reliance on a certification:

Example 1. On August 1, 2015, Taxpayer acquires wind turbines with a nameplate capacity of not more than 100 kW manufactured by Manufacturer, and in December 2015, Taxpayer places in service qualified small wind energy property that includes the turbines. At the time of the acquisition of the wind turbines, Manufacturer provides to Taxpayer a certification issued by an eligible certifier that includes all of the information required by section 4.02 of this notice and is valid for a period that includes August 1, 2015. Taxpayer may rely on this certification as documentation that Taxpayer's small wind energy property meets the performance and quality standards required in this notice. Taxpayer should keep this certification in Taxpayer's records as required by §1.6001–1(a).

Example 2. The facts are the same as those in *Example 1*, except that on August 1, 2015, the time of the acquisition of the wind turbines, Taxpayer does not receive a certification from Manufacturer for the wind turbines. On March 1, 2016, however, an eligible certifier issues a certification meeting the requirements of section 4.02 of this notice and applying the same quality and performance standards that were in effect on August 1, 2015, for the same model of wind turbine as the wind turbines purchased by Taxpayer. The Manufacturer posts the certification in printable form on its website, and the certification is valid for a period beginning on March 1, 2016. Because the certification uses the quality and performance standards that were in effect on August 1, 2015, the Taxpayer may rely on the certification statement as documentation that the Taxpayer's small wind energy property met the performance and quality standards required in this notice as of the date of acquisition. Taxpayer should keep this certification in Taxpayer's records as required by §1.6001–1(a).

SECTION 5: EFFECTIVE DATE

This notice is effective for small wind energy property acquired or placed in service (in the case of property constructed, reconstructed, or erected by the taxpayer) after February 2, 2015.

SECTION 6: 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 1545–2259.

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 in this notice is in section 4. This information is required to be collected and retained in order to ensure that property meets the requirements for the energy property credit under section 48. This information will be used to determine whether the small wind energy property qualifies for the energy credit. The collection of information is required to ensure that property meets certain requirements that must be satisfied to qualify for the credit. The likely respondents are corporations, partnerships, and individuals.

The estimated total annual reporting burden is 400 hours.

The estimated annual burden per respondent varies from 2 hours to 3 hours, depending on individual circumstances, with an estimated average burden of 2.5 hours to complete the requests for certification required under this notice. The estimated number of respondents is 160.

The estimated annual frequency of responses is on occasion. 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 section 6103.

SECTION 7: DRAFTING INFORMATION

The principal author of this notice is Martha M. Garcia of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice, contact Ms. Garcia on 202-317-6853 (not a toll-free number).

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

Notice 2015–5

This notice provides guidance on the corporate bond monthly yield curve, the corresponding spot segment rates used under § 417(e)(3), and the 24-month average segment rates under § 430(h)(2) of the Internal Revenue Code. In addition, this notice provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II) as in effect for plan years beginning before 2008 and the 30-year Treasury weighted average rate under § 431(c)(6)(E)(ii)(I). The rates in this notice reflect the application of § 430(h)(2)(C)(iv), which was added by the Moving Ahead for Progress in the 21st Century Act, Public Law 112–141 (MAP–21) and amended by section 2003 of the Highway and Transportation Funding Act of 2014, Public Law 113–159 (HATFA).

YIELD CURVE AND SEGMENT RATES

Generally, except for certain plans under sections 104 and 105 of the Pension Protection Act of 2006 and CSEC plans under § 414(y), § 430 of the Code specifies the minimum funding requirements that apply to single-employer plans pursuant to § 412. Section 430(h)(2) specifies the interest rates that must be used to determine a plan's target normal cost and funding target. Under this provision, present value is generally determined using three 24-month average interest rates ("segment rates"), each of which applies to cash flows during specified periods. To the extent provided under § 430(h)(2)(C)(iv), these segment rates are adjusted by the applicable percentage of the 25-year average segment rates for the period ending September 30 of the year preceding the calendar year in which the plan year begins. However, an election may be made under § 430(h)(2)(D)(ii) to use the monthly yield curve in place of the segment rates.

Notice 2007–81, 2007–44 I.R.B. 899, provides guidelines for determining the monthly corporate bond yield curve, and the 24-month average corporate bond segment rates used to compute the target normal cost and the funding target. In accordance with the methodology specified in Notice 2007–81, the monthly corporate bond yield curve derived from December 2014 data is in Table I at the end of this notice. The spot first, second, and third segment rates for the month of December 2014 are, respectively, 1.48, 3.77, and 4.79.

The 24-month average segment rates determined under § 430(h)(2)(C)(i) through (iii) must be adjusted pursuant to § 430(h)(2)(C)(iv) by the applicable percentage of the corresponding 25-year average segment rates. Section 2003(a) of HATFA amended the applicable percentages under § 430(h)(2)(C)(iv). This change generally applies to plan years beginning on or after January 1, 2013. However, pursuant to section 2003(e)(2) of HATFA, a plan sponsor can elect not to have the amendments made to the applicable percentages by section 2003 of HATFA apply to any plan year beginning in 2013. These elections can be made either for all purposes or, alternatively, for purposes of determining the adjusted funding target attainment percentage under § 436. The 25-year average segment rates for plan years beginning in 2012, 2013, 2014 and 2015 were published in Notice 2012–55, 2012–36 I.R.B. 332, Notice 2013–11, 2013–11 I.R.B. 610, Notice 2013–58, 2013–40 I.R.B. 294, and Notice 2014–50, 2014–40 I.R.B. 590, respectively.

For plan years beginning in years 2012 through 2017, pursuant to the changes made by HATFA, the applicable minimum percentage is 90% and the applicable maximum percentage is 110%. These applicable percentages are referred to as HATFA applicable percentages. As described in the preceding paragraph, a special election is available for any plan year beginning in 2013 under which this change made by HATFA can be disregarded for all purposes or for limited purposes. To the extent such an election is made, the applicable minimum percentage for a plan year beginning in 2013 is 85% and the applicable maximum percentage for that plan year is 115%. These applicable percentages are referred to as MAP–21 applicable percentages.

The three 24-month average corporate bond segment rates applicable for January 2015 without adjustment for the 25-year average segment rate limits are as follows:

Applicable Month	First Segment	Second Segment	Third Segment
January 2015	1.22	4.11	5.20

Based on § 430(h)(2)(C)(iv) as amended by section 2003 of HATFA, the 24-month averages applicable for January 2015 adjusted for the HATFA applicable percentages of the corresponding 25-year average segment rates, are as follows:

For Plan Years Beginning In			Adjusted 24-Month Average Segment Rates, Based on the HATFA Applicable Percentage of 25-Year Average Rates		
	Applicable Month		First Segment	Second Segment	Third Segment
2013	January	2015	5.23	6.51	7.16
2014	January	2015	4.99	6.32	6.99
2015	January	2015	4.72	6.11	6.81

Based on § 430(h)(2)(C)(iv) as in effect prior to amendment by section 2003 of HATFA, the three 24-month averages applicable for January 2015 adjusted for the MAP–21 applicable percentages of the corresponding 25-year average segment rates, for plan years beginning in 2013, are as follows:

For Plan Years Beginning In	Applicable Month		Adjusted 24-Month Average Segment Rates, Based on the MAP-21 Applicable Percentage of 25-Year Average Rates		
			First Segment	**Second Segment**	**Third Segment**
2013	January	2015	4.94	6.15	6.76

30-YEAR TREASURY SECURITIES INTEREST RATES

Generally for plan years beginning after 2007, § 431 specifies the minimum funding requirements that apply to multiemployer plans pursuant to § 412. Section 431(c)(6)(B) specifies a minimum amount for the full-funding limitation described in section 431(c)(6)(A), based on the plan's current liability. Section 431(c)(6)(E)(ii)(I) provides that the interest rate used to calculate current liability for this purpose must be no more than 5 percent above and no more than 10 percent below the weighted average of the rates of interest on 30-year Treasury securities during the four-year period ending on the last day before the beginning of the plan year. Notice 88–73, 1988–2 C.B. 383, provides guidelines for determining the weighted average interest rate. The rate of interest on 30-year Treasury securities for December 2014 is 2.83 percent. The Service has determined this rate as the average of the daily determinations of yield on the 30-year Treasury bond maturing in November 2044. The following rates were determined for plan years beginning in the month shown below.

For Plan Years Beginning in		30-Year Treasury Weighted	Permissible Range		
Month	*Year*	Average	90%	to	105%
January	2015	3.35	3.01		3.51

MINIMUM PRESENT VALUE SEGMENT RATES

In general, the applicable interest rates under § 417(e)(3)(D) are segment rates computed without regard to a 24-month average. Notice 2007–81 provides guidelines for determining the minimum present value segment rates. Pursuant to that notice, the minimum present value segment rates determined for December 2014 are as follows:

First Segment	Second Segment	Third Segment
1.48	3.77	4.79

DRAFTING INFORMATION

The principal author of this notice is Tony Montanaro of the Employee Plans, Tax Exempt and Government Entities Division. Mr. Montanaro may be e-mailed at *RetirementPlanQuestions@irs.gov*.

Table I
Monthly Yield Curve for December 2014
Derived from December 2014 Data

Maturity	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*
0.5	0.33	20.5	4.44	40.5	4.83	60.5	4.97	80.5	5.04
1.0	0.65	21.0	4.46	41.0	4.84	61.0	4.97	81.0	5.04
1.5	0.94	21.5	4.48	41.5	4.84	61.5	4.97	81.5	5.04
2.0	1.22	22.0	4.49	42.0	4.85	62.0	4.97	82.0	5.04
2.5	1.46	22.5	4.51	42.5	4.85	62.5	4.98	82.5	5.04
3.0	1.67	23.0	4.52	43.0	4.86	63.0	4.98	83.0	5.04
3.5	1.87	23.5	4.54	43.5	4.86	63.5	4.98	83.5	5.04
4.0	2.05	24.0	4.55	44.0	4.87	64.0	4.98	84.0	5.04
4.5	2.22	24.5	4.57	44.5	4.87	64.5	4.98	84.5	5.05
5.0	2.38	25.0	4.58	45.0	4.87	65.0	4.99	85.0	5.05
5.5	2.53	25.5	4.59	45.5	4.88	65.5	4.99	85.5	5.05
6.0	2.67	26.0	4.61	46.0	4.88	66.0	4.99	86.0	5.05
6.5	2.81	26.5	4.62	46.5	4.89	66.5	4.99	86.5	5.05
7.0	2.94	27.0	4.63	47.0	4.89	67.0	4.99	87.0	5.05
7.5	3.06	27.5	4.64	47.5	4.89	67.5	5.00	87.5	5.05
8.0	3.17	28.0	4.65	48.0	4.90	68.0	5.00	88.0	5.05
8.5	3.28	28.5	4.66	48.5	4.90	68.5	5.00	88.5	5.05
9.0	3.38	29.0	4.67	49.0	4.90	69.0	5.00	89.0	5.06
9.5	3.47	29.5	4.68	49.5	4.91	69.5	5.00	89.5	5.06
10.0	3.56	30.0	4.69	50.0	4.91	70.0	5.00	90.0	5.06
10.5	3.64	30.5	4.70	50.5	4.91	70.5	5.01	90.5	5.06
11.0	3.71	31.0	4.71	51.0	4.92	71.0	5.01	91.0	5.06
11.5	3.78	31.5	4.72	51.5	4.92	71.5	5.01	91.5	5.06
12.0	3.84	32.0	4.72	52.0	4.92	72.0	5.01	92.0	5.06
12.5	3.90	32.5	4.73	52.5	4.93	72.5	5.01	92.5	5.06
13.0	3.96	33.0	4.74	53.0	4.93	73.0	5.01	93.0	5.06
13.5	4.01	33.5	4.75	53.5	4.93	73.5	5.02	93.5	5.06
14.0	4.06	34.0	4.75	54.0	4.93	74.0	5.02	94.0	5.07
14.5	4.10	34.5	4.76	54.5	4.94	74.5	5.02	94.5	5.07
15.0	4.14	35.0	4.77	55.0	4.94	75.0	5.02	95.0	5.07
15.5	4.18	35.5	4.78	55.5	4.94	75.5	5.02	95.5	5.07
16.0	4.21	36.0	4.78	56.0	4.95	76.0	5.02	96.0	5.07
16.5	4.24	36.5	4.79	56.5	4.95	76.5	5.02	96.5	5.07
17.0	4.27	37.0	4.79	57.0	4.95	77.0	5.03	97.0	5.07
17.5	4.30	37.5	4.80	57.5	4.95	77.5	5.03	97.5	5.07
18.0	4.33	38.0	4.81	58.0	4.96	78.0	5.03	98.0	5.07
18.5	4.35	38.5	4.81	58.5	4.96	78.5	5.03	98.5	5.07
19.0	4.38	39.0	4.82	59.0	4.96	79.0	5.03	99.0	5.07
19.5	4.40	39.5	4.82	59.5	4.96	79.5	5.03	99.5	5.07
20.0	4.42	40.0	4.83	60.0	4.97	80.0	5.03	100.0	5.08

Reporting Sick Pay Paid by Third Parties

Notice 2015–6

PURPOSE

This notice provides that Internal Revenue Service (IRS) Form 8922, Third-Party Sick Pay Recap, must be used by third parties and employers to report total payments of certain sick pay paid by third parties on or after January 1, 2014. In particular, Form 8922 must be used for filing "third-party sick pay recaps" to reconcile the reporting of sick pay paid by a third party on behalf of employers to employees in situations in which the liability for the Federal Insurance Contributions Act (FICA) taxes on the sick pay is split between the employer and the third party under applicable regulations.

Forms 8922 must be filed instead of the Form W–2 and Form W–3 third-party sick pay recaps, which were filed with the Social Security Administration (SSA) for third-party sick pay paid before January 1, 2014. Employers and third parties will file the Form 8922 with the IRS rather than the SSA, and will no longer file third-party sick pay recaps with SSA for payments made on or after January 1, 2014. If a taxpayer (either a third party or an employer) was formerly obligated to file with SSA third-party sick pay recaps on Forms W–2 and W–3 for sick pay paid in 2013 and prior years and the sick pay is paid under the same factual circumstances, that same taxpayer instead will be required to file Form 8922 with IRS for sick pay paid in 2014 and subsequent years.

This modified procedure only affects the filing of the third-party sick pay recaps and does not otherwise affect the current rules for (1) furnishing statements of the third-party sick pay to individual employees on Form W–2, Wage and Tax Statement, (2) filing with SSA copies of the Forms W–2 together with Form W–3, Transmittal of Wage and Tax Statements, that are not third-party sick pay recaps, and (3) reporting such payments to the IRS on Form 941, Employer's QUARTERLY Federal Tax Return (or on Form 944, Employer's ANNUAL Federal Tax Return, if applicable). The change to using Form 8922 also has no effect on liability for FICA tax, income tax withholding, Federal Unemployment Tax Act (FUTA) tax (collectively, "employment taxes"), or other taxes.

This notice also sets forth the rules concerning responsibility for the withholding and payment of employment taxes and for reporting employment taxes and wages with respect to third-party sick pay. This notice supersedes Notice 91–26, 1991–2 C.B. 619.

BACKGROUND

DEFINITION OF SICK PAY

Sick pay is any amount paid to an employee for any period during which the employee is temporarily absent from work because of injury, sickness, or disability. Sick pay does not include disability retirement payments or payments for medical and hospitalization expenses. Third-party sick pay is sick pay that is paid to an employee by some person (the third party) other than the employer for whom services are normally performed. Sections 3121(a) and 3306(b) of the Internal Revenue Code (Code) provide that any third party that pays sick pay that is included in wages shall be treated as the employer for purposes of the FICA and the FUTA, respectively, with respect to such wages, except as provided in regulations prescribed by the Secretary. As explained below, a third-party payer of sick pay can be either an agent of the employer or a third party that is not an agent of the employer. Section 32.1 of the Temporary Employment Tax Regulations under the Act of December 29, 1981 (Public Law 97–123) ("temporary regulations") sets forth rules concerning liability for FICA taxes, income tax withholding, and reporting with respect to third-party sick pay and these rules are still in effect.

DEFINITION OF AGENT

In determining responsibility for payment and reporting of employment taxes with respect to sick pay, a threshold question is whether the sick pay is paid by the employer for whom services are performed (that is, the common law employer or employer of a statutory employee, such as a corporate officer; hereinafter referred to as "employer"), by a third party that is an agent of the employer, or by a third party that is not an agent of the employer.

Section 32.1(e) of the temporary regulations and section 31.3401(a)–1(b)(8)(i)(*b*)(*1*) of the Employment Tax Regulations provide the rules for determining whether a third party is an agent of the employer. Whether a third party is an agent of the employer for sick pay purposes depends on the terms of the agreement between the third party and the employer. The determining factor is whether the third party has insurance risk with respect to the sick pay benefits provided. Under section 32.1(e), a third-party payer is an employer's agent if the third party bears no insurance risk and is reimbursed on a cost-plus-fee basis for payment of sick pay and similar amounts. For example, if a third party provides only administrative services for the employer, the third party is the employer's agent. A third party may be an agent even if the third party is responsible for determining which employees are eligible to receive payments. In contrast, if the employer pays the third party an insurance premium rather than reimbursing the third party on a cost-plus-fee basis, the third party is not the agent of the employer. See section 32.1(e)(3) of the temporary regulations and section 31.3401(a)–1(b)(8)(i)(*b*)(*1*) of the regulations.

A third party that is an agent under section 32.1(e) is an agent for purposes of the sick pay that it pays regardless of whether the third party files Form 2678, Employer/Payer Appointment of Agent, to request authorization as an agent to perform the acts of the employer under section 3504 of the Code. However, a third party that is an agent under section 32.1(e) may request authorization under section 3504 of the Code by filing Form 2678. A third-party payer of sick pay that is not an agent under section 32.1(e) may not become an agent of the employer under section 3504 with respect to the sick pay because the third party is treated as the employer with respect to the sick pay under the last sentence of section 3121(a), as explained more fully below.

For purposes of the remainder of this notice, the term "agent" refers to a third party that is an agent within the meaning of section 32.1(e) of the temporary regulations and section 31.3401(a)–1(b)(8)(i)(*b*)(*1*) of the regulations.

WHETHER SICK PAY IS SUBJECT TO INCOME TAX WITHHOLDING

The requirements for federal income tax withholding on sick pay and the applicable method for determining the amount of withholding depend on whether the sick pay is paid by the employer of the employee, by an agent of the employer, or by a third party that is not the agent of the employer.

A. SICK PAY PAID BY THE EMPLOYER

Sick pay paid by the employer to an employee is wages subject to income tax withholding to the extent the sick pay is includible in the gross income of the employee. Section 31.3401(a)–1(b)(8)(i)(*a*) of the regulations provides that income tax withholding is required on all employer payments of amounts includible in gross income under section 105(a) and section 1.105–1 of the Income Tax Regulations to an employee under an accident or health plan for a period of absence from work on account of personal injuries or sickness. If the sick pay is regular wages, the amount of withholding is based on the Form W–4, Employee's Withholding Allowance Certificate, filed by the employee with the employer, and the applicable withholding tables. If the sick pay is supplemental wages, the amount of withholding is determined using the general rules applicable in determining income tax withholding on supplemental wages. *See* section 31.3402(g)–1 of the regulations.

B. SICK PAY PAID BY AN AGENT OF THE EMPLOYER

Sick pay paid by an agent of the employer is also wages subject to income tax withholding to the extent includible in gross income. Section 31.3401(a)–1(b)(8)(i)(*b*)(*2*) of the regulations provides further that sick pay paid by a third party that is an agent of the employer is supplemental wages, and therefore subject to the rules regarding withholding on supplemental wages provided in section 31.3402(g)–1 of the regulations. To determine the amount of income tax withholding on supplemental wages paid by an agent, see sections 31.3401(a)–1(b)(8)(i)(*b*)(*2*) and 31.3402(g)–1(a) of the regulations.

C. SICK PAY PAID BY A THIRD PARTY THAT IS NOT AN AGENT OF THE EMPLOYER

Section 31.3401(a)–1(b)(8)(i)(*a*) of the regulations provides that sick pay that is paid by a third party that is not an agent of the employer (that is, a third party with insurance risk) is not wages under section 3401(a) and thus is not subject to mandatory income tax withholding under section 3402(a). However, section 31.3402(o)–3 provides that employees receiving third-party payments of sick pay in this situation may request withholding, and if such a request is made, the third-party payer must deduct and withhold as requested. To request withholding, an employee must submit a completed Form W–4S, Request for Federal Income Tax Withholding from Sick Pay, to the third party. See section 31.3402(o)–3 for rules relating to submission of Forms W–4S and withholding by third parties that are not agents.

WHETHER SICK PAY IS SUBJECT TO FICA AND FUTA TAXES

The determination of whether sick pay is subject to FICA and FUTA taxes is based on the same rules regardless of whether the sick pay is paid by the employer, an agent of the employer, or a third party that is not an agent of the employer.

FICA taxes are imposed on wages, which are defined in section 3121(a) as all remuneration for employment, unless specifically excepted. FICA taxes consist of Old-Age, Survivors, and Disability Insurance taxes ("social security taxes") imposed on employers and employees by sections 3111(a) and 3101(a), respectively, and Hospital Insurance taxes ("Medicare taxes") imposed on employers and employees by sections 3111(b) and 3101(b), respectively. Section 3102 provides that the employee FICA taxes imposed by section 3101 shall be collected by the employer by deducting the amount of the tax from wages as and when paid. Section 3101(b)(2) imposes the Additional Medicare Tax on employees, and section 3102(f) imposes special rules for the employer's collection of Additional Medicare Tax. Section 3301 imposes FUTA tax with respect to wages. Section 3306(b) defines wages for FUTA purposes as all remuneration for employment with certain specific exceptions.

A. SICK PAY EXCLUDED FROM WAGES UNDER FICA AND FUTA CODE PROVISIONS

Generally, sick pay paid with respect to employment by employers and third parties is wages for purposes of FICA and FUTA taxation, but the following payments are statutorily excluded from the definition of wages in section 3121(a) and section 3306(b):

(1) Payments made under workers' compensation acts or under statutes in the nature of workers' compensation acts (sections 3121(a)(2)(A) and 3306(b)(2)(A) of the Code, and section 31.3121(a)(2)–1(a) and (d) of the regulations);

(2) Payments made on account of sickness or accident disability made by an employer to or on behalf of an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for such employer (sections 3121(a)(4) and 3306(b)(4) of the Code and sections 31.3121(a)(4)–1 and 31.3306(b)(4)–1 of the regulations);

(3) Payments made after the calendar year of the employee's death (sections 3121(a)(14), 3306(b)(15)); and

(4) For purposes of the social security tax portion of the FICA, payments made with respect to employment by one employer that exceed the social security tax maximum wage base under section 3121(a)(1) and, for purposes of the FUTA, payments that are paid with respect to employment by one employer and that exceed the FUTA maximum wage base under section 3306(b)(1). Agents and third-party payers paying sick pay with respect to employment by an employer to an employee of that employer may combine sick pay with other wages paid by that employer for that employee's employment (and other wages paid by other agents or third parties for that employee's employment by that employer) to determine the applicability of the maximum wage base exceptions for social security tax and FUTA tax.

B. PAYMENTS ON ACCOUNT OF SICKNESS OR ACCIDENT DISABILITY THAT ARE NOT SUBJECT TO FICA AND FUTA TAXATION UNDER THE TEMPORARY REGULATIONS

In addition to the statutory exceptions explained in the preceding section, section 32.1(d) of the temporary regulations provides that the following payments on account of sickness or accident disability are not subject to FICA and FUTA taxes:

(1) Payments on account of sickness or accident disability that are attributable to contributions by the employee for insurance and excludable from the gross income of the employee. See section 32.1(d)(3) of the temporary regulations (see also section 1.105–1(c), (d), and (e) of the Income Tax Regulations).

(2) Payments for the permanent loss or permanent loss of use of a member or function of the body, or the permanent disfigurement, of the taxpayer, the taxpayer's spouse or a dependent (as defined in section 152), provided the amount of the payments are computed with reference to the nature of the injury without regard to the period the employee is absent from work. See section 32.1(d)(2) of the temporary regulations (see also section 105(c) of the Code and section 1.105–3 of the regulations). and

(3) Payments that are excluded from gross income under Code section 104(a)(2) (the amount of any damages, other than punitive damages, received on account of personal physical injuries or physical sickness), 104(a)(4) (amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country or for certain other federal service), or 104(a)(5) (amounts received by an individual as disability income attributable to injuries incurred as a direct result of a terroristic or military action as defined in section 692(c)(2)). See section 32.1(d) of the temporary regulations (see also section 1.104–1 of the regulations).

C.TREATMENT OF THIRD-PARTY SICK PAY FOR PURPOSES OF THE ADDITIONAL MEDICARE TAX

Generally, the 0.9% Additional Medicare Tax imposed by section 3101(b)(2) that employers are required to withhold under section 3102(f) applies to third-party sick pay if the sick pay that is wages in combination with other wages subject to Medicare tax paid to the employee exceeds the threshold amount ($200,000). Generally, wages paid by an employer and sick pay wages paid by the third party are aggregated to determine whether the $200,000 withholding threshold has been met.

LIABILITY FOR PAYMENT OF FICA TAX, FUTA TAX, AND INCOME TAX WITHHOLDING ON SICK PAY AND REPORTING OF SICK PAY ON FORMS 940, 941 and W–2

The liability for the payment of FICA tax, FUTA tax, and federal income tax withholding and the reporting of sick pay depends on whether the sick pay is paid by the employer of the employee, an agent of the employer, or a third party that is not an agent of the employer.

A. SICK PAY PAID BY AN EMPLOYER OR BY AN AGENT OF THE EMPLOYER

If sick pay is paid by the employer of the employee, the employer is liable for withholding and payment of employee FICA tax and federal income tax withholding from the sick pay that is wages, and the employer is also liable for the payment of employer FICA tax and FUTA tax with respect to the sick pay. The employer reports the sick pay, the income tax withholding, and the FICA tax with respect to the sick pay on Form 941, and the sick pay and FUTA tax with respect to the sick pay on Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return. The employer also reports the sick pay on Form W–2.

A third party that makes payments of sick pay as an employer's agent as defined under section 32.1(e) is not considered the employer and generally has no responsibility for the payment of FICA tax, FUTA tax, and income tax withholding on the sick pay. The employer remains liable for FICA tax, FUTA tax, and income tax withholding on the sick pay. However, the employer and the agent may enter into an agreement that makes the agent responsible for some or all of the payment and reporting of employment taxes with respect to the sick pay. For example, the agreement may make the agent responsible only for the payment of the income tax withholding and the employee FICA tax on the sick pay. If the agent has agreed to be responsible for the income tax withholding and employee FICA tax on the sick pay, the agent must deposit, pay, and report the taxes under the agent's employer identification number (EIN). In that case, the employer remains responsible for FUTA tax, for reporting the employer FICA tax on its Form 941, and for reporting the sick pay on Forms W–2 under the employer's name and EIN. Alternatively, the employer and the agent may enter into an agreement that makes the agent responsible for employee and employer FICA tax, FUTA tax, income tax withholding on the sick pay, and for reporting on Form W–2. In that case, the agent must deposit and pay the FICA and FUTA taxes, report the employer and employee FICA taxes on its Form 941, and report the sick pay on Forms W–2 under the agent's name and EIN. The agreement with the agent does not relieve the employer of liability for the taxes if the taxes are not paid. See section 32.1(e)(3) of the temporary regulations.

The employer (or the agent if the agent has agreed to be responsible for the taxes and for the reporting on Form W–2 under an agreement with the employer) must furnish each employee to whom it paid sick pay a Form W–2 including the sick pay by January 31 of the following year. See section 6051(a) of the Code. The employer (or the agent) must also file the Form W–2 including the sick pay, together with Form W–3, with SSA, generally by the last day of February (or March 31 if the Forms W–2 are electronically filed) of the following year. The employer may either combine the sick pay with other wages paid to the employee and prepare a single Form W–2 for each employee, or the employer may prepare a separate Form W–2 including only the sick pay and related taxes for each employee and another Form W–2 including other wages and related taxes for each employee. The Form W–2 furnished and filed by the employer or the agent with respect to the sick pay is required to include the following information:

(a) the employer's name, address, and EIN (or the agent's name, address, and EIN if the agent has agreed to be responsible for the taxes with respect to the sick pay);

(b) the employee's name, address, and social security number;

(c) the Federal income tax withheld, if any, from the sick pay (in the box titled "Federal income tax withheld");

(d) the amount of sick pay the employee must include in income (in the box titled "Wages, tips, other compensation");

(e) the amount not includible, if any, because the employee contributed to the sick pay plan (in the box for payments that must be reported with specific letter codes (for example, box 12 of the 2014 Form W–2));

(f) the amount of sick pay subject to employee social security tax (in the box titled "Social security wages");

(g) the employee social security tax withheld from the sick pay (in the box titled "Social security tax withheld");

(h) the amount of sick pay subject to employee Medicare tax (in the box titled "Medicare wages and tips"); and

(i) the employee Medicare tax withheld, including Additional Medicare Tax withheld (in the box titled "Medicare tax withheld").

B. SICK PAY PAID BY THIRD-PARTY PAYER THAT IS NOT AN AGENT

1. Liability for FICA, FUTA, and income tax withholding

Under section 31.3402(o)–3 of the regulations and section 32.1(c) of the temporary regulations, a third party that makes payments of sick pay other than as an agent of the employer is liable for federal income tax withholding (if requested by the employee), as described above, and the employee FICA tax with respect to the sick pay. The third party is also liable for the employer FICA tax and FUTA tax, unless the third party transfers this liability to the employer. The liability for the employer FICA tax and FUTA tax is transferred to the employer if the third party takes the following steps as set forth in section 32.1(e)(1) of the temporary regulations:

(1) withholds employee FICA tax from the sick pay;

(2) makes timely deposits of employee FICA tax; and

(3) notifies the employer of the sick pay payments on which employee FICA tax were withheld and deposited.

The third party must notify the employer within the time required for the third party's deposit of the employee FICA tax to satisfy the notification requirement.[1]

2. Reporting requirements if liability for employer tax is not transferred to the employer

If the third party that is not the employer's agent does not follow the requirements for transferring liability for the employer FICA tax and the FUTA tax to the employer, the third party is treated as the employer for purposes of liability and reporting of both employee and employer FICA tax, FUTA tax, and income tax withholding. The third party reports the sick pay on Form 940 and Form 941, and must deposit, pay, and report the FICA tax, FUTA tax, and income tax withholding under its EIN. The third party must give each employee to whom it paid sick pay a Form W–2 by January 31 of the following year. *See* section 32.1 of the temporary regulations and section 6051(a). The Form W–2 must include the third party's name, address, and EIN as the employer. The third party must also file the Form W–2 including the sick pay, together with Form W–3, with SSA, generally by the last day of February (or March 31 if the Forms W–2 are electronically filed) of the following year.

3. Reporting requirements if liability for employer tax is transferred to the employer

If the third party follows the steps described in B.1. to transfer the liability for the employer FICA tax and FUTA tax, then the employer and not the third party must deposit, pay, and report the employer FICA tax and FUTA tax. See section 32.1(e) of the temporary regulations. The employer reports the sick pay wages on the line on the Form 941 for "wages, tips, and other compensation" but does not report the income tax withheld from the sick pay on Form 941. The employer reports the sick pay wages as taxable wages on Form 941 for social security tax purposes and Medicare tax purposes, and then makes a current quarter's adjustment for sick pay on the Form 941 to reflect the employee social security and Medicare tax paid by the third party. The employer also files Form 940 with respect to the sick pay. In addition, the employer is required to furnish and file Forms W–2 reporting the sick pay (although the employer and the third party may agree that the third party will furnish and file the Forms W–2 reporting the sick pay, as discussed at the end of this section).

If the third party transfers liability for the employer FICA tax and FUTA tax to the employer, the third party remains liable with regard to the employee FICA tax and any income tax withheld based on the employees' Forms W–4S. The third party reports any income tax withheld on the sick pay on the line on Form 941 for income tax withholding, reports the sick pay wages as taxable wages on Form 941 for social security tax purposes and Medicare tax purposes, and then makes a current quarter's adjustment for sick pay on the Form 941 to reflect the employer portion of social security and Medicare tax paid by the employer. Because the sick pay is reported as wages on the third party's Form 941 but the third party does not issue Forms W–2 with respect to the sick pay (unless the employer and the third party agree that the third party will furnish and file the Forms W–2 reporting the sick pay, as discussed at the end of this section), the wages on the third party's Form 941 and the total wages reported on Forms W–2 filed by the third party do not match.

As noted above, the employer and the third party may enter into an agreement designating the third party as the employer's agent for purposes of filing Forms W–2 reporting the sick pay. The agreement is separate from the procedure that results in the transfer of liability for the employer tax from the third party to the employer. Because the sick pay is re-

[1]Section 32.1(g)(3) of the temporary regulations provides that a special rule applies to sick pay payments made to employees by a third-party insurer under an insurance contract with a multi-employer plan established under a collectively bargained agreement. If the third-party insurer making the payments withholds the employee FICA tax from the sick pay payments and makes timely deposits of the employee FICA tax, and gives the plan (rather than the employer) the required timely notification of the payments, then the plan (not the third-party insurer) must pay the employer portion of the FICA tax and the FUTA tax. Similarly, if within six business days of the plan's receipt of notification, the plan gives notice to the employer, the employer (not the plan) must pay the employer portion of the FICA tax and the FUTA tax.

ported as wages on the employer's Form 941 but the employer does not issue Forms W–2 with respect to the sick pay, the wages on the employer's Form 941 and the total wages reported on Forms W–2 filed by the employer do not match. The agreement must specify what part, if any, of the payments under the sick pay plan is excludable from the employees' gross income because it is attributable to employees' contributions to the plan. Under the agreement, the third party furnishes to the employee and files a Form W–2 reporting the sick pay for each employee who receives sick pay from the third party.

Under section 31.6051–3 of the regulations, a third party that is not an agent and that has not agreed to file Forms W–2 reporting the sick pay (as described in the preceding paragraph) must furnish the employer with a sick pay statement by January 15 of the year following the year in which the sick pay was paid. The written statement must contain the following information about each employee who received sick pay:

(1) the name;

(2) the employee's social security number, if social security taxes, Medicare taxes, or income taxes were withheld from the sick pay;

(3) the sick pay paid to the employee;

(4) any federal income tax withheld;

(5) any employee social security tax withheld; and

(6) any employee Medicare tax withheld.

FORM 8922

The SSA and IRS match amounts reported on Forms 941 and on the aggregate of Forms W–2 filed by taxpayers to verify that employers' and employees' wage records are correct and appropriate FICA tax and income tax withholding are paid. If liability for the employer FICA tax on sick pay is transferred from the third party to the employer, the sick pay wages and liability for the employer FICA tax are reported on the Form 941 of the employer, and the sick pay wages and liability for the employee FICA are reported on the Form 941 of the third party. However, the sick pay wages are reported only on Forms W–2 filed by one party. Because of this split reporting, the Forms 941 and Forms W–2 of the third party may have differing wage totals and taxes, or the Forms 941 and the Forms W–2 of the employer may have differing wage totals and taxes. The Form 8922 is designed to reconcile differences between wages and taxes reported on Form 941 and wages and taxes reported on Forms W–2 arising from the payment of third-party sick pay in these circumstances.

Beginning with sick pay wages paid on or after January 1, 2014, an employer or third party is required to file Form 8922 after the end of the calendar year if the employer is including the employer FICA tax on sick pay wages on the employer's Form 941 but the third party (whether as an agent that has agreed to be responsible for such reporting or not as an agent) is including the employee FICA tax on the same sick pay wages on the third party's Form 941 (split liability). Whether the employer or the third party is required to file the Form 8922 depends on which entity is filing Form W–2 with respect to the sick pay. If the sick pay is reported on Forms W–2 under the name and EIN of the third party (whether as an agent that has agreed to be responsible for such reporting or not as an agent) in this split liability situation, Form 8922 must be filed by the employer. If the sick pay is reported on Forms W–2 under the name and EIN of the employer in this split liability situation, the third party (whether as an agent or not as an agent) must file Form 8922.

More specifically, the requirement to file Form 8922 can arise in three situations:

(1) A third party is required to file Form 8922 when the third party is liable for the employee FICA tax (whether or not the third party is also liable for income tax withholding) but the liability for the employer FICA tax and for reporting the sick pay on Forms W–2 has been transferred to the employer;

(2) An employer is required to file Form 8922 when the third party is liable for the employee FICA tax and income tax withholding, the liability for the employer FICA tax has been transferred to the employer, and the employer and third party have entered into an agreement to have the third party act as the employer's agent for reporting on Forms W–2; and

(3) A third party that is an agent under section 32.1(e) is required to file Form 8922 when the agency agreement provides that (a) the agent will withhold and pay employee FICA tax and report the taxes on its Form 941, and (b) the employer will pay the employer FICA tax, report the employer FICA tax on its Form 941, and report the employee's wages on Forms W–2.

When there is no split reporting of sick pay on Forms 941, there is no obligation to file Form 8922. Accordingly, except as provided in (3) above, there is generally no obligation to file Form 8922 with respect to sick pay paid by an agent. There is also no obligation to file Form 8922 when the third party paying the sick pay is not an agent and does not transfer liability for the FICA employer tax on the sick pay to the employer.

The taxpayer required to file Form 8922 includes its name, address, and telephone number as the filer's name. If the third party is the filer, the third party also checks the "insurer/agent" box. The Form 8922 shows sick pay subject to federal income tax (Box 1), the Federal income tax withheld from sick pay, if any (Box 2), sick pay subject to social security tax (Box 3), social security tax withheld from sick pay (Box 4), sick pay subject to Medicare tax (Box 5), and Medicare tax withheld from sick pay (Box 6).

Form 8922 also includes boxes for the "Other party's name" and "Other party's employer identification number." If the employer files Form 8922, the employer shows the name and EIN of the third party paying the sick pay for which there is split reporting.

However, to ease the transition from Form W–2 and Form W–3 third-party sick pay recaps to use of Form 8922, a different rule currently applies for purposes of third parties who are filing Form 8922. If the third party is filing Form 8922 (that is, the "Insurer/Agent" box on Form 8922 is checked), the third party may, but is not required to, provide the other party's (that is, the employer's) name and EIN. If the third party is providing the other party's (that is, the employer's) name and EIN, it must file a separate Form 8922 with respect to the sick pay paid to employees of that employer.

Thus, the third party has three choices in filing Form 8922:

(1) It may submit one Form 8922 that completes all information on the form other than the boxes for other party's name and other party's EIN.

(2) It may choose to provide the other party's name and the other party's EIN with respect to all third-party sick pay that it pays for all employers. If it makes this choice, it files a separate Form 8922 for the sick pay wages and taxes related to each employer.

(3) It may choose to provide the other party's name and other party's EIN for the third-party sick pay that it pays for some but not all employers. If it makes this choice, it files a separate Form 8922 for the sick pay wages and taxes related to each employer for which it is supplying the name and EIN, and it files one Form 8922 for the wages and taxes related to the employers for which it is not supplying the name and EIN.

This rule for third parties filing Form 8922 is designed to ease the administrative burden on third-party filers who may be paying third-party sick pay on behalf of many employers and reflects the fact that, at this time, Form 8922 may not be filed electronically but must be filed on paper. The rule will be subject to review in future years to determine whether it remains appropriate. The IRS intends to give advance notice if the rule is changed to require third parties to provide each employer's name and EIN. For example, if the Form 8922 becomes eligible for electronic filing, the third party may be required to furnish the other party's name and EIN with respect to each employer. The advance notice of any changes to this requirement may be provided in the instructions for Form 8922.

The rule applicable to third parties filing Form 8922 is not applicable to employers because employers will likely have a limited number of other parties (often only one) for which reporting the name and EIN will be required. Accordingly, the IRS anticipates that the administrative burden will be significantly less than it would be for third parties.

EXAMPLE WHEN THE THIRD PARTY TRANSFERS THE SOCIAL SECURITY AND MEDICARE TAX LIABILITY TO THE EMPLOYER

This example illustrates the reporting of third-party sick pay and other pay with respect to one employee only, and does not consider other wages paid by the employer or third party to employees that would also be reported on Form 941, Form W–2, or Form 8922.

Employee T of M Corp. received $5,000 of sick pay (subject to income tax and includible in wages for purposes of social security tax and Medicare tax) from P Corp. (third party) in the first quarter of 2014. Employee T also received $10,000 of remuneration for employment from M Corp. in the first quarter of 2014 and total remuneration for employment of $40,000 from M Corp. during calendar year 2014. All remuneration for employment received by employee T from M Corp. in 2014 was includible in wages for purposes of social security, Medicare tax, and income tax withholding. P Corp. withheld employee T's share of social security and Medicare taxes from the $5,000 sick pay P Corp. paid to employee T, and also withheld federal income tax as requested by employee T on Form W–4S. P Corp. deposited these taxes and provided M Corp. timely notification of the amount of wages paid on which the taxes were withheld and deposited. By taking these steps, P Corp. transferred to M Corp. the liability for the employer portion of social security and Medicare taxes on the sick pay and the obligation to file Form W–2 with respect to the sick pay.

The companies complete Forms 941, W–2, W–3, and Form 8922 with respect to employee T as described in the following paragraphs.

M CORP. (EMPLOYER)

For the first quarter Form 941, M Corp. includes $15,000 of wages for employee T, including the $10,000 of wages it paid and the $5,000 of sick pay employee T received from P Corp., on the line for "Wages, tips, and other compensation" (Line 2 of the 2014 Form 941). M Corp. does not include the amount of federal income tax withholding withheld by P Corp. on the line for "Federal income tax withheld from wages, tips, and other compensation" (Line 3) because P Corp. will include that withholding on its Form 941. M Corp. then computes social security tax (Line 5a) and Medicare tax liability (Line 5c) with respect to employee T based on including the total social security wages ($15,000) and Medicare wages ($15,000) received by employee T from M Corp. and P Corp. However, because P Corp. withheld and deposited employee T's share of social security and Medicare taxes for the $5,000 of sick pay, M Corp. reports an adjustment in the amount of the employee social security and Medicare taxes withheld on the sick pay on the line for "Current quarter's adjustment for sick pay" (Line 8).

At the end of the year, M Corp. issues a Form W–2 to employee T. The form combines $40,000 of wages M Corp. paid and $5,000 of sick pay from P Corp. It also combines the taxes withheld by both corporations in reporting the taxes withheld on Form W–2. The sick pay would be included in the box for "Wages, tips, other compensation" (Box 1 of the 2014 Form W–2), the box for "social security wages" (Box 3)," and the box for "Medicare wages and tips" (Box 5). M Corp. also checks the "third-party sick pay" (Box 13) checkbox as required. The income tax withheld by P Corp is included in the box for "Federal income tax withheld" (Box 2); the social security tax withheld by P Corp. is included in the box for "Social security tax withheld" (Box 4); and the Medicare tax withheld by P Corp. is included in the box for "Medicare tax withheld" (Box 6). On its Form W–3, M Corp. shows the amount of income tax withheld by P Corp. on employee T's sick pay in the box for "Income tax withheld by payer of third-party sick pay" (Box 14 of the 2014 Form W–3). M Corp. does not file Form 8922 with respect to the sick pay paid by P Corp. because M Corp. is fulfilling the Form W–2 reporting requirements to employee T with respect to the wages.

P CORP. (THIRD PARTY)

For the first quarter Form 941, P Corp. does not include the $5,000 sick pay it paid to employee T on the line for "Wages, tips, and other compensation" (Line 2 of the 2014 Form 941). It includes the amount of federal income tax withholding requested by employee T with respect to the sick pay on the line for "Federal income tax withheld from wages, tips, and other compensation" (Line 3). The sick pay it paid to employee T is included in the lines for "Taxable social security wages" (Line 5a) and "Taxable Medicare wages & tips" (Line 5c).

Because P Corp. transferred the employer tax liability on employee T's sick pay to M Corp., it must adjust social security and Medicare taxes. It does this on the line for "Current quarter's adjustment for sick pay" (Line 8).

Because the employer FICA tax on the third-party sick pay is reported on the return of M Corp. and the sick pay is reported on Forms W–2 issued by M Corp., at the end of the year, P Corp. prepares a Form 8922 to report the sick pay it paid employees of M Corp. in 2014. On the Form 8922, it includes P Corp.'s name and identification number as the filer of the form, and checks the box for "Insurer/agent." P Corp. also completes the other boxes on the form, including the $5,000 sick pay subject to income tax paid to employee T ("Sick pay subject to federal income tax," Box 1), and information related to that sick pay, and P chooses to complete the boxes for other party's name (M Corp.) and other party's identification number, and files these forms with the IRS by March 2, 2015.

EFFECT ON OTHER DOCUMENTS

Notice 91–26 is superseded.

REQUEST FOR COMMENTS

The IRS requests comments on the appropriate length of time to retain the rule under which third-party filers (insurers or agents) of Form 8922 are not required to complete the boxes for the other party's name and EIN, including whether third-party filers would need additional transition time prior to being required to complete these boxes if electronic filing of Form 8922 becomes available. Comments should be submitted in writing on or before June 30, 2015. Please include "Notice 2015–6" on the cover page. All Comments will be available for public inspection and copying. Comments may be submitted in one of three ways:

1. By mail to CC:PA:LPD:PR (Notice 2015–6), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

2. Electronically to *Notice.Comments@irscounsel.treas.gov* Please include "Notice 2015–6" in the subject line of any electronic communications.

3. By hand-delivery Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. to CC:PA:LPD:PR (Notice 2015–6), Courier's Desk, Internal Revenue Service,1111 Constitution Ave. N.W., Washington, DC 20224.

DRAFTING INFORMATION

The principal author of this notice is Alfred G. Kelley of the Office of Associate Chief Counsel (Tax Exempt & Government Entities). For further information regarding this notice, contact Mr. Kelley at (202) 317-4774 (not a toll-free number).

26 CFR 601.204: Changes in accounting periods and in methods of accounting.
(Also Part I, §§ 446, 481; 1.446–1, 1.481–1, 1.481–4.)

Rev. Proc. 2015–13

SECTION 1. PURPOSE

This revenue procedure updates and revises the general procedures under § 446(e) of the Internal Revenue Code and § 1.446–1(e) of the Income Tax Regulations to obtain the consent of the Commissioner of Internal Revenue (Commissioner) to change a method of accounting for federal income tax purposes. Specifically, this revenue procedure provides the general procedures to obtain the advance (non-automatic) consent of the Commissioner to change a method of accounting and provides the procedures to obtain the automatic consent of the Commissioner to change a method of accounting described in Rev. Proc. 2015–14, 2015–5 I.R.B. 450, (or successor) (List of Automatic Changes).

SECTION 2. BACKGROUND

.01 *Method of accounting*.

(1) The term "method of accounting" includes (a) an overall plan of accounting, such as for gross income and deductions, and (b) the treatment of any material item. A material item is any item that involves the proper time for the inclusion of the item in income or the taking of the item as a deduction, or both. *See* § 1.446–1(e)(2)(ii)(a). In determining whether a taxpayer's accounting practice for an item involves timing, generally the relevant question is whether the practice permanently changes the amount of the taxpayer's lifetime taxable income. If the practice does not permanently affect the taxpayer's lifetime taxable income, but does or could change the taxable year(s) in which the item is taken into account, it involves timing and is therefore a method of accounting. *See* Rev. Proc. 91–31, 1991–1 C.B. 566.

(2) Although a method of accounting may exist under this definition without a pattern of consistent treatment of an item, a method of accounting is not adopted in most instances without consistent treatment. The treatment of a material item in the same way in determining the gross income or deductions in two or more consecutively filed federal income tax returns, without regard to any change in characterization of the method as permissible or impermissible, represents consistent treatment of that item for purposes of § 1.446–1(e)(2)(ii)(*a*). If a taxpayer treats an item properly in the first federal income tax return that reflects the item, however, it is not necessary for the taxpayer to treat the item consistently in two or more consecutive returns to have adopted a method of accounting. Once a taxpayer has adopted a method of accounting, the taxpayer has established a method of accounting. An established method of accounting includes a finalized Internal Revenue Service (IRS) imposed method of accounting under Rev. Proc. 2002–18, 2002–1 C.B. 678.

(3) The regulations under § 446 provide that no method of accounting is acceptable unless, in the opinion of the Commissioner, it clearly reflects income. To clearly reflect income, the method must, for example, be used consistently from one taxable year to another. *See* §§ 1.446–1(a)(2), 1.446–1(c)(1)(ii)(C), and 1.446–1(c)(2)(ii).

(4) Section 446(a) and § 1.446–1(a)(1) provide that taxable income shall be computed under the method of accounting on the basis of which the taxpayer regularly computes income in keeping the taxpayer's books (§ 446 book-tax conformity requirement). Section 1.446–1(a)(4) requires each taxpayer to maintain accounting records that will enable the taxpayer to file a correct return and states that accounting records include the taxpayer's regular books of account and other records and data as may be necessary to support the entries on the taxpayer's books of account and on the taxpayer's return, as for example, a reconciliation of any differences between such books and his return. Thus, a taxpayer satisfies the § 446 book-tax conformity requirement if the taxpayer reconciles the results obtained under the method of accounting used in keeping its records and accounts and the method used for federal income tax purposes and maintains sufficient records to support that reconciliation.

.02 *Changing a method of accounting*.

(1) A change in method of accounting occurs when the method of accounting to be used by the taxpayer for an item (or that would be used if the taxpayer had the item in the year of change) in computing its taxable income for the year of change is different than the taxpayer's established method of accounting used (or that would have been used if the taxpayer had the item in the immediately preceding year) to compute the taxpayer's taxable income for the immediately preceding taxable year.

(2) A change in method of accounting does not include correction of mathematical or posting errors, or errors in the computation of tax liability (such as errors in computation of the foreign tax credit, net operating loss, percentage depletion, or investment credit). *See* § 1.446–1(e)(2)(ii)(b).

.03 *Securing consent for a change in method of accounting*.

(1) Section 446(e) and § 1.446–1(e)(2)(i) state that, except as otherwise provided, a taxpayer must secure the consent of the Commissioner before changing a method of accounting for any item for federal income tax purposes. Unless specifically authorized by the Commissioner or by statute, a taxpayer may not change an established method of accounting by amending its prior federal income tax return(s). *See* Rev. Rul. 90–38, 1990–1 C.B. 57. A taxpayer must secure the consent of the Commissioner regardless of whether the taxpayer's established or proposed method is a permissible method or clearly reflects the taxpayer's income and regardless of the administrative guidance used to request consent or to change the established method of accounting. If a taxpayer changes a method of accounting without complying with all the applicable procedures, the taxpayer has initiated a change in method of accounting without obtaining the consent of the Commissioner as required by § 446(e).

(2) Under § 1.446–1(e)(3)(i), to obtain the Commissioner's consent to change a method of accounting, a taxpayer generally must file a Form 3115, *Application for Change in Accounting Method*, during the taxable year for which the taxpayer desires to make the proposed change in method of accounting, except as otherwise provided in administrative guidance. Section 1.446–1(e)(3)(ii) provides that the Commissioner may prescribe the administrative procedures under which a taxpayer will be permitted to change its method of accounting. Many Forms 3115 filed under the non-automatic change procedures require additional information and development. Therefore, the IRS recommends that taxpayers file a Form 3115 under the non-automatic change procedures as early as possible during the requested year of change. *See also*, SECTION 13.01(1)(b).

(3) Rev. Proc. 2011–14, 2011–4 I.R.B. 330, as clarified and modified by Rev. Proc. 2012–39, 2012–41 I.R.B. 470, previously provided procedures for automatic changes in method of accounting listed in its APPENDIX. Rev. Proc. 97–27, 1997–1 C.B. 680, as amplified and modified by Rev. Proc. 2002–19, 2002–1 C.B. 696, as amplified and clarified by Rev. Proc. 2002–54, 2002–2 C.B. 432, as modified by Rev. Proc. 2007–67, 2007–2 C.B. 1072, as clarified and modified by Rev. Proc. 2009–39, 2009–38 I.R.B. 371, as modified by Rev. Proc. 2011–14, 2011–4 I.R.B. 330, and as modified by Rev. Proc. 2012–39, 2012–41 I.R.B. 470, previously provided procedures for non-automatic

changes in method of accounting. This revenue procedure, in conjunction with the List of Automatic Changes, provides the current procedures for automatic changes and non-automatic changes.

.04 *Terms and conditions of a change in method of accounting*. Section 1.446–1(e)(3)(ii) provides that the Commissioner may prescribe administrative procedures setting forth the terms and conditions deemed necessary to permit a taxpayer to obtain consent to change a method of accounting under § 446(e). The terms and conditions the Commissioner may prescribe include the year of change, whether the change is to be made with a § 481(a) adjustment or on a cut-off basis, and the § 481(a) adjustment period.

.05 *No retroactive change in method of accounting*. Unless specifically authorized by the Commissioner or by statute, a taxpayer may not request, or otherwise make, a retroactive change in method of accounting. *See generally* Rev. Rul. 90–38.

.06 *Change in method of accounting with a § 481(a) adjustment*.

(1) *Need for adjustment*. Section 481(a) requires those adjustments necessary to prevent amounts from being duplicated or omitted to be taken into account when the taxpayer's taxable income is computed under a method of accounting different from the method of accounting used to compute taxable income for the preceding taxable year. When there is a change in method of accounting to which § 481(a) is applied, taxable income for the taxable year preceding the year of change must be determined under the method of accounting that was then employed, and taxable income for the year of change and the following taxable years must be determined under the method of accounting for which consent is granted as if that method of accounting had always been used. The § 481(a) adjustment is computed notwithstanding that the period of limitations on assessment and collection of tax may have closed on the taxable years (closed years) in which the events giving rise to the need for an adjustment occurred.

When the Commissioner grants consent to a taxpayer to change its method of accounting, § 481(c) and §§ 1.446–1(e)(3)(ii) and 1.481–4 provide that the taxpayer may take the adjustment required by § 481(a) into account in determining taxable income only in the manner and subject to the conditions agreed to by the Commissioner and the taxpayer.

(2) *Effect on earnings and profits*. A corporation takes any § 481(a) adjustment resulting from a change in method of accounting into account in computing its earnings and profits. *See* § 1.312–6 and Rev. Proc. 79–47, 1979–2 C.B. 528.

.07 *Change in method of accounting using a cut-off basis*. The IRS may determine that certain changes in methods of accounting must be made without a § 481(a) adjustment. When a change in method of accounting is made without a § 481(a) adjustment (for example, on a cut-off basis), in general, only the items arising on or after the beginning of the year of change, or other operative date, are accounted for under the method of accounting for which consent is granted. Any items arising before the year of change, or other operative date, continue to be accounted for under the taxpayer's former method of accounting. *See, for example*, § 263A (which generally applies to costs incurred after December 31, 1986, for non-inventory property), § 461(h) (which generally applies to amounts incurred on or after July 18, 1984), and sections 2.01, 5.01, and 22.02 of the List of Automatic Changes. When a change in method of accounting is made on a cut-off basis, no amounts are duplicated or omitted, and therefore, a § 481(a) adjustment is not necessary or permitted.

.08 *Separate trades or businesses*.

(1) When a taxpayer has two or more separate and distinct trades or businesses, the taxpayer may use a different method of accounting for each trade or business, provided the method of accounting used for each trade or business clearly reflects the overall income of the taxpayer as well as that of each particular trade or business. No trade or business will be considered separate and distinct unless the taxpayer keeps a complete and separable set of books and records for that trade or business. *See* § 1.446–1(d)(2).

(2) If, by reason of maintaining different methods of accounting, there is a creation or shifting of profits or losses between the taxpayer's trades or businesses (for example, through inventory adjustments, sales, purchases, or expenses) so that the taxpayer's income is not clearly reflected, the taxpayer's trades or businesses will not be considered to be separate and distinct. *See* § 1.446–1(d)(3).

.09 *Change made as part of an examination*. Section 446(b) and § 1.446–1(b)(1) provide that if a taxpayer does not regularly employ a method of accounting that clearly reflects its income, the IRS may change the taxpayer's method of accounting to one that, in the opinion of the IRS, does clearly reflect income. In that case, a change in method of accounting resulting in a positive § 481(a) adjustment ordinarily will be made in the earliest taxable year under examination with a one-year § 481(a) adjustment period. *See* Rev. Proc. 2002–18. *But see* SECTION 8 regarding audit protection.

SECTION 3. DEFINITIONS

The following definitions apply to this revenue procedure and the List of Automatic Changes:

.01 *Applicable provisions*. The term "applicable provisions" means all provisions and requirements of this revenue procedure and either the List of Automatic Changes (in the case of an automatic change) or the letter ruling (in the case of a non-automatic change) pertinent to the taxpayer and its requested change in method of accounting.

.02 *Automatic change*. An "automatic change" is a change in method of accounting for which the taxpayer is eligible under SECTION 5.01(1) to request the Commissioner's consent for the requested year of change.

.03 *Automatic change procedures*. The "automatic change procedures" are all of the procedures and provisions in this revenue procedure applicable to an automatic change and in the applicable section of the List of Automatic Changes.

.04 *Cessation of a trade or business*.

(1) *In general*. Except as provided in SECTION 3.04(3), 3.04(4), or 3.04(5), a taxpayer is considered to cease to engage in a trade or business if the taxpayer terminates its existence for federal income tax purposes, ceases operation of the trade or business, or transfers substantially all the assets of the trade or business to another taxpayer. For this purpose, "substantially all" has the same meaning as in section 3.01 of Rev. Proc. 77–37, 1977–2 C.B. 568.

(2) *Examples of transactions that are treated as the cessation of a trade or business*. The following is a nonexclusive list of transactions that are treated as the cessation of a trade or business:

(a) the trade or business is incorporated;

(b) the trade or business is purchased by another taxpayer in a transaction to which § 1060 applies;

(c) the trade or business is terminated or transferred pursuant to a taxable liquidation;

(d) a division of a corporation ceases to operate the trade or business;

(e) the assets of a trade or business are contributed to a partnership; or

(f) within a 12-month period there is a sale or exchange of 50 percent or more of the total interest in a partnership's capital and profits under § 708(b)(1)(B).

(3) *Exception for conversion to or from S corporation status*. A C corporation electing to be treated as an S corporation or an S corporation terminating its S election that is then treated as a C corporation is not treated as ceasing to engage in a trade or business.

(4) *Exception for certain transfers to which § 381(a) applies*. A corporation is not considered to cease to engage in a trade or business to the extent (a) the corporation transfers substantially all the assets of that trade or business to another corporation in a transfer to which § 381(a) applies, and (b) the transferor's method of accounting for an item for that trade or business is a tax attribute that the acquiring corporation carries over and uses for that item immediately after the transfer pursuant to § 381(c).

(5) *Exception for certain transfers within a consolidated group to which § 351 applies*. A corporation is not considered to cease to engage in a trade or business to the extent (a) the corporation transfers substantially all the assets of that trade or business to another member of the same consolidated group in an exchange qualifying under § 351, and (b) the transferee member adopts and uses the transferor member's method of accounting for an item.

.05 *Director*. The term "director" has the same meaning as this term has in Rev. Proc. 2015–1, 2015–1 I.R.B. 1 (or successor).

.06 *Federal income tax return*. A "federal income tax return" includes a return of tax (for example, Form 1120, *U.S. Corporation Income Tax Return*, and Form 1120S, *U.S. Income Tax Return for an S Corporation*) and, for a taxpayer that is not required to file a return of tax, the appropriate information return (for example, Form 1065, *U.S. Return of Partnership Income*, and Form 990, *Return of Organization Exempt From Income Tax*) for federal income tax purposes.

.07 *Form 3115*.

(1) *In general*. The term "Form 3115" means the Form 3115 most recently released by the IRS or, when permitted in the applicable section of the List of Automatic Changes, a short Form 3115, as described in SECTION 3.07(2), and any attachments to the Form 3115 or short Form 3115.

(2) *Short Form 3115*. A "short Form 3115" means:

(a) only the following information must be completed on Form 3115:

(i) the identification section of page 1 above Part I;

(ii) the signature section at the bottom of page 1; and

(iii) Part I, line 1(a); and

(b) any additional information required in this revenue procedure or the applicable section of the List of Automatic Changes to be attached to or included with a Form 3115.

.08 *Issue under consideration*.

(1) *Under examination*. A taxpayer's method of accounting for an item is an "issue under consideration" for the taxable year(s) under examination as of the date of any written notification to the taxpayer (for example, draft or final (a) examination plan, (b) information document request (IDR), or (c) notification of proposed adjustments or income tax examination changes) from the examining agent(s) specifically citing the treatment of the item as an issue under consideration. If an examining agent does not propose an adjustment for the item that is an issue under consideration during the examination, the item continues to be an issue under consideration after that examination ends only if the issue is placed in suspense. An item is an issue placed in suspense if, by the date the examination ends, the examining agent provides the taxpayer with written notification of the IRS's intent to examine the issue during the examination of the subsequent taxable year(s) to be examined.

An entity (including a limited liability company) treated as a partnership or an S corporation for federal income tax purposes also has an issue under consideration for the taxable year(s) under examination if the same item is an issue under consideration in an examination of a partner, member, or shareholder's federal income tax return.

A corporation that is (or was formerly) a member of a consolidated group also has an issue under consideration for the taxable year(s) under examination if the same item is an issue under consideration in an examination of any other member of that consolidated group for one or more of the taxable year(s) that the corporation was a member of the consolidated group.

The question of whether a method of accounting is an issue under consideration may be referred to the national office as a request for technical advice under the provisions of Rev. Proc. 2015–2, 2015–1 I.R.B. 105 (or successor).

Example 1. A taxpayer's method of pooling under the dollar-value, last-in first-out (LIFO) inventory method is an issue under consideration as a result of an examination plan that identifies LIFO pooling as a matter to be examined, but it is not an issue under consideration as a result of an examination plan that merely identifies LIFO inventories as a matter to be examined.

Example 2. A taxpayer's method of determining inventoriable costs under § 263A is an issue under consideration as a result of an IDR that requests documentation supporting the costs included in inventoriable costs, but it is not an issue under consideration as a result of an IDR that requests documentation supporting the amount of cost of goods sold reported on the federal income tax return.

(2) *Before an Appeals office*. A taxpayer's method of accounting for an item is an issue under consideration for the taxable year(s) before an Appeals office if the treatment of the item is included as an item of adjustment in the examination report referred to Appeals. Further, a taxpayer's method of accounting for an item is an issue under consideration as of the date of Appeals' written notification to the taxpayer specifically identifying the method of accounting for the item as an issue under consideration. If an Appeals office submits to the Joint Committee on Taxation pursuant to § 6405 a report of a refund or credit, the method of accounting

continues to be an issue under consideration by the Appeals office while the refund or credit is under review by the Joint Committee on Taxation.

An entity (including a limited liability company) treated as a partnership or an S corporation for federal income tax purposes also has an issue under consideration by an Appeals office if the same item is an issue under consideration by an Appeals office with respect to a partner, member, or shareholder's federal income tax return.

(3) *Before a federal court*. A taxpayer's method of accounting for an item is an issue under consideration for the taxable year(s) before a federal court if the treatment of the item is included as an item of adjustment in the statutory notice of deficiency, the notice of claim disallowance, the notice of final administrative adjustment, the pleadings (for example, the petition, complaint, or answer) or amendments thereto. Further a taxpayer's method of accounting for an item is an issue under consideration as of the date of the government counsel's written notification to the taxpayer specifically identifying the method of accounting for the item as under consideration. If a settlement stipulation is submitted to the Joint Committee on Taxation pursuant to § 6405, the method of accounting continues to be an issue under consideration by the federal court while the settlement stipulation is under review by the Joint Committee on Taxation.

An entity (including a limited liability company) treated as a partnership or an S corporation for federal income tax purposes also has an issue under consideration before a federal court if the same item is an issue under consideration before a federal court with respect to a partner, member, or shareholder's federal income tax return.

A corporation that is (or was formerly) a member of a consolidated group also has an issue under consideration before a federal court if the same item is an issue under consideration before a federal court for any other member of that consolidated group for one or more of the taxable year(s) that the corporation was a member of the consolidated group.

(4) *Certain foreign corporations*. In the case of a CFC or 10/50 corporation, the foreign corporation's method of accounting for an item is an issue under consideration if any of the corporation's controlling domestic shareholders (as defined in § 1.964–1(c)(5)) receives notification described in SECTION 3.08(1), 3.08(2), or 3.08(3) that the treatment of a distribution, deemed distribution, or inclusion from the foreign corporation, or the amount of its earnings and profits or foreign taxes deemed paid, is an issue under consideration.

.09 *List of Automatic Changes*. The List of Automatic Changes refers to Rev. Proc. 2015–14 (or successor).

.10 *Non-automatic change*. A "non-automatic change" is any change in method of accounting for which the taxpayer is eligible under SECTION 5.01(2) to request the Commissioner's consent for the requested year of change.

.11 *Non-automatic change procedures*. The "non-automatic change procedures" are all of the procedures and provisions in this revenue procedure applicable to a non-automatic change.

.12 *Present method*. The term "present method" means the established method of accounting from which the taxpayer is requesting the Commissioner's consent to change under this revenue procedure.

.13 *Proposed method*. The term "proposed method" means the method of accounting to which the taxpayer is requesting the Commissioner's consent to change under this revenue procedure.

.14 *SECTION*. For purposes of this revenue procedure, the term "SECTION" means a section of this revenue procedure.

.15 *Section 481(a) adjustment*. The "§ 481(a) adjustment" is the amount necessary to prevent amounts from being duplicated or omitted as a result of the taxpayer computing its taxable income for the year of change and thereafter using a different method of accounting as if the different method of accounting had always been used. *See* SECTION 2.06(1). The § 481(a) adjustment is computed as of the beginning of the year of change. For a change in method of accounting that affects multiple accounts, the taxpayer's § 481(a) adjustment for that change is a net § 481(a) adjustment. In computing the net § 481(a) adjustment for a change, the taxpayer must take into account all relevant accounts. For example, the net § 481(a) adjustment for a change in the proper time for deducting salary bonuses under § 461 reflects any necessary adjustments for amounts of salary bonuses capitalized to inventory under § 263A. The term "§ 481(a) adjustment" includes a net § 481(a) adjustment.

Example 1. A taxpayer that is not required to use inventories uses the overall cash receipts and disbursements method of accounting and changes to an overall accrual method of accounting. The taxpayer has $120,000 of income earned but not yet received (accounts receivable) and $100,000 of expenses incurred but not yet paid (accounts payable) as of the end of the taxable year preceding the year of change in method of accounting. A positive net § 481(a) adjustment of $20,000 ($120,000 accounts receivable less $100,000 accounts payable) is required as a result of the change in method of accounting.

Example 2. *X* Corporation, a calendar year taxpayer, is a producer and capitalizes costs that are required to be capitalized into inventory under § 263A. Each February, *X* Corporation pays a salary bonus to each production employee who remains in its employment as of January 31 for the employee's services provided in the prior calendar year. Under its present method, *X* Corporation treats these salary bonuses as incurred in the taxable year the employee provides the related services. $40,000 of these salary bonuses were treated as incurred in 2013, $8,000 of which were capitalized into 2013 ending inventory, and $32,000 of which were included in cost of goods sold. For 2014, *X* Corporation proposes to change its method of accounting to treat salary bonuses as incurred in the taxable year in which all events have occurred that establish the fact of the liability to pay the salary bonuses and the amount of the liability can be determined with reasonable accuracy. The computation of *X* Corporation's net § 481(a) adjustment for the change in method of accounting for salary bonuses, which reflects the impact of the change in method of accounting on the amount of salary bonuses capitalized into beginning inventory for the year of change, is demonstrated as follows:

Salary bonuses treated as incurred before January 1, 2014, under the present method of accounting, but not incurred until on or after January 1, 2014, under the proposed method		$40,000
Beginning inventory as of January 1, 2014, with capitalized salary bonuses computed under the present method	$100,000	
Beginning inventory as of January 1, 2014, with capitalized salary bonuses, computed under the proposed method	*$92,000*	
Decrease in beginning inventory as of January 1, 2014		*($8,000)*
Net positive § 481(a) adjustment		$32,000

.16 *Section 481(a) adjustment period*. The "§ 481(a) adjustment period" is the applicable number of taxable years that the taxpayer takes into account the § 481(a) adjustment required as a result of the change in method of accounting, beginning with the year of change.

.17 *Taxpayer*.

(1) *In general*. The term "taxpayer" has the same meaning as the term "person" defined in § 7701(a)(1) (rather than the meaning of the term "taxpayer" defined in § 7701(a)(14)), and includes, where appropriate, the taxpayer's authorized representative, or designated shareholder, or controlling domestic shareholders (as defined in § 1.964–1(c)(5)).

(2) *Consolidated group*. Except as otherwise provided (*see, for example*, SECTION 3.08(1)), in the case of a consolidated group, the term "taxpayer" is the consolidated group member to which the request for a change in method of accounting relates. However, for any action for which the common parent of the consolidated group must act as the agent for that member pursuant to § 1.1502–77, the taxpayer is the common parent of the consolidated group acting on behalf of that member.

.18 *Under examination*.

(1) *In general*.

(a) Except as provided in SECTIONS 3.18(2), 3.18(3), 3.18(4), and 3.18(6), a taxpayer is "under examination" with respect to a federal income tax return as of the date the taxpayer is contacted in any manner by a representative of the IRS for the purpose of scheduling or conducting any type of examination of the return. Except as provided in SECTIONS 3.18(1)(b), 3.18(1)(c), 3.18(2), 3.18(3), 3.18(4), and 3.18(5), an examination ends:

(i) in a case in which the IRS accepts the federal income tax return as filed, on the date of the IRS's "no change" final letter (for example Letter 590, *No Change Final Letter*) that is sent to the taxpayer;

(ii) in a fully agreed case, on the earliest of the date the taxpayer executes a waiver of restrictions on assessment or acceptance of overassessment (for example, Form 870, *Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment*, Form 4549, *Income Tax Examination Changes*, or Form 4605, *Examination Changes – Partnerships, Fiduciaries, S Corporations, and Interest Charge Domestic International Sales Corporations*), the date the taxpayer makes a payment of tax that equals or exceeds the proposed deficiency, or the date of the IRS's final "closing" letter (for example, Letter 987, *Agreed Income Tax Change*) that is sent to the taxpayer; or

(iii) in an unagreed or a partially agreed case, on the earliest of the date Appeals notifies the taxpayer that jurisdiction for the case has been transferred to Appeals from Examination, the date the taxpayer files a petition in the Tax Court, the date on which the period for filing a petition with the Tax Court expires, or the date of the final notice of claim disallowance.

(b) An examination does not end as a result of the early referral of an issue to Appeals under the provisions of Rev. Proc. 99–28, 1999–2 C.B. 109.

(c) An examination resumes on the date of the notification to the taxpayer that Appeals has transferred jurisdiction of the case to Examination for reconsideration. Further, notwithstanding SECTIONS 3.18(1)(a)(iii) and 8.02(1)(b), if the taxpayer is within a 120-day window provided in SECTION 8.02(1)(b), that 120-day window is no longer available to the taxpayer as of the date the IRS notifies the taxpayer that jurisdiction for the case has been transferred to the examining agent(s) for reconsideration. The 120-day window provisions in SECTION 8.02(1)(b) will be available to the taxpayer when the resumed examination ends.

(2) *Consolidated group member*. A corporation that is (or was formerly) a member of a consolidated group is under examination during the period of time the consolidated group is under examination for a taxable year(s) that the corporation was a member of the group.

Example. *X* Corporation was a member of *Y* consolidated group from Year 1 through Year 4. On January 1, Year 5, *Z* consolidated group purchased *X* Corporation. Thus, *X* Corporation is a member of *Z* consolidated group in Year 5. On July 1, Year 5, a representative of the IRS contacts the common parent of *Y* consolidated group for purposes of scheduling or conducting an examination of the *Y* consolidated group return for year 2. Because *X* Corporation was a member of Y consolidated group for the taxable year under examination, *X* Corporation is under examination as of July 1, Year 5, for purposes of this SECTION 3.18 even though it is no longer a member of *Y* consolidated group.

(3) *Partnerships subject to TEFRA*. Except as provided in SECTION 3.18(1)(b), 3.18(1)(c), 3.18(5), and 3.18(6), for an entity (including a limited liability company) treated as a partnership for federal income tax purposes that is subject to the TEFRA unified audit and litigation provisions for partnerships, an examination begins on the date of the notice of the beginning of an administrative proceeding that is sent to the Tax Matters Partner (TMP) and ends:

(a) in a case in which the IRS accepts the partnership return as filed, on the date of the "no adjustments" final letter or the "no change" notice of final administrative adjustment that is sent to the TMP;

(b) in a fully agreed case, when all the partners or members execute a Form 870–P, *Agreement to Assessment and Collection of Deficiency in Tax for Partnership Adjustments*, or Form 870–L, *Agreement to Assessment and Collection of Deficiencies in Tax for Partnership Adjustments, Additions to Tax, and Affected Items*; or

(c) in an unagreed or a partially agreed case, on the earliest of the date the IRS notifies the TMP that the examining agent(s) has transferred jurisdiction for the case to Appeals (for example, the date that Appeals issues its uniform acknowledgement letter to the TMP), the date the TMP (or a partner or member) requests judicial review, or the date on which the period for requesting judicial review expires.

(4) *Certain foreign corporations*. A foreign corporation that is not required to file a federal income tax return is under examination if any of its controlling domestic shareholders (as defined in § 1.964–1(c)(5)) is under examination for a taxable year(s) in which any such shareholder was a United States shareholder, as defined in § 951(b) or § 953(c)(1)(A), of the foreign corporation. For purposes of this revenue procedure, a foreign corporation is no longer under examination when all of its controlling domestic shareholders are no longer under examination, as defined in this SECTION 3.18.

(5) *Taxpayer before Joint Committee on Taxation*. If a taxpayer is under examination (including an examination that begins on the date a taxpayer is contacted in any manner for additional information as a result of a Joint Committee on Taxation inquiry pursuant to § 6405) then, notwithstanding the performance of an act described in SECTION 3.18(1), 3.18(2), 3.18(3), or 3.18(4), for purposes of this revenue procedure, the taxpayer continues to be under examination (for the taxable year(s) that Examination reported to the Joint Committee on Taxation) while the taxpayer has a refund or credit under review by the Joint Committee on Taxation. A taxpayer that is not otherwise under examination as of the date of an IRS letter notifying the taxpayer of the IRS's proposal to the Joint Committee on Taxation in a report mandated by § 6405 regarding the taxpayer's federal income tax return(s) is not under examination solely as a result of that letter. The examination ends on the later of (i) the performance of the applicable act described in SECTION 3.18(1), 3.18(2), 3.18(3), or 3.18(4), or (ii) the date of the Joint Committee Specialist's written notification to the taxpayer that the Joint Committee on Taxation has completed its consideration (for example, Letter 1574 (P)), or that the case has been withdrawn from consideration by the Joint Committee on Taxation. *See* Rev. Proc. 2005–32, 2005–1 C.B. 1206.

Example. A taxpayer's 2014 federal income tax return is under examination. The examination results in a minimum refund, which is an amount the taxpayer is due to receive after offsetting any potential unagreed deficiency, in excess of $2 million. The taxpayer indicates agreement with the examiner's findings on the agreed issues resulting in the minimum refund by signing Form 870, *Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment*, and the Joint Committee Specialist Group reports the refund to the Joint Committee on Taxation before releasing the unagreed issues to Appeals. The taxpayer continues to be under examination for 2014 until the later of (i) the performance of the applicable act described in SECTION 3.18(1), 3.18(2), 3.18(3), or 3.18(4) for the 2014 return, or (ii) the date of the Joint Committee Specialist's written notification to the taxpayer that the Joint Committee on Taxation has completed its consideration of the minimum refund for 2014 (for example, Letter 1574 (P)), or that the 2014 minimum refund case has been withdrawn from consideration by the Joint Committee on Taxation.

(6) *Taxpayer in Compliance Assurance Process*. For purposes of this revenue procedure, a taxpayer participating in the Compliance Assurance Process (CAP) is under examination as of the date the taxpayer executes the Memorandum of Understanding for the CAP.

.19 *Year of change*. The "year of change" is the taxable year for which a change in method of accounting is effective, that is, the first taxable year the taxpayer uses the proposed method of accounting, even if no affected items are taken into account for that year. The year of change is also the first taxable year the taxpayer must comply with all the applicable provisions. For an automatic change, the year of change is the taxable year designated on the Form 3115 and for which the Taxpayer timely filed a Form 3115 under SECTION 6.03(1)(a). For a non-automatic change, except as provided in SECTION 13 (request to revise the year of change), SECTION 6.03(4)(b) (other extensions of time), or other guidance published in the Internal Revenue Bulletin (IRB), the year of change is the taxable year for which the taxpayer timely filed a Form 3115 under SECTION 6.03(2)(a).

SECTION 4. SCOPE

This revenue procedure applies to a taxpayer that requests the Commissioner's consent pursuant to § 446(e) and § 1.446–1(e)(3) to make a change in method of accounting:

(1) described in the List of Automatic Changes, or

(2) not described in the List of Automatic Changes, unless the taxpayer may obtain the Commissioner's consent to make the requested change in method of accounting under another automatic change request procedure in the Code or other guidance published in the IRB (*see*, *for example*, section 9.22(2) of Rev. Proc. 2015–1 (or successor)).

SECTION 5. ELIGIBILITY

.01 *In general*.

(1) *Automatic change*. Except as otherwise provided in the List of Automatic Changes, a taxpayer within the scope of this revenue procedure is eligible to request the Commissioner's consent to make a change in method of accounting under the automatic change procedures only if:

(a) on the date the taxpayer files a Form 3115 (original or Ogden copy under SECTION 6.03(1), whichever is filed earlier), the change is described in the List of Automatic Changes;

(b) on the date the taxpayer files a Form 3115 (original or Ogden copy under SECTION 6.03(1), whichever is filed earlier), the taxpayer meets all requirements for the change provided in the applicable section of the List of Automatic Changes;

(c) within the requested year of change, the taxpayer does not engage in a liquidation or reorganization transaction to which § 381(a) applies as described in SECTION 5.02(1), except as provided in SECTION 5.02(2);

(d) the requested year of change is not the final year of the trade or business as described in SECTION 5.03(1), except as provided in SECTION 5.03(2)(a);

(e) the taxpayer has not made or requested an overall method change during any of the five taxable years ending with the year of change as described in SECTION 5.04(1), except as provided in SECTION 5.04(2); and

(f) the taxpayer has not made or requested a change for the same item during any of the five taxable years ending with the year of change as described in

SECTION 5.05(1), except as provided in SECTION 5.05(2).

(2) *Non-automatic change*. A taxpayer within the scope of this revenue procedure is eligible to request the Commissioner's consent to make a change in method of accounting under the non-automatic change procedures only if:

(a) on the date the taxpayer files a Form 3115 with the national office, the taxpayer is not eligible to use the automatic change procedures to make the change; and

(b) the requested year of change is not the final year of the trade or business under SECTION 5.03(1), except as provided in SECTION 5.03(2).

.02 *Liquidations and reorganizations under § 381(a)*.

(1) *In general*. Except as provided in SECTION 5.02(2), any party that engages in a liquidation or reorganization transaction to which § 381(a) applies (§ 381(a) transaction) within the requested year of change (determined without regard to any potential closing of the year under § 381(b)(1)) may not request the Commissioner's consent to make a change in method of accounting under the automatic change procedures for the taxable year in which the § 381(a) transaction occurs or is expected to occur.

(2) *Exception*. SECTION 5.02(1) does not apply if the taxpayer is requesting a change in method of accounting described in § 1.381(c)(4)–1(a)(4) or (5) or § 1.381(c)(5)–1(a)(4) or (5) that is not required to be made under § 1.381(c)(4)–1(d)(1) or § 1.381(c)(5)–1(d)(1), or a change in method of computing the depreciation allowance under § 381(c)(6).

.03 *Final year of trade or business*.

(1) *In general*. Except as provided in SECTION 5.03(2), a taxpayer may not request the Commissioner's consent to make a change in method of accounting under this revenue procedure for the taxable year the taxpayer ceases to engage in the trade or business to which the change in method of accounting would relate (final year), as defined in SECTION 3.04.

(2) *Exceptions*. SECTION 5.03(1) does not apply to a taxpayer:

(a) requesting consent to change its method of accounting in the final year of its trade or business as the result of a transaction to which § 381(a) applies, or

(b) requesting consent under the non-automatic change procedures if the taxpayer demonstrates to the satisfaction of the national office compelling circumstances, or that it is in the interest of sound tax administration, for the taxpayer to change the method of accounting pursuant to SECTION 11.02(1).

.04 *Prior five-year overall method change*.

(1) *In general*. Except as provided in SECTIONS 5.04(2) and 15.02, if during any of the five taxable years ending with the year of change a taxpayer changed, or applied for consent to change, its overall method of accounting, regardless of whether it implemented that change, the taxpayer may not request the Commissioner's consent to change its overall method of accounting under the automatic change procedures. However, a taxpayer that changed its overall method of accounting during the five taxable years ending with the year of change may use the automatic change procedures to request a change in method of accounting for a specific item when that change may otherwise be implemented under the provisions of this revenue procedure. For purposes of this SECTION 5.04(1), a change in overall method of accounting does not include the use of an overall method of accounting when computing taxable income for the taxable year that the taxpayer first files a federal income tax return ("adopts an overall method of accounting") or a change in method of accounting imposed by the IRS pursuant to Rev. Proc. 2002–18 (or any successor).

(2) *Exception*. SECTION 5.04(1) does not apply to a taxpayer if the national office sent the taxpayer a letter instructing the taxpayer to file the Form 3115, if otherwise eligible, that was originally filed under the non-automatic change procedures, under the automatic change procedures and the taxpayer timely files a Form 3115 for the same change in method of accounting for the same year of change under the automatic change procedures.

(3) *Examples*.

Example 1. *A*, an attorney, began business in 2003 and adopted the overall cash method of accounting. For 2010, *A* changed to an overall accrual method of accounting using the appropriate administrative guidance. *A* may not use the automatic change procedures for 2014 to change to the overall cash method because of the five-year change limitation in this SECTION 5.04. However, *A* may still be able to use the automatic change procedures to change the method of accounting the taxpayer will use to treat advances made on behalf of clients for 2014. *See* section 3.01 of the List of Automatic Changes.

Example 2. *B*, an attorney, began business in 2003 and adopted the overall cash method of accounting. *B* is a calendar year taxpayer. For the 2011 taxable year, *B* filed the national office copy of the Form 3115 on January 31, 2011, requesting to change its method of accounting to an overall accrual method under section 14.01 of the APPENDIX of Rev. Proc. 2011–14. *B* did not implement the requested change to an overall accrual method of accounting on its 2011 federal income tax return. Rather, *B* timely filed its 2011 federal income tax return using the overall cash method of accounting, and did not attach the original Form 3115 to its return. *B* may not use the automatic change procedures for 2014 to change to an overall accrual method because of the five-year change limitation in this SECTION 5.04. However, *B* may still be able to use the automatic change procedures to change the method of accounting the taxpayer will use to treat advances made on behalf of clients for 2014. *See* section 3.01 of the List of Automatic Changes.

.05 *Prior five-year item change*.

(1) *In general*. Except as provided in SECTIONS 5.05(2) and 15.02, if during any of the five taxable years ending with the year of change a taxpayer changed, or applied for consent to change, its method of accounting for a specific item, regardless of whether it implemented that change, the taxpayer may not request the Commissioner's consent to change its method of accounting for that same item under the automatic change procedures. For purposes of this SECTION 5.05(1), a change in method of accounting for a specific item does not include the use of a method of accounting (for example, include in income, deduct, or capitalize) for the first taxable year that the taxpayer accounts for the item or a change in method of accounting imposed by the IRS pursuant to Rev. Proc. 2002–18 (or any successor).

(2) *Exceptions*. SECTION 5.05(1) does not apply to a taxpayer if:

(a) the change in method of accounting for the specific item is required as part of another change in method of accounting that the taxpayer may otherwise request under the automatic change procedures;

(b) the national office sent the taxpayer a letter instructing the taxpayer to file the Form 3115, if otherwise eligible, that was originally filed under the non-automatic change procedures, under the automatic change procedures and the taxpayer timely files a Form 3115 for the same change in method of accounting for the same year of change under the automatic change procedures; or

(c) the specific item is an inventory sub-method within the last-in, first-out (LIFO) inventory method (for example, the method of determining current-year cost or the method of computing a dollar-value pool index) and during any of the five taxable years ending with the year of change, the taxpayer (i) adopted or changed to the LIFO inventory method, or (ii) did not change its method of accounting with respect to the same inventory sub-method within LIFO.

(3) *Examples*.

Example 1. *A* uses the LIFO inventory method. For 2010, *A* changed a LIFO inventory sub-method. Specifically, *A* changed from the average-cost method of determining the current-year cost of inventories to the earliest-acquisitions cost method. For 2014, *A* seeks to change to the IPIC method of computing the index and value of its dollar-value pools, a method that *A* has never used. As part of this change, *A* seeks to change its method of determining the current-year cost of inventories from the earliest-acquisitions cost method to the most-recent acquisitions cost method. *A* is eligible to change its method of computing the index and value of its dollar-value pools to the IPIC method under this revenue procedure. However, *A* is not eligible to change its method of determining the current-year costs of inventories under the automatic change procedures because *A* changed its method of accounting with respect to the same LIFO inventory sub-method within the proscribed five-year period.

Example 2. *B* uses the dollar-value LIFO inventory method and maintains separate dollar-value pools for its inventory of (1) new cars; (2) new trucks; (3) used cars; and (4) used trucks. For 2010, B terminated its use of the LIFO inventory method for its used cars and used trucks under Rev. Proc. 2008–52. For 2014, *B* seeks to terminate its use of the LIFO inventory method for its new cars and new trucks. *B* is eligible to change its method of accounting for new cars and new trucks under the automatic change procedures because it has not changed the inventory identification method for the pools of new cars and new trucks within the proscribed five-year period.

Example 3. *C*, a driving instruction school, uses an overall accrual method of accounting. C obtains payment in full from its students at the beginning of each session of classes. For 2012, *C* properly elected the deferral method for advance payments as described in Rev. Proc. 2004–34. For 2014, *C* seeks to change its overall method of accounting to the cash method as described in Rev. Proc. 2001–10, which it qualifies to use. *C* is eligible to change its method of accounting under the automatic change procedures for advance payments even though it made a prior change in its method of accounting for advance payments within the previous 5 taxable years ending with 2014 because *C* is required to change its treatment of advance payments as part of its change to the overall cash method of accounting.

SECTION 6. GENERAL APPLICATION PROCEDURES

.01 *Requesting consent*. Except as otherwise provided in the List of Automatic Changes, the Code, or other guidance published in the IRB, a taxpayer requests the Commissioner's consent to change a method of accounting under this revenue procedure by completing and filing a Form 3115.

.02 *Completing Form 3115*.

(1) *Separate Forms 3115*. Ordinarily, a taxpayer may request only one change in method of accounting on a Form 3115. If the taxpayer wants to request a change in method of accounting for more than one unrelated item or sub-method of accounting, the taxpayer must submit a separate Form 3115 for each unrelated item or sub-method, except in certain situations in which the IRS specifically permits certain unrelated changes to be included on a single Form 3115. *See*, *for example*, section 14.03 of the List of Automatic Changes. *See* section 9.02 of Rev. Proc. 2015–1 (or successor).

(2) *Form 3115 contents*. The taxpayer must submit a Form 3115 that is accurate and, except as specifically permitted in the applicable section of the List of Automatic Changes, complete. The Form 3115 must include all relevant facts, including all information and representations required by this revenue procedure, the applicable provisions of Rev. Proc. 2015–1 (or successor), the current instructions for Form 3115, and the applicable section of the List of Automatic Changes (in the case of an automatic change).

(3) *Designated automatic accounting method change number*. In the case of a Form 3115 filed under the automatic change procedures, the taxpayer must include the designated automatic accounting method change number in the applicable section of the List of Automatic Changes on the applicable line of Form 3115. For example, the designated automatic accounting method change number for the change in method of accounting identified in section 1.01 of the List of Automatic Changes is 91. Therefore, a taxpayer requesting consent for the change in method of accounting identified in section 1.01 of the List of Automatic Changes for its taxable year ending December 31, 2014, must enter the number "91" on Line 1(a) of Form 3115.

In general, a taxpayer may enter only one designated automatic accounting method change number on a Form 3115. However, where the List of Automatic Changes or other guidance published in the IRB specifically permits or requires a taxpayer to request two or more particular changes in method of accounting on a single Form 3115, the taxpayer must enter the designated automatic accounting method change number for each such particular change being requested on the applicable line of the Form 3115.

(4) *Taxpayer with more than one trade or business*. A taxpayer with multiple trades or businesses filing a Form 3115 for one or more of those trades or businesses must identify, by name, the trades or businesses to which the change relates. The taxpayer must also identify, by name, all other trades or businesses and explain the method of accounting used for each trade or business for the particular item that is the subject of the Form 3115. Except as provided in sections 9.02 and 15.07(4) of Rev. Proc. 2015–1 (or successor), the taxpayer must submit a separate Form 3115 and, in the case of a non-automatic change, user fee for each trade or business of the taxpayer for which consent for a change in method of accounting is requested.

(5) *Consolidated groups*. A common parent requesting a change in method of accounting on behalf of a member of the consolidated group must explain the method of accounting used by each member of the consolidated group for the particular item that is the subject of the Form 3115. Except as provided in sections 9.02 and 15.07(4) of Rev. Proc. 2015–1 (or successor), the common parent must submit a separate Form 3115 and, in the case of a non-automatic change, user fee for each member of the consolidated group (and for each trade or business of each member) for which consent for a change in method of accounting is requested.

(6) *Certain foreign corporations*. In the case of a CFC or a 10/50 corporation that is not required to file a federal income tax return, the controlling domestic shareholders (as defined in § 1.964–1(c)(5))

that want to change the foreign corporation's method of accounting must satisfy the requirements set forth in § 1.964–1(c)(3). The designated shareholder that retains the jointly executed consent described in § 1.964–1(c)(3)(ii) must complete and file a Form 3115 on behalf of the foreign corporation, the applicant. Except as provided in sections 9.02 and 15.07(4) of Rev. Proc. 2015–1 (or successor), the designated shareholder must submit a separate Form 3115 and, in the case of a non-automatic change, user fee for each CFC or 10/50 corporation for which consent for a change in method of accounting is requested.

(7) *Certain foreign partnerships*. In the case of a foreign partnership that is not required to file a federal income tax return, the partners or partner described in § 1.6031(a)–1(b)(5)(i) or (ii), respectively, may file a Form 3115 on behalf of the foreign partnership, the applicant.

(8) *Signature requirements*. The Form 3115 must be signed by, or on behalf of, the taxpayer requesting the change in method of accounting by an individual who has personal knowledge of the facts of, and authority to bind the taxpayer in, such matters. For example, if the taxpayer is a member of a consolidated group, the Form 3115 submitted on behalf of the taxpayer must be signed by a duly authorized officer of the common parent with personal knowledge of the facts of, and authority to bind the taxpayer in, such matters. Further, if the individual who, for compensation, prepared the Form 3115 is not the taxpayer or an individual with authority to sign the Form 3115 on behalf of the taxpayer, the preparer must also sign the Form 3115. See the additional signature requirements in the current Instructions for Form 3115 regarding those who are permitted and required to sign.

.03 *Filing Form 3115*. A Form 3115 is filed under this revenue procedure if the taxpayer complies with all applicable provisions of this SECTION 6.03.

(1) *Automatic change*.

(a) *When and where to file Form 3115*. The requirement in § 1.446–1(e)(3)(i) to file a Form 3115 within the requested year of change is waived for any Form 3115 filed under the automatic change procedures. *See* § 1.446–1(e)(3)(ii).

(i) *In general*. Except as otherwise provided in this revenue procedure or in the List of Automatic Changes, a taxpayer requesting to change a method of accounting under the automatic change procedures must complete a Form 3115 as required by SECTION 6.02 and file that Form 3115 in duplicate, as follows:

(A) *Original Form 3115*. The original completed Form 3115 (or an electronic version of the Form 3115) must be attached to the taxpayer's timely filed (including any extension) original federal income tax return implementing the requested automatic change for the requested year of change; and

(B) *Ogden copy of Form 3115*. A signed copy of the original Form 3115 must be filed with the IRS in Ogden, UT (Ogden copy) at the applicable address in section 9.05 of Rev. Proc. 2015–1 (or successor) no earlier than the first day of the requested year of change and no later than the date the taxpayer files the original Form 3115 with the federal income tax return for the requested year of change.

(ii) *Certain foreign corporations*. If SECTION 6.02(6) applies, the original Form 3115 must be attached to the designated shareholder's (or, if a member of a consolidated group, its common parent's) timely filed (including any extension) original federal income tax return for its taxable year with or within which ends the year of change of the foreign corporation, and a signed copy of the original Form 3115 must be filed with the IRS in Ogden, UT (see the applicable address in section 9.05 of Rev. Proc. 2015–1 (or successor)) no earlier than the first day of the year of change and no later than the date the designated shareholder (or its common parent) files the original Form 3115 with the designated shareholder's (or its common parent's) federal income tax return for its taxable year with or within which ends the year of change of the foreign corporation.

(iii) *Certain foreign partnerships*. If SECTION 6.02(7) applies, the original Form 3115 must be attached to the return on the form prescribed for the partnership return that must be filed for the partnership as described in § 1.6031(a)–1(b)(5) (for example, Form 1065, *U.S. Return of Partnership Income*) and a signed copy of the original Form 3115 must be filed with the IRS in Ogden, UT (see the applicable address in section 9.05 of Rev. Proc. 2015–1 (or successor)) no earlier than the first day of the requested year of change and no later than the date the partnership files the original Form 3115.

(b) *Certain concurrent changes in method of accounting*. Ordinarily, a taxpayer must submit a separate Form 3115 for each automatic change. *See* SECTION 6.02(1). In some cases, however, the List of Automatic Changes describes particular changes in method of accounting that a taxpayer is required or permitted to request on a single Form 3115 (concurrent changes). *See, for example*, section 14.03 of the List of Automatic Changes. When the taxpayer is required or permitted to file a single Form 3115 for two or more concurrent changes, the taxpayer must provide all of the information required for each change separately. For example, the single Form 3115 filed for the taxable year ending December 31, 2014, must include the information required by Part II, line 12, Part IV (including the amount of any § 481(a) adjustment), and any other line(s) on Form 3115 for each change in method of accounting included on that Form 3115.

(c) *No user fee*. A user fee is not required for a Form 3115 filed under the automatic change procedures.

(d) *No acknowledgement of receipt*. The IRS does not send an acknowledgement of receipt for a Form 3115 (original or copy) filed under the automatic change procedures.

(e) *Correspondence regarding a previously filed Form 3115*. If a taxpayer submits additional correspondence regarding its Form 3115 filed under the automatic change procedures (for example, a revised § 481(a) adjustment or power of attorney), it must attach a copy of the additional correspondence behind a copy of page 1 of the previously filed Form 3115 and submit it to the IRS in Ogden, UT (see the applicable address in section 9.05 of Rev. Proc. 2015–1 (or successor)). Further, if the taxpayer is under examination, before an Appeals office, or before a federal court with respect to any income tax issue, the taxpayer must provide a copy of any additional correspondence it submits regarding its Form 3115 to the examining agent(s), Appeals officer(s), and all counsel to the government, as applicable, no later than the date the taxpayer submits the additional correspondence to the IRS in Ogden, UT.

(2) *Non-automatic change*.

(a) *When to file Form 3115*.

(i) *In general*. A taxpayer requesting to change a method of accounting under the non-automatic change procedures must complete a Form 3115 as required by SECTION 6.02 and, except as specifically provided in this revenue procedure or other guidance published in the IRB, file that Form 3115 during the requested year of change. *See* § 1.446–1(e)(3)(i). However, see, for example, SECTIONS 6.03(2)(a)(ii), 6.03(2)(a)(iii), and 6.03(4)(b), which allow a taxpayer in certain limited circumstances additional time to file a Form 3115 after the year of change.

(ii) *New member of a consolidated group in CAP*. A taxpayer requesting a change in method of accounting to which SECTION 8.02(1)(d) (new member of a consolidated group in CAP) applies must file the Form 3115 on behalf of a new member by the earlier of:

(A) 90 calendar days after the date the new member becomes a member of the consolidated group, or

(B) 30 calendar days after the end of the taxable year in which the new member becomes a member of the consolidated group.

(iii) *Certain transactions to which § 381(a) applies*. A party to a transaction to which § 381(a) applies requesting consent to make a non-automatic change described in § 1.381(c)(4)–1(a)(4) or (5), or in § 1.381(c)(5)–1(a)(4) or (5) must file the Form 3115 on or before the later of:

(A) the due date for filling a Form 3115 as specified in § 1.446–1(e), or

(B) the earlier of:

(*1*) the day that is 180 calendar days after the date of distribution or transfer, or

(*2*) the day on which the acquiring corporation files its federal income tax return for the taxable year in which the distribution or transfer occurred. *See* §§ 1.381(c)(4)–1(d)(2)(iii) and 1.381(c)(5)–1(d)(2)(iii).

(b) *Where to file Form 3115*. A taxpayer requesting consent to change a method of accounting under the non-automatic change procedures must file its completed Form 3115, together with the appropriate user fee, with the national office at the applicable address in section 9.05 of Rev. Proc. 2015–1 (or successor).

(c) *User fee*. A taxpayer requesting to change a method of accounting under the non-automatic change procedures must submit the required user fee(s) for its Form 3115. Rev. Proc. 2015–1 (or successor) contains the schedule of user fees and provides guidance regarding the user fee requirements.

(3) *Additional required copies of Form 3115 and Consent Agreement*.

(a) *Taxpayer under examination, before an Appeals office, or before a federal court*. If the taxpayer is under examination, before an Appeals office, or before a federal court with respect to any income tax issue, the taxpayer must provide an additional signed copy of the original Form 3115 to the examining agent(s), Appeals officer(s), and all counsel to the government, as applicable, no later than the date the taxpayer timely files the Form 3115 (original or Ogden copy, whichever is filed earlier, in the case of an automatic change).

(b) *Certain foreign corporations*. If SECTION 6.02(6) applies, each controlling domestic shareholder (or, if a member of a consolidated group, its common parent), other than the designated shareholder, must attach a signed copy of the Form 3115 (in the case of an automatic change) or a copy of the jointly executed Consent Agreement (in the case of a non-automatic change) (see further, SECTION 11.03(2)(a)) to its federal income tax return filed for its taxable year with or within which ends such year of change. Further, SECTION 6.03(3)(a) applies to each controlling domestic shareholder that is under examination, before an Appeals office, or before a federal court with respect to any income tax issue.

(c) *Certain foreign partnerships*. If SECTION 6.02(7) applies, each partner that is required to file a Form 8865, *Return of U.S. Persons With Respect to Certain Foreign Partnerships*, as a Category 1 or Category 2 filer must attach a signed copy of the Form 3115 (in the case of an automatic change) or a copy of the jointly executed Consent Agreement (in the case of a non-automatic change) (see further, SECTION 11.03(2)(a)) to its federal income tax return filed for its taxable year with or within which ends such year of change. Further, SECTION 6.03(3)(a) applies to each partner that is required to file a Form 8865, *Return of U.S. Persons With Respect to Certain Foreign Partnerships*, as a Category 1 or Category 2 filer that is under examination, before an Appeals office, or before a federal court with respect to any income tax issue.

(4) *Extensions of time to file*.

(a) *Automatic extension for Form 3115*. An automatic extension of 6 months from the due date (excluding any extension) of the federal income tax return for the year of change requested on the Form 3115 is granted to file a Form 3115 under the automatic change procedures provided the taxpayer:

(i) timely filed (including any extension) its original federal income tax return for the year of change;

(ii) files an amended return within the 6-month extension period implementing the requested change in method of accounting for the year of change;

(iii) attaches the original Form 3115 to the amended return;

(iv) files a signed copy of the original Form 3115 with the IRS in Ogden, UT (see the applicable address in section 9.05 of Rev. Proc. 2015–1 (or successor) no later than the date the original is filed with the amended return;

(v) provides a signed copy of the original Form 3115 to the examining agent, Appeals officer(s) or all counsel to the government, as applicable, as required by SECTION 6.03(3); and

(vi) attaches a statement to the Form 3115 (original, Ogden, and any other copy required by SECTION 6.03(3)) that the Form 3115 is being filed pursuant to § 301.9100–2(b) of the Procedure and Administration Regulations.

(b) *Other extensions of time*. Except in unusual and compelling circumstances or as provided in SECTION 6.03(4)(a), a taxpayer is not eligible for an extension of time to file a Form 3115 and is not eligible to make a late election under SECTION 7.03(3)(d) under §§ 301.9100–1 and 301.9100–3. *See* § 301.9100–3(c)(2) and Rev. Proc. 2015–1 (or successor).

SECTION 7 . TERMS AND CONDITIONS OF CHANGE

.01 *In general*. A change in method of accounting requested under this revenue procedure for which consent is granted must be implemented pursuant to both the terms and conditions provided in this revenue procedure and either the List of Automatic Changes (in the case of an automatic change) or the letter ruling for the change (in the case of a non-automatic change). Notwithstanding the terms and conditions in this revenue procedure, based on the unique facts of a particular case and in the interest of sound tax administration, the national office may prescribe in the letter ruling for a non-automatic change terms and conditions for the requested change in method of accounting that differ from and override those provided in this revenue procedure.

.02 *Section 481(a) adjustment*. Except as otherwise provided in this revenue procedure, the List of Automatic Changes (in the case of an automatic change), a letter ruling to the taxpayer (in the case of a non-automatic change), or other guidance published in the IRB, a taxpayer making a change in method of accounting under this revenue procedure must apply § 481(a) and take into account the § 481(a) adjustment in the manner provided in SECTION 7.03. *See* SECTION 2.06(1); *but see* SECTION 13.01(3).

.03 *Section 481(a) adjustment period*.

(1) *In general*. Except as otherwise provided in this revenue procedure, the List of Automatic Changes (in the case of an automatic change), a letter ruling to the taxpayer (in the case of a non-automatic change), or other guidance published in the IRB, the § 481(a) adjustment period is one taxable year (year of change) for a negative § 481(a) adjustment and four taxable years (year of change and next three taxable years) for a positive § 481(a) adjustment. Except as otherwise provided in this revenue procedure, the List of Automatic Changes (in the case of an automatic change), or other guidance published in the IRB, a taxpayer must take a positive § 481(a) adjustment into account ratably over the § 481(a) adjustment period. Where multiple eligible taxpayers or trades or businesses request an identical change in method of accounting for the same item on a single Form 3115 pursuant to section 15.07(4) of Rev. Proc. 2015–1 (or successor), each taxpayer or trade or business has its own § 481(a) adjustment period, applied to its own § 481(a) adjustment.

(2) *Short period as a separate taxable year*.

(a) *In general*. If the year of change or any other taxable year during the § 481(a) adjustment period for a positive § 481(a) adjustment is a short taxable year, the taxpayer must take the § 481(a) adjustment into account as if that short taxable year were a full 12-month taxable year. *See* Rev. Rul. 78–165, 1978–1 C.B. 276.

(b) *Examples*.

Example 1. A calendar year taxpayer receives permission to change its method of accounting beginning with the 2014 calendar year in a situation not described in SECTION 7.03(3) or 7.03(4). The § 481(a) adjustment for this change in method of accounting is a positive adjustment of $60,000 and the adjustment period is four taxable years. The taxpayer subsequently receives permission to change its annual accounting period to September 30, effective for the taxable year ending September 30, 2015. The taxpayer must include $15,000 of the § 481(a) adjustment in gross income for the short period from January 1, 2015, through September 30, 2015.

Example 2. Corporation *X*, a calendar year taxpayer, received permission to change its method of accounting beginning with the 2014 calendar year. The § 481(a) adjustment for this method of accounting change is a positive adjustment of $60,000 and the adjustment period is four taxable years. On July 1, 2015, Corporation *Z* acquires Corporation *X* in a transaction to which § 381(a) applies. Corporation *Z* is a calendar year taxpayer that uses the same method of accounting to which Corporation *X* changed in 2014. Corporation *X* must include $15,000 of the § 481(a) adjustment in gross income for its short period for January 1, 2015, through June 30, 2015. In addition, Corporation *Z* must include $15,000 of the § 481(a) adjustment in gross income for calendar year 2015.

(c) *Certain transfers to which § 381(a) applies*. For a § 381 transaction that is described in SECTION 3.04(4) and that occurs between members of a consolidated group, for purposes of this revenue procedure, the portion of the § 481(a) adjustment attributable to the short taxable year of the transferor ending on the date of the § 381(a) transaction must be treated as an intercompany item as defined in § 1.1502–13(b)(2) and taken into account under the rules of § 1.1502–13. The acquiring corporation is subject to any terms and conditions imposed on the transferor (or any predecessor of the transferor) as a result of its change in method of accounting.

(3) *Shortened adjustment periods*. The four-year § 481(a) adjustment period provided in SECTION 7.03(1) for a positive § 481(a) adjustment does not apply in the following situations:

(a) *Cooperatives*. For a cooperative within the meaning of § 1381(a), the § 481(a) adjustment period for a positive § 481(a) adjustment generally is one taxable year (year of change). *See* Rev. Rul. 79–45, 1979–1 C.B. 284.

(b) *Taxpayers under examination with positive § 481(a) adjustments*. The § 481(a) adjustment period is two taxable years (year of change and next taxable year) for a positive § 481(a) adjustment for a change in method of accounting requested when a taxpayer is under examination, unless SECTION 8.02(1)(a) (change filed in a three-month window), 8.02(1)(b) (change filed in a 120-day window), 8.02(1)(c) (present method not before the director) or 8.02(1)(d) (new member of a consolidated group in CAP) applies.

(c) *De minimis election*. A taxpayer may elect a one-year § 481(a) adjustment period (year of change) for a positive § 481(a) adjustment that is less than $50,000. To make this election, the taxpayer must complete the appropriate line on the Form 3115 and take the entire § 481(a) adjustment into account in the year of change when it implements the change in method of accounting.

(d) *Eligible acquisition transaction election*.

(i) *In general*. A taxpayer may elect a one-year § 481(a) adjustment period (year of change) for all (but not some) positive § 481(a) adjustments for the year of change if an eligible acquisition transaction, as defined in SECTION 7.03(3)(d)(iii), occurs during the year of change or in the subsequent taxable year on or before the due date (including any extension) for filing the taxpayer's federal income tax return for the year of change. The election, once made, is irrevocable and applies to all changes in method of accounting the taxpayer makes pursuant to this revenue procedure for the year of change. A taxpayer may make this election even if the taxpayer executes a Consent Agreement that contains a longer § 481(a) adjustment period in the case of a Form 3115 filed under the non-automatic change procedures. To make this election, a taxpayer must file, in duplicate, the election statement that contains the required information in SECTION 7.03(3)(d)(ii). The taxpayer must attach the original election statement to the taxpayer's timely filed (including any extension) original federal income tax return for the year of change (even if a non-automatic change is pending with the national office) and file the copy, which must be signed by the Form(s) 3115 filer, with the IRS, no later than the date the taxpayer files the original election statement with its original federal income tax return for the year of change. *See also* SECTION 6.03(4)(b). The taxpayer must submit the signed copy to the following address: Internal Revenue Service; Attn: Eligible Acquisition Transaction Office, CC:ITA; 1111 Constitution Ave., N.W.; Washington DC 20224. Further, a pass-through entity must retain in its books and records for the year of change each owner or beneficiary's agreement to not apply § 481(b) and § 1.481–2 to support the statement required by SECTION 7.03(3)(d)(ii)(G).

(ii) *Election Statement*. The eligible acquisition transaction election statement must include:

(A) the name and taxpayer identification number of the Form(s) 3115 filer;

(B) the name of the applicant (taxpayer making the change in method of accounting) on the Form(s) 3115;

(C) the year of change (including the beginning and ending dates);

(D) the date of the eligible acquisition transaction;

(E) the Form(s) 3115 filer's signature and date;

(F) the following statement:

> "The Form(s) 3115 filer elects a one-year adjustment period pursuant to SECTION 7.03(3)(d) of Rev. Proc. 2015–13 for all changes in method of accounting made by the applicant (the taxpayer) pursuant to Rev. Proc. 2015–13 for the year of change. The filer agrees that the limitation on tax in § 481(b) and § 1.481–2 will not be applied for any § 481(a) adjustment for all changes in method of accounting made by the taxpayer."; and

(G) if the taxpayer is a pass-through entity, such as a partnership, S corporation, or trust, the following representation:

> "The taxpayer represents that it has obtained (either directly or by delegation) from each owner or beneficiary, as applicable, who was an owner or beneficiary during the year of change a written agreement that the owner or beneficiary agrees to not apply the limitation on tax in § 481(b) and § 1.481–2 for any § 481(a) adjustment for all changes in method of accounting made by the taxpayer pursuant to Rev. Proc. 2015–13 for the year of change."

(iii) *Eligible acquisition transaction*. An eligible acquisition transaction means:

(A) For a CFC or a corporation that is not an S corporation, (1) an acquisition of stock ownership interest in the taxpayer by another party that either results in the acquisition of control of the taxpayer or causes the taxpayer's taxable year to end, or (2) an acquisition of assets in a transaction to which § 381(a) applies, and

(B) For all other taxpayers, an acquisition of an ownership interest in the taxpayer by another party that does not cause the taxpayer to cease to exist for federal income tax purposes (for example, the sale or exchange of a partnership interest that does not cause a technical termination of the partner under § 708(b)(1)(B)).

(iv) *Examples*.

Example 1. *X* Corporation enters into an agreement to sell all of *X* Corporation's stock ownership interest in *T* Corporation, a wholly-owned subsidiary of *X, to Z* Corporation. *T* Corporation is a calendar year taxpayer. In the course of *Z* Corporation's due diligence review of *T* Corporation, *Z* Corporation discovers that *T* Corporation improperly defers advance payments for services. *Z* Corporation requests that prior to its acquisition of *T* Corporation's stock, *T* Corporation change its method of accounting for advance payments for services to a proper deferral method for 2014. On February 28, 2015, *Z* Corporation acquires *X* Corporation's stock ownership interest in *T* Corporation. On March 14, 2015, *T* Corporation files for an extension of time to file its 2014 federal income tax return. On September 15, 2015, *T* Corporation files the original and Ogden copy of a Form 3115 under the automatic change procedures to change its method of accounting for advance payments for services for 2014 (year of change), which results in a positive § 481(a) adjustment of $1,000,000. *T* Corporation follows the procedures in SECTION 7.03(3)(d) to elect a one-year adjustment period for all changes in method of accounting that it makes pursuant to this revenue procedure for 2014 (year of change). Pursuant to this election, *T* Corporation must take into account the entire $1,000,000 § 481(a) adjustment for its change in method of accounting for advance payments for services in determining its taxable income for 2014 (year of change).

Example 2. On December 31, 2014, *X* Corporation, the common parent of an affiliated group of corporations (X Group) that file a consolidated return, owns 65% of the stock of *T* Corporation. On June 30, 2015, *X* Corporation purchases additional shares of T Corporation's stock sufficient to include *T* Corporation in the consolidated return of the *X* Group. *T* Corporation is a calendar year taxpayer. *X* Corporation's acquisition of additional shares of *T* Corporation stock causes *T* Corporation's taxable year to end under § 1.1502–76(b). On August 1, 2015, *T* Corporation files the original and Ogden copy of a Form 3115 under the automatic change procedures to change its method of accounting for *T* Corporation's short taxable year ending June 30, 2015 (year of change), which results in a positive § 481(a) adjustment of $1,000,000. *T* Corporation follows the procedures in SECTION 7.03(3)(d) to elect a one-year adjustment period for all changes in method of accounting made by *T* Corporation pursuant to this revenue procedure for its short taxable year ending June 30, 2015 (year of change). Pursuant to this election, *T* Corporation must take into account the entire $1,000,000 § 481(a) adjustment for this change in method of accounting in determining *T* Corporation's taxable income for its short taxable year ending June 30, 2015 (year of change).

Example 3. During 2014, *P* Partnership, a calendar year taxpayer consisting of Partners *A*, *B*, *C*, and *D*, files a Form 3115 under the non-automatic change procedures for a change in method of accounting for 2014 (year of change) that results in a positive § 481(a) adjustment of $1,200,000. *P* Partnership receives consent for that change in method of accounting in a letter ruling dated February 12, 2015. On February 26, 2015, Partner *A*, who already owns 10% interest in *P* Partnership purchases all of Partner *B*'s 20% interest in *P* Partnership. *P* Partnership is a calendar year taxpayer. On April 15, 2015, *P* Partnership files the original and Ogden copy of a Form 3115 under the automatic change procedures for 2014 (year of change), which results in a positive § 481(a) adjustment of $1,000,000. *P* Partnership obtains from each of Partners *A*, *B*, *C*, and *D* a written agreement that each partner agrees to not apply the limitation on tax in § 481(b) and § 1.481–2 for any § 481(a) adjustment for all changes in method of accounting made by *P* Partnership pursuant to Rev. Proc. 2015–13 for *P* Partnership's 2014 year of change, and otherwise follows the procedures in SECTION 7.03(3)(d) to elect a one-year adjustment period for all changes in method of accounting made by *P* Partnership pursuant to this revenue procedure for 2014 (year of change). Pursuant to this election, *P* Partnership must take into account both the entire $1,200,000 § 481(a) adjustment for the non-automatic change in method of accounting and the entire $1,000,000 § 481(a) adjustment for the automatic change in method of accounting in determining *P* Partnership's business income (or loss) for 2014 (year of change).

(4) *Accelerated adjustment periods*. The four-year § 481(a) adjustment period for a positive § 481(a) adjustment provided in SECTION 7.03(1) is accelerated in the following situations:

(a) *Ceasing to engage in the trade or business*. A taxpayer that ceases to engage in a trade or business, as defined in SECTION 3.04, must take the remaining balance of any § 481(a) adjustment relating to that trade or business into account in computing taxable income in the taxable year of the cessation.

(b) *S election effective for year of LIFO discontinuance*. If a C corporation elects to be treated as an S corporation for the taxable year in which it discontinues use of the LIFO inventory method of accounting, § 1363(d) requires an increase in the taxpayer's gross income for the LIFO recapture amount (as defined in § 1363(d)(3)) for the taxable year preceding the year of change (the taxpayer's last taxable year as a C corporation), and a corresponding adjustment to the basis of the taxpayer's inventory as of the end of the taxable year preceding the year of change. Any increase in income tax as a result of the inclusion of the LIFO recapture amount is payable in four equal installments, beginning with the taxpayer's last taxable year as a C corporation as provided in § 1363(d)(2). The corporation must take into account any corresponding basis adjustment in computing the § 481(a) adjustment (if any) that results from discontinuing the LIFO method of accounting.

(c) *S election effective for a year after LIFO discontinuance*. If a C corporation elects to be treated as an S corporation for a taxable year after the taxable year in which it discontinued use of the LIFO inventory method of accounting, the corporation must include the remaining balance of any positive § 481(a) adjustment in its gross income in its last taxable year as a C corporation. If this inclusion results in an increase in tax for its last taxable year as a C corporation, this increase in tax is payable in four equal installments, beginning with the taxpayer's last taxable year as a C corporation as provided in § 1363(d)(2), unless the taxpayer is required to take the remaining balance of the § 481(a) adjustment into account in the last taxable year as a C corporation under another acceleration provision in SECTION 7.03(4).

(d) *Certain transfers pursuant to a § 351 transaction within a consolidated group*.

(i) *In general*. For a transfer within a consolidated group to which § 351 applies that is described in SECTION 3.04(5), the transferor member must continue to take the § 481(a) adjustment (arising from a method of accounting of the transferor that the transferee adopts and uses) into account pursuant to the applicable terms and conditions. The transferor member must take into account activities of the transferee member (or any successor) in determining whether acceleration of the § 481(a) adjustment is required. For example, except as provided in the following sentence, the transferor member must take any remaining § 481(a) adjustment into account in computing taxable income in the taxable year in which the transferee member ceases to engage in the trade or business to which the § 481(a) adjustment relates. The § 481(a) adjustment is not accelerated when the transferee member engages in a transaction described in the first sentence of this SECTION 7.03(4)(d)(i) or in SECTION 3.04(4).

(ii) *Exception*. The provisions of SECTION 7.03(4)(d)(i) cease to apply and the transferor member must take any remaining balance of the § 481(a) adjustment into account in the earliest of the following taxable years:

(A) if the transferor ceases to be a member of the consolidated group, in the last consolidated return year in which the transferor member is included in the consolidated group;

(B) if any transferee member owning substantially all the assets of the trade or business that gave rise to the § 481(a) adjustment ceases to be a member of the consolidated group, in the last consolidated return year in which that transferee member is a member of the consolidated group; or

(C) if the consolidated group terminates, in the last consolidated return year of that consolidated group.

In applying the preceding sentence, the rules in § 1.1502–13(j)(2), (j)(5), and (j)(6) apply, but only if the method of accounting to which the transferor member changed and to which the § 481(a) adjustment relates is adopted, carried over, or used by any transferee member acquiring the assets of the trade or business that gave rise to the § 481(a) adjustment immediately after acquisition of such assets. For example, the transferor member is not required to accelerate the § 481(a) adjustment if a transferee member ceases to be a member of a consolidated group by reason of an acquisition to which § 381(a) applies and the acquiring corporation (1) is a member of the same group as the transferor member, and (2) continues, under § 381(c)(4) and the regulations thereunder, to use the same method of accounting as that used by the transferor member with respect to the assets of the trade or business to which the § 481(a) adjustment relates.

.04 *Changes within the LIFO method of accounting*. Except as specifically provided in the Code or other guidance published in the IRB, a taxpayer must implement a change within the LIFO inventory method of accounting using a cut-off basis. Announcement 91–173, 1991–47 I.R.B. 29 (regarding LIFO taxpayers changing their method of accounting for certain bulk bargain purchases of inventory to comply with *Hamilton Industries, Inc. v. Commissioner*, 97 T.C. 120 (1991)), is an example of other guidance that requires a § 481(a) adjustment. A change within the LIFO inventory method of accounting is a change from one LIFO inventory method or sub-method to another LIFO inventory method or sub-method. A change within the LIFO inventory method does not include a change in method of accounting that a taxpayer not using the LIFO inventory method of accounting could make (for example, a method of accounting governed by § 471 or § 263A).

.05 *NOL carryback limitation for taxpayer subject to criminal investigation*. No portion of any net operating loss that is attributable to a negative § 481(a) adjustment may be carried back to a taxable year prior to the year of change that is the subject of any pending or future criminal investigation or proceeding concerning (1) directly or indirectly, any issue relating to the taxpayer's federal tax liability, or (2) the possibility of false or fraudulent statements made by the taxpayer with respect to any issue relating to its federal tax liability. For purposes of this SECTION 7.05, if the taxpayer is a member of a consolidated group, the taxpayer is the consolidated group.

.06 *Maintenance of adequate records*. The taxpayer must maintain accounting records for the year of change and subsequent taxable years to support the method of accounting for which consent is granted to the taxpayer. Accounting records include the taxpayer's regular books of account and such other records and data as may be necessary to support the entries on its books of account and on its return, including for example, a reconciliation of any differences between the method of accounting used in its accounting records and the method of accounting used for federal income tax purposes.

.07 *Certain foreign corporations*. If the change in method of accounting is on behalf of a CFC or a 10/50 corporation, the following additional terms and conditions apply:

(1) If the functional currency of the foreign corporation is not the U.S. dollar, the § 481(a) adjustment must be stated in the functional currency of the foreign corporation and not in U.S. dollars;

(2) A positive § 481(a) adjustment (or any positive component of a § 481 adjustment) necessary to prevent the duplication of an expense item must take the same source, separate limitation classification, character, and treatment for purposes of subpart F as the foreign corporation's gross income that was offset by the expense in the prior year or years. A positive § 481(a) adjustment (or any positive component of a § 481 adjustment) necessary to prevent the omission of amounts of an income item must take the same source, separate limitation classification, character, and treatment for purposes of subpart F as the foreign corporation's income would have had in the prior year or years. A negative § 481(a) adjustment (or any negative component of a § 481 adjustment) necessary to prevent the omission of amounts of an expense item is allocated to the class of gross income that has the same source, separate limitation classification, character, and treatment for purposes of subpart F as the foreign corporation's income that would have been offset by the expense in the prior year or years. A negative § 481(a) adjustment (or any negative component of a § 481 adjustment) necessary to prevent the duplication of amounts of an income item offsets gross income that has the same source, separate limitation classification, character, and treatment for purposes of subpart F as the foreign corporation's income had in the prior year or years;

(3) For each taxable year of the adjustment period beginning with the year of change, the appropriate amount of the § 481(a) adjustment must be taken into account in computing the foreign corporation's subpart F income under § 952 and its earnings and profits under §§ 964 and 986(b);

(4) The written statement required by § 1.964–1(c)(3)(i) and (ii) must be filed by each controlling domestic shareholder (or its common parent) with its federal income tax return for its taxable year with or within which ends the foreign corporation's year of change;

(5) The shareholder(s) of the foreign corporation must maintain records and accounts with respect to the foreign corporation for the year of change and for subsequent taxable years, in conformity with the requirements of §§ 905(b) and 964(c). This condition is satisfied if the shareholder(s) of the foreign corporation reconcile(s) the results obtained under the method used in keeping the foreign corporation's books and records and the method used for federal income tax purposes and maintain(s) sufficient records to support such reconciliation;

(6) If a foreign corporation loses its status as a CFC or 10/50 corporation at any time prior to the expiration of the adjustment period, the foreign corporation must take into account in computing its subpart F income under § 952 (if applicable) and earnings and profits under §§ 964 and 986(b), on the final day on which it is a CFC or 10/50 corporation, the balance of the § 481(a) adjustment not previously taken into account;

(7) Each U.S. shareholder of a CFC (or its common parent) must comply with its obligations to report changes in the ownership of the CFC on Form 5471, *Information Return of U.S. Persons With Respect To Certain Foreign Corporations*, during the adjustment period; and

(8) In the case of any disposition of stock of the foreign corporation that is owned directly or indirectly by a United States person if the disposition (i) represents ten percent or more of the total value of the stock of the foreign corporation, or (ii) results in the person no longer meeting the stock ownership requirements of § 6046(a)(2) with respect to the foreign corporation, then the foreign corporation must take into account, prior to the disposition, the remaining balance of the § 481(a) adjustment in computing its subpart F income under § 952 and earnings and profits under §§ 964 and 986(b). This condition also applies if the foreign corporation issues stock so that either of the situations applies to the United States person. This condition does not apply to any change in ownership of the foreign corporation if the stock disposed of continues to be owned, directly or indirectly, by a member of the U.S. consolidated group of which the former shareholder is a member.

.08 *Trade or business of a domestic corporation, domestic partnership, or other United States person that affects the amount of foreign source taxable income*. If the change in method of accounting is on behalf of a trade or business of a domestic corporation, domestic partnership, or other United States person that affects the amount of foreign source taxable income, the following additional terms and conditions apply:

(1) If the functional currency of the trade or business is not the U.S. dollar, the § 481(a) adjustment must be stated in the functional currency of the trade or business and not in U.S. dollars;

(2) A positive § 481(a) adjustment (or any positive component of a § 481 adjustment) necessary to prevent the duplication of an expense item must take the same source, separate limitation classification, and character as the gross income that was offset by the expense in the prior year or years. A positive § 481(a) adjustment (or any positive component of a § 481 adjustment) necessary to prevent the omission of amounts of an income item must take the same source, separate limitation classification, and character as the income would have had in the prior year or years. A negative § 481(a) adjustment (or any negative component of a § 481 adjustment) necessary to prevent the omission of amounts of an expense item is allocated to the class of gross income that has the same source, separate limitation classification, and character as the income that would have been offset by the expense in the prior year or years. A negative § 481(a) adjustment (or any negative component of a § 481 adjustment) necessary to prevent the duplication of amounts of an income item offsets gross income that has the same source, separate limitation

classification, and character as the income had in the prior year or years;

(3) For each taxable year of the adjustment period beginning with the year of change, the appropriate amount of the § 481(a) adjustment must be taken into account in computing the taxable income of the United States person;

(4) The United States person must maintain records and accounts of the trade or business for the year of change and for subsequent taxable years, in conformity with the method of accounting granted to the United States person. This condition is satisfied if the United States person reconciles the results obtained under the method used in keeping the trade or business' books and records and the method used for federal income tax purposes and maintains sufficient records to support such reconciliation; and

(5) The United States person complies with its obligation to file Form 926, *Return by a U.S. Transferor of Property to a Foreign Corporation*, with respect to a transfer of assets of the trade or business to a foreign corporation during the adjustment period.

.09 *Foreign partnerships*. If the change in method of accounting is made by a foreign partnership, the following additional terms and conditions apply:

(1) If the functional currency of the foreign partnership is not the U.S. dollar, the § 481(a) adjustment must be stated in the functional currency of the foreign partnership and not in U.S. dollars;

(2) A positive § 481(a) adjustment (or any positive component of a § 481 adjustment) necessary to prevent the duplication of an expense item must take the same source, separate limitation classification, and character as the gross income that was offset by the expense in the prior year or years. A positive § 481(a) adjustment (or any positive component of a § 481 adjustment) necessary to prevent the omission of amounts of an income item must take the same source, separate limitation classification, and character as the income would have had in the prior year or years. A negative § 481(a) adjustment (or any negative component of a § 481 adjustment) necessary to prevent the omission of amounts of an expense item is allocated to the class of gross income that has the same source, separate limitation classification, and character as the income that would have been offset by the expense in the prior year or years. A negative § 481(a) adjustment (or any negative component of a § 481 adjustment) necessary to prevent the duplication of amounts of an income item offsets gross income that has the same source, separate limitation classification, and character as the income had in the prior year or years;

(3) For each taxable year of the adjustment period beginning with the year of change, the appropriate amount of the § 481(a) adjustment must be taken into account in computing the income of the foreign partnership;

(4) The foreign partnership must maintain records and accounts for the year of change and for subsequent taxable years in conformity with the method of accounting granted to the foreign partnership. This condition is satisfied if the foreign partnership reconciles the results obtained under the method used in keeping its books and records and the method used for federal income tax purposes and maintains sufficient records to support such reconciliation;

(5) Each partner (and any subsequent transferee) of the foreign partnership complies with its obligation to file Form 926, *Return by a U.S. Transferor of Property to a Foreign Corporation*, with respect to a transfer of assets of the foreign partnership to a foreign corporation during the adjustment period; and

(6) Each partner (and any subsequent transferee) of the foreign partnership complies with its obligation to file Form 8865, *Return of U.S. Persons with respect to Certain Foreign Partnerships*, during the adjustment period.

SECTION 8. AUDIT PROTECTION FOR TAXABLE YEARS PRIOR TO YEAR OF CHANGE

.01 *In general*. Except as provided in SECTION 8.02 or under any other guidance published in the IRB, when a taxpayer timely files a Form 3115 under this revenue procedure, the IRS will not require the taxpayer to change its method of accounting for the same item for a taxable year prior to the requested year of change.

.02 *Exceptions*. SECTION 8.01 does not apply if any exception in SECTIONS 8.02(1) through 8.02(7) applies.

(1) *No audit protection for taxpayers under examination*. Except as provided in SECTIONS 8.02(1)(a) through (f), the IRS may require the taxpayer to change its method of accounting for the same item that is the subject of a Form 3115 filed under this revenue procedure for taxable years prior to the requested year of change if the taxpayer is under examination as of the date the taxpayer files the Form 3115.

(a) *Change filed in a three-month window*.

(i) *In general*. Except as provided in SECTION 8.02(1)(a)(iii), SECTION 8.02(1) (no audit protection for taxpayers under examination) does not apply to a request for a change in method of accounting for an item filed in a three-month window if (1) the taxpayer has been under examination for at least 12 consecutive months as of the first day of the three-month window, and (2) the method of accounting for the same item the taxpayer is requesting to change is not an issue under consideration as described in SECTION 3.08 as of the date the taxpayer files the Form 3115.

(ii) *Three-month window*. A "three-month window" is the period beginning on the fifteenth day of the seventh month of the taxpayer's taxable year and ending on the fifteenth day of the tenth month of the taxpayer's taxable year. However, if the taxable year is a short taxable year that ends before the fifteenth day of the tenth month after the short taxable year begins, the "three-month window" is the period beginning on the first day of the second month preceding the month in which the short taxable year ends and ending on the last day of the short taxable year.

(iii) *Certain foreign corporations*. In the case of a taxpayer that is a CFC or 10/50 corporation, a three-month window is determined with reference to the CFC or 10/50 corporation's taxable year and is only available if:

(A) all of the controlling domestic shareholders that are under examination have been under examination for at least 24 consecutive months as of the first day of the three-month window,

(B) as of the date the designated shareholder files the Form 3115, the CFC or 10/50 corporation's method of accounting for the item to be changed is not an issue under consideration within the meaning of

SECTION 3.08(4) or has been an issue under consideration within the meaning of SECTION 3.08(4) for at least 24 consecutive months; and

(C) the CFC or 10/50 corporation's method of accounting for the item to be changed is not an issue under consideration within the meaning of SECTION 3.08(1), 3.08(2), or 3.08(3) as of the date the designated shareholder files the Form 3115.

(iv) *Statement required*. The Form 3115 must include a statement that the Form 3115 is filed under a three-month window in SECTION 8.02(1)(a) of Rev. Proc. 2015–13.

(b) *Change filed in a 120-day window*.

(i) *In general*. Except as provided in SECTION 8.02(1)(b)(iii), SECTION 8.02(1) (no audit protection for taxpayers under examination) does not apply to a request for a change in method of accounting for an item filed in a 120-day window if the method of accounting for the same item the taxpayer is requesting to change is not an issue under consideration as described in SECTION 3.08 as of the date the taxpayer files the Form 3115. However, the 120-day window ends on the date the IRS notifies the taxpayer that jurisdiction for the case has been transferred from Appeals to the examining agent(s) for reconsideration. *See* SECTION 3.18(1)(c).

(ii) *120-day window*. A "120-day window" is the 120-day period following the date an examination of the taxpayer ends, regardless of whether a subsequent examination has commenced.

(iii) *Certain foreign corporations*. The 120-day window provisions in SECTION 8.02(1)(b)(i) are not available for a CFC or 10/50 corporation.

(c) *Present method not before the director*.

(i) *In general*. SECTION 8.02(1) (no audit protection for taxpayers under examination) does not apply to a change in method of accounting for an item when the present method is not before the director. The present method is not before the director when it is:

(A) a change from a clearly permissible method of accounting; or

(B) a change from an impermissible method of accounting and the impermissible method was adopted subsequent to the taxable year(s) under examination on the date the taxpayer files the Form 3115.

The question of whether the present method of accounting is a clearly permissible method of accounting or was adopted subsequent to the taxable year(s) under examination may be referred to the national office as a request for technical advice under the provisions of Rev. Proc. 2015–2 (or successor).

(ii) *Statement required*. The Form 3115 must include a statement that the Form 3115 is filed under SECTION 8.02(1)(c) of Rev. Proc. 2015–13.

(d) *New member of a consolidated group in CAP*.

(i) *In general*. SECTION 8.02(1) (no audit protection for taxpayers under examination) does not apply to a change in method of accounting for an item requested by the common parent of a consolidated group that is participating in the Compliance Assurance Process (CAP) on behalf of a new member of the consolidated group for the taxable year the new member became a member of the consolidated group, if, as of the date the common parent of the consolidated group files the Form 3115:

(A) the new member is under examination solely because it became a member of the consolidated group during a taxable year in which the consolidated group participates in the CAP, and

(B) if the method of accounting for the item the new member is requesting to change is not an issue under consideration as described in SECTION 3.08 as of the date the taxpayer files the Form 3115.

(ii) *Statement required*. The Form 3115 must include: (A) a statement that the Form 3115 is filed under the provisions of SECTION 8.02(1)(d) of Rev. Proc. 2015–13, and (B) a statement providing the date that the new member became a member of the consolidated group.

(e) *Change resulting in a negative § 481(a) adjustment*.

(i) *In general*. SECTION 8.02(1) (no audit protection for taxpayers under examination) does not apply to a change in method of accounting for an item that:

(A) results in a negative § 481(a) adjustment for that item for the year of change; and

(B) would have resulted in a negative § 481(a) adjustment in each taxable year under examination if the change in method of accounting for that item had been made in the taxable year(s) under examination.

(ii) *Example*. A taxpayer placed Properties *A* and *B* in service in its 2010 taxable year. In its 2010 through 2013 taxable years, the taxpayer depreciated Property *A* using a 7-year recovery period instead of its correct 5-year recovery period and depreciated Property *B* using a 5-year recovery period instead of its correct 7-year recovery period. The taxpayer is under examination for its 2012 taxable year. The taxpayer filed a Form 3115 under this revenue procedure to request a change in method of accounting for its 2014 taxable year to change its methods of accounting for depreciation for Properties *A* and *B*. Under SECTION 8.02(1), the taxpayer generally does not receive audit protection for a change in method of accounting filed for its 2014 taxable year. However, under this SECTION 8.02(1)(e), the taxpayer may receive audit protection for the change in method of accounting for depreciation for Property *A* because the § 481(a) adjustment for that item required in its 2014 taxable year, and that would have been required in its 2012 taxable year, is negative. However, the taxpayer does not receive audit protection for the change in method of accounting for depreciation for Property *B* because the § 481(a) adjustment for that item required in its 2014 taxable year, and that would have been required in its 2012 taxable year, is positive.

(iii) *Statement required*. The Form 3115 must include a statement that the Form 3115 is filed under the provisions of SECTION 8.02(1)(e) of Rev. Proc. 2015–13.

(f) *No examination-imposed change and item not under consideration*.

(i) *In general*. Except as provided in SECTION 8.02(1)(f)(ii), for a taxpayer that is under examination for one or more taxable years on the date the taxpayer files a Form 3115, SECTION 8.02(1) (no audit protection for taxpayers under examination) ceases to apply to the change in method of accounting for that item as of the date immediately following the earliest date that any of those examinations ends for the taxable year(s) subsequent to that taxable year and prior to the year of change to which the Form 3115 applies, if by the earliest date that any of those examinations ends:

(A) the examining agent(s) does not propose an adjustment for the same item that is the subject of the Form 3115 for the taxable year(s) under examination; and

(B) the method of accounting for that same item is not an issue under consideration within the meaning of SECTION 3.08.

(ii) *Certain foreign corporations*.

(A) *In general*. For a taxpayer that is a CFC or 10/50 corporation that is under examination for one or more taxable years on the date the CFC or 10/50 corporation files a Form 3115, SECTION 8.02(1) (no audit protection for taxpayers under examination) ceases to apply to the change in method of accounting for that item as of the date after the earliest date that any of those examinations ends (the first ending examination) if all of the conditions in SECTION 8.02(1)(f)(ii)(B) are met, in which case this SECTION 8.02(1)(f)(ii) applies for the taxable year(s) subsequent to that taxable year and prior to the year of change to which the Form 3115 applies.

(B) *Conditions for SECTION 8.02(1)(f)(ii)(A) to apply*. SECTION 8.02(1)(f)(ii)(A) applies as of the date all of the following conditions are met:

(*1*) after the date that the first ending examination ends, all controlling domestic shareholders that are under examination for one or more taxable years on the date the first ending examination ends submit to their examining agents a signed copy of the Form 3115 to which this SECTION 8.02(1)(f) applies on which "90-day notice under SECTION 8.02(1)(f) of Rev. Proc. 2015–13" is typed or written on the top of the first page; and

(*2*) as of the 90th calendar day after all controlling domestic shareholders submitted the signed copy of the Form 3115 as required by SECTION 8.02(1)(f)(ii)(B)(*1*):

(*a*) the examining agent(s) does not propose an adjustment for the same item that is the subject of the Form 3115 for the taxable year(s) currently under examination; or

(*b*) the method of accounting for that same item is not an issue under consideration within the meaning of SECTION 3.08(1), 3.08(2), or 3.08(3).

(iii) *Examples*.

Example 1. A taxpayer is under examination for 2011 and 2012 as of December 19, 2014, the date the taxpayer files a Form 3115 to request a change in method of accounting for 2014 to change its method of accounting for costs subject to § 263A under this revenue procedure. Under SECTION 8.02(1), the taxpayer generally does not receive audit protection for a change in method of accounting for which consent is requested while under examination. The 2011 examination ends July 1, 2015, while the 2012 examination is still ongoing. Under SECTION 8.02(1)(f), the taxpayer receives audit protection for the change in method of accounting for costs subject to § 263A as of July 2, 2015, the day immediately following the date the 2011 examination ends, if by that date the examining agents do not propose an adjustment for costs subject to § 263A and the method of accounting for costs subject to § 263A is not an issue under consideration as described in SECTION 3.08, as long as no other provision of SECTIONS 8.02(2) through 8.02(7) applies to the taxpayer.

Example 2. A taxpayer that is a CFC has two controlling domestic shareholders (Shareholder *A* and Shareholder *B*) under examination for 2011 as of December 19, 2014, the date the taxpayer files a Form 3115 for 2014 to request a change in its method of accounting under this revenue procedure for costs subject to § 263A for purposes of determining its earnings and profits. Under SECTION 8.02(1), the taxpayer generally does not receive audit protection for a change in method of accounting for which consent is requested while under examination. The 2011 examination of Shareholder *A* ends July 1, 2015, while the 2011 examination of Shareholder *B* is still ongoing. On August 1, 2015, Shareholder *B* submits to its examining agent a signed copy of the Form 3115 with "90-day notice under SECTION 8.02(1)(f) of Rev. Proc. 2015–13" written on top of the first page. Under SECTION 8.02(1)(f)(ii), the taxpayer receives audit protection for the change in method of accounting for costs subject to § 263A for purposes of determining its earnings and profits as of October 30, 2015, 90 calendar days after Shareholder *B* submitted a signed copy of the Form 3115 to its examining agent, if by that date the examining agents do not propose an adjustment for costs subject to § 263A and the method of accounting for costs subject to § 263A is not an issue under consideration as described in SECTION 3.08(1), 3.08(2), or 3.08(3), as long as no other provision of SECTIONS 8.02(2) through 8.02(7) applies to the taxpayer.

(2) *Change lacking audit protection*. The IRS may change a taxpayer's method of accounting for the same item that is the subject of a Form 3115 filed under this revenue procedure for taxable years prior to the requested year of change if the description of the change in the List of Automatic Changes, or other guidance published in the IRB, provides that the change is not subject to the audit protection provisions of SECTION 8.01.

(3) *Change not made or made improperly*. The IRS may change a taxpayer's method of accounting for the same item that is the subject of a Form 3115 filed under this revenue procedure for taxable years prior to the requested year of change if: (a) the taxpayer withdraws or does not perfect its request (for example, by not providing requested supplemental information), (b) the national office denies the taxpayer's request for consent to make a change in method of accounting, (c) the taxpayer does not timely implement the change in method of accounting consistent with all the applicable provisions, (d) the taxpayer timely implements the change but does not otherwise comply with all the applicable provisions, or (e) the national office modifies or revokes the Commissioner's consent for the change in method of accounting retroactively because the taxpayer misstated or omitted material facts. *See* SECTION 10.03.

(4) *Change in sub-method of accounting*. The IRS may change a taxpayer's method of accounting for the same item that is the subject of a Form 3115 filed under this revenue procedure for taxable years prior to the requested year of change if the taxpayer is changing a sub-method of accounting within the method of accounting. For example, an examining agent may propose to terminate the taxpayer's use of the LIFO inventory method of accounting during a prior taxable year even though the taxpayer changes its method of valuing increments in the current year. In addition, a taxpayer that changes a LIFO inventory sub-method within five years of adopting or changing to the LIFO inventory method does not receive audit protection under this SECTION 8.01.

(5) *CFC or 10/50 corporation*. In the case of a change in method of accounting made on behalf of a CFC or 10/50 corporation, the IRS may change the method of accounting for the same item that is the subject of a Form 3115 filed under this revenue procedure for taxable years prior to the requested year of change in which any of the CFC or 10/50 corporation's domestic corporate shareholders computed an amount of foreign taxes deemed paid under §§ 902 and 960 with respect to the CFC or 10/50 corporation that exceeds 150 percent of the average amount of foreign taxes deemed paid under §§ 902 and 960 by the domestic corporate shareholder with respect to the CFC or 10/50 corporation in the shareholder's three prior taxable years.

(6) *Criminal investigation*. The IRS may change a taxpayer's method of accounting for the same item that is the subject of a Form 3115 filed under this revenue procedure for taxable years prior to the requested year of change if there is any pending or future criminal investigation or proceeding concerning (i) directly or indirectly, any issue relating to the tax-

payer's federal tax liability for any taxable year prior to the year of change, or (ii) the possibility of false or fraudulent statements made by the taxpayer with respect to any issue relating to its federal tax liability for any taxable year prior to the year of change.

(7) *Issue under consideration*. The IRS may change a taxpayer's method of accounting for the same item that is the subject of a Form 3115 filed under this revenue procedure for taxable years prior to the requested year of change if the taxpayer's method of accounting for the same item is an issue under consideration pursuant to SECTION 3.08 as of the date the taxpayer filed the Form 3115. However, for a CFC or 10/50 corporation, the preceding sentence does not apply to an item to which SECTION 8.02(1) (no audit protection for taxpayers under examination) ceases to apply pursuant to SECTION 8.02(1)(f)(ii) or that is the subject of a Form 3115 filed in a three-month window pursuant to SECTION 8.02(1)(a)(iii).

(8) *Prior year IRS-initiated change*. The IRS may make adjustments to the taxpayer's returns for the same item for taxable years prior to the requested year of change to reflect a change in method of accounting imposed by the IRS for a prior taxable year pursuant to Rev. Proc. 2002–18 (or successor).

SECTION 9. GRANT OF CONSENT FOR AN AUTOMATIC CHANGE

Pursuant to § 1.446–1(e)(2)(i), the consent of the Commissioner is hereby granted to any taxpayer that is eligible to make an automatic change. This consent is granted only for the change(s) in method of accounting and the affected item(s) that are clearly and expressly identified in the taxpayer's Form 3115. *See* SECTION 6.02(2). Further, such consent is granted only if the taxpayer complies with all the applicable provisions and implements the change in method of accounting on its federal income tax return for the requested year of change to which the original Form 3115 is attached pursuant to SECTION 6.03. In the case of an entity that is not required to file a federal income tax return (for example, a CFC or 10/50 corporation), consent is granted only if the entity complies with all the applicable provisions and the change in method of accounting is reflected on the timely filed (including any extension) federal income tax return(s) on which the entity's affected item(s) is included for the year with or within which ends the entity's requested year of change.

SECTION 10. EFFECT OF CONSENT

.01 *In general*. A taxpayer ordinarily may rely on the grant of consent in SECTION 9 (in the case of an automatic change) or in a letter ruling issued to the taxpayer (in the case of a non-automatic change) subject to the provisions of SECTIONS 7, 8, 10, 11, and 12 and section 11 of Rev. Proc. 2015–1 (or successor).

.02 *Required change or modification of method of accounting*. A taxpayer that changes to a method of accounting under this revenue procedure may be required to change or modify that method of accounting for any of the following reasons:

(1) the enactment of legislation;

(2) a decision of the United States Supreme Court;

(3) the issuance of temporary or final regulations;

(4) the issuance of a revenue ruling, revenue procedure, notice, or other guidance published in the IRB;

(5) the issuance of written notice to the taxpayer that the change in method of accounting was granted in error or is not in accord with the current views of the IRS; or

(6) a change in the material facts on which the consent was based.

.03 *Revoked or modified if found to be in error*. The national office may revoke or modify a letter ruling issued under the non-automatic change procedures or the grant of consent in SECTION 9 for an automatic change by letter to the taxpayer giving notice of revocation or modification, if the national office determines, as a result of the director's review under SECTION 12 or otherwise, that the letter ruling or grant of consent was issued in error or is not in accord with the current views of the IRS.

Except in rare or unusual circumstances, if a taxpayer that changes its method of accounting under this revenue procedure is subsequently required under this SECTION 10.03 to change (in the case of a revocation) or modify that method of accounting, the required change or modification will not be applied retroactively, provided that:

(1) the taxpayer complied with all the applicable provisions;

(2) the taxpayer neither misstated nor omitted any material facts;

(3) the material facts on which the consent was based have not changed;

(4) the applicable law has not changed; and

(5) the taxpayer to whom consent was granted acted in good faith in relying on the consent, and applying the change in method of accounting or modification retroactively would be to the taxpayer's detriment.

.04 *Change treated as initiated by the taxpayer*. For purposes of § 481, a change in method of accounting made under this revenue procedure is a change in method of accounting initiated by the taxpayer.

SECTION 11. REVIEW BY NATIONAL OFFICE

.01 *Incomplete Form 3115*.

(1) *Requests for additional information*. If the national office determines that a Form 3115 filed under this revenue procedure is not properly completed (*see* SECTION 6.02), or if supplemental information is needed, the national office will notify the taxpayer. The notification will specify the information that the taxpayer needs to provide and permit the taxpayer 21 calendar days (in the case of a non-automatic change) or 30 calendar days (in the case of an automatic change) from the date of the notification to furnish the information. The national office may impose shorter reply periods for any subsequent requests for additional information. *See also* section 9.08 of Rev. Proc. 2015–1 (or successor).

(2) *Extension of time to provide additional information*. The national office may grant a taxpayer an extension of the 21-day or 30-day reply period to furnish information, not to exceed 15 calendar days (in the case of a non-automatic change) or 30 calendar days (in the case of an automatic change). A taxpayer must request any extension of the reply period in writing and submit it to the national office person who requested the additional information within the initial reply period. If the national office denies an extension request, there is no right of appeal. *See*

section 9.08(2) of Rev. Proc. 2015–1 (or successor).

(3) *Failure to provide additional information*. If the national office determines that the taxpayer failed to provide additional information on a timely basis, the national office will notify the taxpayer that the Form 3115 will no longer be considered (in the case of a non-automatic change) or consent to make the change in method of accounting is not granted (in the case of an automatic change).

.02 *National office discretion to deny a request*. The national office will deny any Form 3115 requesting consent to make a change in method of accounting in any situation in which the national office determines that permitting the requested change in method of accounting would not clearly reflect income or would otherwise not be in the interest of sound tax administration. As part of this determination, the national office will consider whether the change in method of accounting would clearly and directly frustrate compliance efforts of the IRS in administering the income tax laws. The national office will consider all the facts and circumstances and exercise discretion under §§ 446(e) and 481(c) in a manner that generally minimizes distortions of income across taxable years, as well as on an annual basis.

(1) *Final year of a trade or business*. The national office will not grant consent to a taxpayer to change its method of accounting or the method of accounting for a trade or business under the non-automatic change procedures for the taxable year the taxpayer ceases to engage in that trade or business unless the taxpayer demonstrates compelling circumstances for the need to change its method of accounting or that the change in method of accounting is in the interest of sound tax administration. A change in method of accounting to facilitate a planned or pending business acquisition or other change in ownership in the year of change where the acquiring taxpayer or new owner(s) is not required to use the taxpayer's method of accounting, other than as described in SECTION 3.04(3), 3.04(4), or 3.04(5), is an example of circumstances that the national office ordinarily will not consider compelling.

(2) *National office consideration of prior (requested) changes for the same item*.

(a) *Prior change in method of accounting implemented*.

(i) *In general*. If within the five taxable years ending with the requested year of change, the taxpayer changed its method of accounting for the same item, the national office will consider the taxpayer's explanation for requesting consent to again change its method of accounting for that same item in determining whether to grant consent for the current request to change the taxpayer's method of accounting.

(ii) *Limitation on LIFO inventory method of accounting change*. If within the five taxable years ending with the requested year of change, the taxpayer previously changed from the LIFO inventory method of accounting, the national office will not consent to the taxpayer readopting the LIFO inventory method of accounting unless the taxpayer demonstrates unusual and compelling circumstances as part of its Form 3115 requesting a change to the LIFO inventory method of accounting.

(b) *Prior method of accounting requests*. If within the five taxable years ending with the requested year of change, the taxpayer withdrew or failed to perfect, or the Commissioner denied, a prior request for consent for a change in method of accounting, the taxpayer did not return a signed Consent Agreement copy of a letter ruling, or the taxpayer did not implement a change in method of accounting for which the Commissioner granted consent, and the taxpayer files a Form 3115 under the non-automatic change procedures requesting consent to change the same item, the national office will consider the taxpayer's explanation for withdrawing or not perfecting the previous request(s), not returning the Consent Agreement, or not implementing the approved change in determining whether to grant consent for the current request for consent to change the taxpayer's method of accounting.

.03 *National office determination*.

(1) *Conference in the national office*. If the national office tentatively determines that the taxpayer's request for change in method of accounting filed under the automatic change procedure does not comply with all the applicable provisions for an automatic change (for example, the taxpayer changed to a method of accounting that varies from the applicable accounting method described in the List of Automatic Changes or the taxpayer is not eligible to use the automatic change procedures for the requested change) or that a request to change a method of accounting filed under the non-automatic change procedures may be denied, the national office will notify the taxpayer of its tentative adverse determination and will offer the taxpayer a conference if the taxpayer requested one. For conference procedures for a taxpayer other than an exempt organization, *see* section 10 of Rev. Proc. 2015–1 (or successor). For conference procedures for an exempt organization, *see* section 12 of Rev. Proc. 2015–4, 2015–1 I.R.B. 144 (or successor).

(2) *Letter ruling and Consent Agreement*.

(a) *In general*. Unless otherwise specifically provided, for a Form 3115 filed under the non-automatic change procedures, the national office will set forth the Commissioner's grant or denial of the taxpayer's request for the Commissioner's consent in a letter ruling. If the letter ruling grants the Commissioner's consent, it will identify the item or items being changed, the terms and conditions under which the taxpayer must implement the change, and the § 481(a) adjustment (if any). *See* §§ 1.446–1(e)(3) and 1.481–4. If the taxpayer agrees to the terms and conditions in the letter ruling, the taxpayer must sign and date a copy of the letter ruling (Consent Agreement copy). The signed Consent Agreement copy is an agreement (Consent Agreement) within the meaning of § 1.481–4(b). The taxpayer must return the Consent Agreement to the address provided in the letter ruling within 45 calendar days of the date of the letter ruling. In addition, the taxpayer must attach a copy of the Consent Agreement to the taxpayer's federal income tax return for the year of change, unless SECTION 11.03(2)(e) (letter ruling received after implementing change) applies. If SECTION 11.03(2)(e) applies, the taxpayer must comply with section 7.04(2) of Rev. Proc. 2015–1 (or successor) and attach a copy of the pending Form 3115 or permitted statement to the taxpayer's federal income tax return for the year of change. *See also*, SECTIONS 6.03(3)(b) and 6.03(3)(c) for certain foreign corporations and foreign partnerships. *See generally* section 9.17 of Rev. Proc. 2015–1 (or successor).

(b) *Signature requirements*. The Consent Agreement must be signed by, or on behalf of, the taxpayer making the request. The individual(s) signing the Consent Agreement must have the authority to bind the taxpayer in such matters and the Consent Agreement may not be signed by the taxpayer's representative.

(c) *Consent Agreement copy not signed or change not timely or properly implemented*. The letter ruling granting consent to the taxpayer for a change in method of accounting is null and void without IRS notification to the taxpayer, except where notification is specifically provided in this SECTION 11.03(2)(c), if:

(i) The taxpayer does not sign and return the Consent Agreement copy within 45 calendar days of the date of the letter ruling (or other date as extended in SECTION 11.03(2)(d) or by the national office). In this situation, the national office will notify the taxpayer that the letter ruling granting consent to the taxpayer to change its method of accounting is null and void; or

(ii) The taxpayer timely returns the Consent Agreement but does not implement the change in method of accounting for which consent is granted in the letter ruling for the year of change specified in the letter ruling on the taxpayer's timely filed (including any extension) original federal income tax return for the year of change specified in the letter ruling, or on the taxpayer's amended federal income tax return for the year of change specified in the letter ruling by the later of:

(A) the due date of the taxpayer's timely filed (including any extension) original federal income tax return for the taxable year succeeding the year of change specified in the letter ruling; or

(B) one year from the date of the letter ruling granting consent for the change. However, when the period of limitations on the assessment of tax under § 6501 (statute of limitations under § 6501) for the year of change specified in the letter ruling will expire within one year of the date of issuance of the letter ruling, the applicable date for this SECTION 11.03(2)(c)(ii)(B) is the date that the statute of limitations under § 6501 for the specified year of change expires.

The national office will grant additional time to implement the change in method of accounting for the year of change only if, and to the extent, the taxpayer demonstrates, in writing, that additional time is necessary, as long as the national office does not determine that granting additional time would be contrary to the interest of sound tax administration.

(d) *Disagreement with terms and conditions*. If the taxpayer disagrees with the terms and conditions in the letter ruling, within 45 calendar days from the date of the letter ruling, the taxpayer must notify the national office, in writing to the address in the letter ruling, of the disagreement and include an explanation of the reason(s). The national office will consider the reason(s) for the disagreement and notify the taxpayer whether the original letter ruling will be modified. If the national office does not modify the letter ruling, it will so notify the taxpayer and give the taxpayer 15 calendar days from the date of the notification to accept the original letter ruling by signing and returning the Consent Agreement copy. In applying the preceding sentence, the provisions of SECTIONS 11.03(2)(a) through (c) apply, except 15 calendar days is substituted for 45 calendar days in SECTIONS 11.03(2)(a) and 11.03(2)(c)(i).

(e) *Letter ruling received after implementing change*. A taxpayer that timely files a Form 3115 under the non-automatic change procedures and takes the requested change in method of accounting into account in its federal income tax return for the year of change (and any subsequent taxable year) prior to receiving a letter ruling granting consent for that change has made a change in method of accounting without obtaining the consent of the Commissioner as required by § 446(e) (an "unauthorized change"). As provided in SECTION 12.02, the Director may determine when a change is not made in compliance with all the applicable provisions and may deny the unauthorized change. However, the Commissioner's consent, issued subsequent to the requested year of change, applies back to the year of change (and any subsequent taxable year) as of the date of a letter ruling granting consent for that change if the taxpayer timely signs and returns the Consent Agreement copy and implements the change in accordance with all the applicable provisions and section 11 of Rev. Proc. 2015–1 (or successor). If the Commissioner does not grant consent under this revenue procedure for the change in method of accounting taken into account by the taxpayer, the taxpayer is subject to any interest, penalties, or other adjustments resulting from improper implementation of the change. *See* § 446(f).

(3) *Consent not granted for an automatic change*.

(a) *In general*. Except as provided in SECTIONS 11.03(1) and 11.03(3)(b), if the national office determines that a taxpayer filed a Form 3115 requesting consent to make an automatic change without complying with all the applicable provisions for an automatic change, the national office will notify the taxpayer that consent to make the change in method of accounting is not granted. In no event will a Form 3115 filed under the automatic change procedures be treated as a Form 3115 filed under the non-automatic change procedures.

(b) *Exception*. If the national office determines that a taxpayer filed a Form 3115 requesting consent to make an automatic change without complying with all the applicable provisions for an automatic change, the national office, in its discretion, may allow the taxpayer to (a) make appropriate adjustments to conform its Form 3115 to comply with all the applicable provisions, and (b) make conforming amendments to any federal income tax returns filed for the year of change and subsequent taxable years. Any Form 3115 changed under this SECTION 11.03(3)(b) is subject to review by the director as provided in SECTION 12.

SECTION 12. REVIEW BY DIRECTOR

.01 *In general*. The director may determine whether the taxpayer complied with all the applicable provisions for the change in method of accounting, including, but not limited to:

(1) the facts and representations provided by the taxpayer on which the con-

sent for the change in method of accounting is based reflect a complete and accurate statement of the material facts;

(2) the taxpayer properly determined the amount of the § 481(a) adjustment;

(3) the taxpayer implemented the change in method of accounting in compliance with all the applicable provisions;

(4) whether, during the period the taxpayer used the method of accounting for which consent was granted, there has been any change in the material facts on which consent for the change was based; and

(5) whether, during the period the taxpayer used the method of accounting for which consent was granted, there has been any change in the applicable law affecting the propriety of the taxpayer's use of the method of accounting for which consent was granted.

Except as provided in SECTION 12.02, the director must apply a change made in compliance with all the applicable provisions in determining the taxpayer's federal income tax liability, unless the director recommends that the change should be modified or revoked (*see* SECTION 10.03).

.02 *Change not made in compliance with all applicable provisions*.

(1) *In general*. If the director determines that the taxpayer did not comply with all the applicable provisions for the change in method of accounting, including the requirement to timely return the Consent Agreement (*see* SECTION 11.03(2)), or did not implement the change in method of accounting in compliance with all the applicable provisions, the director may:

(a) make any adjustments (including the amount of any § 481(a) adjustment) that are necessary to bring the change in method of accounting into compliance with all the applicable provisions;

(b) deny the change in method of accounting and place the taxpayer on a proper method of accounting (*see* Rev. Proc. 2002–18 (or any successor)); or

(c) deny the change in method of accounting and require the taxpayer to continue to use the prior method of accounting (*see* Rev. Proc. 2002–18 (or any successor)).

(2) *Improperly determined § 481(a) adjustment*. Notwithstanding SECTIONS 12.01 and 12.02(1), the director may make any necessary correction to the amount of any § 481(a) adjustment pursuant to SECTION 12.02(1)(a) and may make any other adjustment(s) that are necessary to properly implement the change in method of accounting for which consent is granted. If the director makes such a necessary correction to the amount of the § 481(a) adjustment, the director may take the entire amount necessary to correct the § 481(a) adjustment into account in computing the taxpayer's taxable income for the earliest taxable year in the § 481(a) adjustment period that is under examination, regardless of whether the statute of limitations under § 6501 has expired for one or more taxable years in the § 481(a) adjustment period.

Example. A taxpayer obtained consent to change its method of accounting under this revenue procedure with a Year 1 year of change. The taxpayer determined that the § 481(a) adjustment for this change in method of accounting is a positive adjustment of $75,000, to be taken into account ratably over four taxable years, pursuant to SECTION 7.03(1). The taxpayer is under examination for Year 2. The statute of limitations under § 6501 has expired for Year 1. As part of the examination of Year 2, the examining agent determines that the correct § 481(a) adjustment for this change in method of accounting is a positive adjustment of $100,000. The examining agent may take the entire amount of the $25,000 correction to the § 481(a) adjustment into account in the taxpayer's taxable income for Year 2.

(3) *Penalties and additions to tax*. If the director denies the change in method of accounting pursuant to SECTION 12.02(1) or corrects the § 481(a) adjustment under SECTIONS 12.02(1)(a) and 12.02(2), the director may impose any otherwise applicable penalty, addition to tax, or additional amount on the understatement of tax attributable to the denial of the change in method of accounting or the net amount of any necessary correction(s) to the § 481(a) adjustment.

(4) *Referral to the national office*. If the director recommends that a change made in compliance with all the applicable provisions should be modified or revoked, the director will forward the matter to the national office for consideration before taking any further action, unless the modification relates solely to the amount of the § 481(a) adjustment. The referral to the national office is a request for technical advice and the provisions of Rev. Proc. 2015–2 (or successor) apply.

SECTION 13. REQUEST TO REVISE THE YEAR OF CHANGE FOR A NON-AUTOMATIC CHANGE

.01 *In general*. The taxpayer may request, and the national office ordinarily will allow, the taxpayer to revise the year of change for a Form 3115 for a non-automatic change to a subsequent taxable year, but no later than the taxpayer's current taxable year (with no additional user fee), in lieu of submitting a new Form 3115 for the subsequent taxable year, under the following conditions:

(1) *Timely written request*.

(a) *In general*. The taxpayer must submit a written request pursuant to SECTION 13.03 to revise the year of change for a Form 3115 on or after, but not before, the first day of the fourth month following the month in which the taxpayer's federal income tax return is due (excluding any extension) for the original year of change requested on the Form 3115. For example, a calendar year corporation that files a Form 3115 on December 16, 2014, for a 2014 year of change may submit a written request to revise the year of change to 2015 on or after, but not before, July 1, 2015.

(b) *Form 3115 filed on or before the last day of the sixth month of the year of change*. If the taxpayer filed its Form 3115 on or before the last day of the sixth month of the year of change, the taxpayer may submit a written request pursuant to SECTION 13.03 to revise the year of change on or after, but not before, the first day of the taxable year following the original year of change requested on the Form 3115. For example, a calendar year taxpayer that files a Form 3115 on June 28, 2014, for a 2014 year of change may submit a written request to revise the year of change to 2015 on or after, but not before, January 1, 2015. This SECTION 13.01(1)(b) does not apply to a taxpayer filing a Form 3115 for a year of change that is a short taxable year.

(2) *Pending Form 3115*. The Form 3115 is pending in the national office (for example, the national office has not issued a letter ruling) on the date of the request.

(3) *Acceleration and revision of § 481(a) adjustment*. Unless the Commissioner has determined that the requested change in method of accounting will be made using a cut-off method or a modified cut-off method:

(a) The taxpayer must agree, in writing, to accelerate into the revised year of change the percentage of any positive § 481(a) adjustment the taxpayer would have taken into account for each prior taxable year under SECTION 7.03(1) had the taxpayer not revised the year of change, in an amount limited to seventy-five percent of the § 481(a) adjustment. However, the seventy-five percent limitation in this SECTION 13.01(3)(a) for the revised year of change will not apply if the taxpayer requests to revise the year of change to a taxable year for which a provision of this revenue procedure, the Code, or other guidance published in the IRB, requires a § 481(a) adjustment period of two years or less (*see, for example*, SECTIONS 7.03(3)(b) and 7.03(4)(a)); and

(b) The taxpayer must agree to provide, in a submission of additional information, the § 481(a) adjustment (positive or negative) for the revised year of change within 21 calendar days (or a longer period if agreed to by the national office) after the national office first notifies the taxpayer that its request to revise the year of change is approved.

(4) *Examples*.

Example 1. A taxpayer requested to revise the year of change for a Form 3115 for a non-automatic change that is pending in the national office to the first succeeding taxable year. The taxpayer must agree to take into account one-half of any positive § 481(a) adjustment in the revised year of change and one-fourth in each of its next two taxable years.

Example 2. A taxpayer requested to revise the year of change for a Form 3115 for a non-automatic change that is pending in the national office to the third succeeding taxable year. The taxpayer must agree to take into account three-fourths of any positive § 481(a) adjustment in the revised year of change and the remaining one-fourth in the next taxable year.

(5) *Multiple applicants on one Form 3115*. If the Form 3115 is for an identical change in method of accounting for more than one applicant, the taxpayer must request to revise the year of change for all applicants to which the Form 3115 relates.

.02 *Compelling circumstances*. In the case of a taxpayer that does not meet the applicable condition in SECTION 13.01(1)(a), a taxpayer with compelling circumstances may request to revise the year of change for the Form 3115, in lieu of submitting a new Form 3115 for the proposed revised year of change. The taxpayer must demonstrate those compelling circumstances in its written request.

Example. On October 31, 2014, a calendar year partnership with 50 individual partners timely files a Form 3115 for a non-automatic change under this revenue procedure for its 2014 taxable year. The partnership's Form 1065, *U.S. Return of Partnership Income*, and Schedules K–1, *Partner's Share of Income, Deductions, Credits etc.*, and the partners' Forms 1040, *U.S. Individual Income Tax Return*, for the requested year of change are all due April 15, 2015. The partnership is not extending this due date. On March 17, 2015, the partnership submits a request to revise the year of change for its pending Form 3115 to its 2015 taxable year. Because the Form 3115 is pending in the national office 30 calendar days prior to the due date of the partners' Forms 1040, the partnership will be unable to provide timely Schedules K–1 that take into account the proposed accounting method change before the partners prepare and file their 2014 Forms 1040 to take into account the partnership's requested change in method of accounting for the 2014 taxable year. Under these compelling circumstances, the national office will ordinarily allow the partnership to revise the year of change for its Form 3115 to its 2015 taxable year. If the accounting method change is approved for the partnership's 2015 taxable year, in lieu of taking into account any positive § 481(a) adjustment over four taxable years, the partnership must take into account one-half of any positive § 481(a) adjustment in its 2015 taxable year and one-fourth in each of its next two taxable years.

.03 *Submitting a request for a revised year of change*. A request to revise the year of change for a Form 3115 pending in the national office must include:

(1) The name of the Form 3115 filer and, if applicable, each applicant, on the Form 3115;

(2) The national office reference number (for example, CAM–123456–14);

(3) The name of the national office contact person for the Form 3115 (if known);

(4) The due date (excluding any extension) for the Form 3115 filer's federal income tax return for the year of change;

(5) Whether in the proposed revised year of change the taxpayer will cease to engage in the trade or business to which the change in method of accounting relates (*see* SECTION 3.04);

(6) A statement agreeing to the applicable conditions in SECTION 13.01(3);

(7) If the request is being submitted pursuant to SECTION 13.02, the compelling circumstances on which the request is based;

(8) The information required in section 9.09 of Rev. Proc. 2015–1 (or successor), as applicable;

(9) The penalties of perjury statement in section 9.08(3) of Rev. Proc. 2015–1 (or successor); and

(10) If applicable, a completed Form 2848, *Power of Attorney and Declaration of Representative*, for the revised year of change.

The request must be either submitted to the applicable address in section 9.08(6) of Rev. Proc. 2015–1 (or successor) or faxed to a fax number provided by the national office contact person for the pending Form 3115. If faxed, a copy of the request and an original signed penalties of perjury statement must also be mailed or delivered to the applicable address in section 9.08(6) of Rev. Proc. 2015–1 (or successor).

.04 *Notification of approval or denial*. The national office will notify the taxpayer of the approval or denial of the taxpayer's request to revise the year of change for a pending 3115.

.05 *National office's discretion to deny a request*. The national office may deny a taxpayer's request for a revised year of change for a pending Form 3115 if the national office determines it would not be in the interest of sound tax administration to allow the taxpayer to revise the year of change. A taxpayer is not entitled to a conference with the national office if the request to revise the year of change for a pending Form 3115 is denied.

SECTION 14. APPLICABILITY OF REV. PROC. 2015–1 and REV. PROC. 2015–4

Rev. Proc. 2015–1 and Rev. Proc. 2015–4 (or successors) apply to a Form 3115 filed under this revenue procedure, except as specifically provided by this revenue procedure or other guidance published in the IRB.

SECTION 15. EFFECTIVE DATE

.01 *In general*. Except as provided in SECTION 15.02, this revenue procedure is effective for Forms 3115 filed on or after January 16, 2015, for a year of change ending on or after May 31, 2014.

.02 *Transition rules*.

(1) *Additional time to file Forms 3115 under Rev. Proc. 97–27, Rev. Proc. 2011–14, or this revenue procedure for taxable years ending on or before January 31, 2015.*

(a) Notwithstanding § 1.446–1(e)(3)(i), a taxpayer may file a Form 3115 to request the Commissioner's consent to change a method of accounting for a taxable year--

(i) ending on or after November 30, 2014, and on or before January 31, 2015, until March 2, 2015, for a non-automatic change under the procedures of Rev. Proc. 97–27 or this revenue procedure,

(ii) ending on or after May 31, 2014, and on or before January 31, 2015, ("applicable taxable year"), until the due date of the taxpayer's timely filed (including any extension) original federal income tax return for the requested year of change for an automatic change under the procedures of Rev. Proc. 2011–14 or this revenue procedure.

(b) A taxpayer applying this transition rule in SECTION 15.02(1) should indicate on the Form 3115 or any attachment that the Form 3115 is filed under the procedures of Rev. Proc. 97–27 or Rev. Proc. 2011–14, as applicable.

(c) After March 2, 2015, a taxpayer may not request the Commissioner's consent to change a method of accounting under the procedures of Rev. Proc. 97–27. After the due date of the taxpayer's timely filed (including any extension) original federal income tax return for an applicable taxable year a taxpayer may not request the Commissioner's consent to change a method of accounting under the procedures of Rev. Proc. 2011–14 for such applicable taxable year.

(2) *Limited time to convert a Form 3115 filed under Rev. Proc. 97–27*. Unless the national office determines that it would not be in the interest of sound tax administration, a taxpayer may convert a Form 3115 filed under Rev. Proc. 97–27 to a request for consent under this revenue procedure for the same requested change in method of accounting and year of change if the taxpayer is otherwise eligible to use this revenue procedure and:

(a) the Form 3115 was filed before January 16, 2015, and the Form 3115 is pending with the national office on January 16, 2015, or

(b) the Form 3115 was filed on or after January 16, 2015, and on or before March 2, 2015.

A taxpayer may convert a Form 3115 under this SECTION 15.02(2) to the non-automatic change procedures, if eligible, by notifying the national office contact person (if unknown, see section 9.08(6) of Rev. Proc. 2015–1 (or successor)) before the later of (a) March 31, 2015, or (b) the issuance of a letter ruling granting or denying consent for the change. The notification should indicate that the taxpayer chooses to convert the Form 3115 to conform to the non-automatic change procedures.

A taxpayer may convert a Form 3115 under this SECTION 15.02(2) to the automatic change procedures, if eligible, by notifying the national office contact person (if unknown, see section 9.08(6) of Rev. Proc. 2015–1 (or successor)) before the later of (a) March 31, 2015, or (b) the issuance of a letter ruling granting or denying consent for the change. The notification should indicate that the taxpayer chooses to convert the Form 3115 to conform to the automatic change procedures. If the taxpayer timely notifies the national office that it chooses to convert the Form 3115 under this SECTION 15.02(2) to the automatic change procedures, the national office will send a letter to the taxpayer acknowledging its request and will return the user fee submitted with the Form 3115.

A taxpayer converting a Form 3115 under this SECTION 15.02(2) to the automatic change procedures must resubmit a Form 3115 that conforms to the automatic change procedures, with a copy of the national office letter sent acknowledging the taxpayer's request under this SECTION 15.02(2) attached, to the IRS in Ogden, UT by the earlier of (a) the 30th calendar day after the date of the national office's letter acknowledging the taxpayer's request under this SECTION 15.02(2), or (b) the date the taxpayer is required to file the Ogden copy of the Form 3115 under SECTION 6.03(1)(a)(i)(B). See SECTION 6.03(3) regarding additional required copies of Form 3115.

For purposes of the eligibility rules in SECTION 5, the Ogden copy of the timely resubmitted Form 3115 under this SECTION 15.02(2) will be considered filed as of the date the taxpayer originally filed the converted Form 3115 under Rev. Proc. 97–27. This SECTION 15.02(2) does not extend the date the taxpayer must file the original (converted) Form 3115 under SECTION 6.03(1)(a)(i)(A).

A Form 3115 filed under Rev. Proc. 97–27 or Rev. Proc. 2011–14 before January 16, 2015, will be disregarded for purposes of the prior five year change rules in SECTIONS 5.04 and 5.05 if the taxpayer converts the Form 3115 pursuant to this SECTION 15.02(2).

(3) *Early election of one-year § 481(a) adjustment period for certain Forms 3115 filed under Rev. Proc. 97–27 and Rev. Proc. 2011–14*. If a taxpayer filed a Form 3115 under Rev. Proc. 97–27 or the national office or Ogden copy of a Form 3115 filed under Rev. Proc. 2011–14 for a taxable year ending on or after May 31, 2014, and has not filed its original federal income tax return for the year of change implementing the change in method of accounting, the taxpayer may:

(a) apply the de minimis election in SECTION 7.03(3)(c), which permits a one-year § 481(a) adjustment period (year of change) for a positive § 481(a) adjustment that is less than $50,000 to that Form 3115. A taxpayer applying this SECTION 15.02(3)(a) must include a statement with its federal income tax return for the year of change indicating that the Form 3115 is filed under the provisions of SECTION 15.02(3)(a) of Rev. Proc. 2015–13.

(b) apply the eligible acquisition transaction election in SECTION 7.03(3)(d), which permits a one-year § 481(a) adjustment period (year of change) for a positive § 481(a) adjustment if, during the year of change or in the subsequent taxable year on or before the due date (including any extension), for filing the taxpayer's federal income tax return for the year of change, an eligible acquisition transaction, as defined in SECTION 7.03(3)(d)(iii), occurs. A taxpayer applying this SECTION 15.02(3)(b) must include a statement with its federal income tax return for the year of change indicating that the Form 3115 is filed under the provisions of SECTION 15.02(3)(b) of Rev. Proc. 2015–13.

(4) *Request to revise the year of change for a Form 3115 filed under Rev. Proc. 97–27 on or before the last day of the 6th month of the year of change*. A taxpayer with a Form 3115 filed under Rev. Proc. 97–27 pending with the national office on January 16, 2015, may request to revise the year of change under SECTION 13.01(1)(b), subject to the taxpayer satisfying the other conditions of SECTION 13.

(5) *Open 90-day window period*. If, on January 16, 2015, a taxpayer is within the 90-day window period provided in section 6.01(2) of Rev. Proc. 97–27 or section 6.03(2) of Rev. Proc. 2011–14, the taxpayer may file a Form 3115 under this revenue procedure during the remainder of that 90-day window period, if the taxpayer is otherwise eligible to file under

both (a) section 6.01(2) of Rev. Proc. 97–27 or section 6.03(2) of Rev. Proc. 2011–14 and (b) this revenue procedure on the date the taxpayer files the Form 3115. All provisions of this revenue procedure, including the terms and conditions, will apply to a Form 3115 filed pursuant to this SECTION 15.02(5) on or after January 16, 2015, except as provided in SECTIONS 15.02(1) and 15.02(2). If the taxpayer files a Form 3115 during the remainder of an open 90-day window period pursuant to this SECTION 15.02(5), the taxpayer should include a statement with its Form 3115 indicating that it is filed under the provisions of SECTION 15.02(5) of Rev. Proc. 2015–13.

SECTION 16. EFFECT ON OTHER DOCUMENTS

.01 This revenue procedure in conjunction with Rev. Proc. 2015–14 amplifies, clarifies, and modifies Rev. Proc. 2011–14. Rev. Proc. 2011–14 as amplified, clarified, and modified is superseded in part. The second sentences of sections 14.01 and 14.02, and sections 14.04, 14.05, 14.06, and 14.07 remain in effect. All other sections of Rev. Proc. 2011–14 are superseded.

.02 Rev. Proc. 97–27 is clarified and modified and, as clarified and modified, is superseded.

SECTION 17. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have 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 1545-1541.

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 collections of information in this revenue procedure are in SECTIONS 6, 7, 8, 11, 13, and 15. This information is required to determine whether the taxpayer's proposed method of accounting is permissible. This information will be used by the national office to determine whether to consent to a change in accounting method and the appropriate terms and conditions for the change. The collections of information are required to obtain consent to the accounting method change. The likely respondents are the following: individuals, farms, business or other for-profit organizations, non-profit institutions, and small businesses or organizations.

The estimated total annual reporting burden is 18,554 hours.

The estimated annual burden per respondent varies from 1/4 of an hour to 5 hours, depending on individual circumstances, with an estimated average of approximately 1 2/3 hours. The estimated number of respondents is 11,443.5.

The estimated annual frequency of responses is occasional.

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 § 6103.

SECTION 18. SIGNIFICANT CHANGES

.01 *Changes affecting both Rev. Proc. 2011–14 and Rev. Proc. 97–27.*

(1) SECTION 3.04(2)(f) clarifies that a sale or exchange of 50 percent or more of the total interest in partnership capital and profits under § 708(b)(1)(B) is a transaction that constitutes the cessation of a partnership's trade or business for purposes of this revenue procedure.

(2) SECTION 3.08 clarifies and modifies the rules for when a method of accounting for an item is under consideration to provide that an issue is under consideration as of the date of the operative written notification to the taxpayer.

(3) SECTION 3.08(1) clarifies that an item ceases to be an issue under consideration after an examination ends unless the examining agent provides the taxpayer with written notification that the item is an issue placed in suspense. SECTION 3.08(1) also clarifies that a corporation that is or was formerly a member of a consolidated group has an issue under consideration before Examination if the same item is an issue under consideration before Examination for any member of that consolidated group for the taxable year(s) that the corporation was a member of the consolidated group. SECTION 3.08(1) also clarifies that an entity (including a limited liability company) treated as a partnership or an S corporation for federal income tax purposes also has an issue under consideration before Examination if the same item is an issue under consideration in an examination of a partner, member, or shareholder's federal income tax return.

(4) SECTIONS 3.08(2) and 3.08(3) clarify that, for an entity treated as a partnership or S corporation, a method of accounting is an issue under consideration before an Appeals office or a federal court if it is an issue under consideration by an Appeals office or a federal court for a partner, member, or shareholder's federal income tax return.

(5) SECTION 3.08(3) also clarifies that a corporation that is or was formerly a member of a consolidated group is before a federal court during the period of time the consolidated group is before a federal court for the taxable year(s) it was a member of the consolidated group.

(6) SECTION 3.17(2) clarifies the term "taxpayer" in the context of a member of a consolidated group. In the case of a consolidated group, except as otherwise provided in this revenue procedure, "taxpayer" refers to the individual member of the consolidated group for which the change in method of accounting is requested or the common parent of the group acting on behalf of that member. For example, to determine eligibility for a window period in SECTION 8.02(1)(a) or 8.02(1)(b) the length of time a member of a consolidated group has been under examination is calculated at the member level, which may be different from the length of time, if any, the member's current common parent has been under examination.

(7) SECTION 3.18(5) clarifies the rule that a taxpayer continues to be under examination when Examination reports the taxable year(s) under examination to the Joint Committee on Taxation.

(8) SECTION 5.01 modifies the rules for when a taxpayer under examination may file a Form 3115 by replacing "issue pending" and "consent of director" in Rev. Proc. 97–27 and Rev. Proc. 2011–14 with broad eligibility rules that allow taxpayers under examination to request changes in method of accounting. How-

ever, see SECTIONS 7.03(3)(b) and 8.02(1).

(9) SECTIONS 6.03(1)(a)(ii), 6.03(1)(a)(iii), 6.03(3)(b), and 6.03(3)(c) clarify the rules for how foreign corporations and foreign partnerships that are not required to file a federal income tax return file a Form 3115 and their controlling domestic shareholders and partners comply with the filing and other requirements regarding Forms 3115 and Consent Agreements.

(10) SECTION 7.03(2)(c) modifies the rules for the treatment of a § 481(a) adjustment regarding a § 381(a) transaction within a consolidated group in which the method of accounting that gave rise to a § 481(a) adjustment is carried over and used by the acquiring corporation. In that case, the portion of the § 481(a) adjustment attributable to the short taxable year of the transferor ending on the date of the § 381(a) transaction is treated as an intercompany item as defined in § 1.1502–13(b)(2) and taken into account under the § 1.1502–13 rules.

(11) SECTION 7.03(3)(b) modifies the § 481(a) adjustment period for taxpayers under examination with positive § 481(a) adjustments. In that case, the § 481(a) adjustment period is two taxable years, unless the Form 3115 is filed in a three-month or 120-day window, the present method is not before the director, or the applicant is a new member of a consolidated group in CAP.

(12) SECTION 7.03(3)(c) modifies the de minimis election for a one-year adjustment period for a positive § 481(a) adjustment to make it available for a positive § 481(a) adjustment that is less than $50,000.

(13) SECTION 7.03(3)(d) provides an optional election for a one-year adjustment period for a positive § 481(a) adjustment for taxpayers with an eligible acquisition transaction. Also, SECTION 6.03(4)(b) provides that a taxpayer is not eligible to make a late election except in unusual and compelling circumstances.

(14) SECTION 7.06 provides, consistent with existing practice, a term and condition that requires a taxpayer to maintain accounting records for the year of change and subsequent taxable years to support the method of accounting for which consent is granted to the taxpayer.

(15) SECTIONS 7.07, 7.08, and 7.09 provide, consistent with existing practice, additional terms and conditions specific to (a) certain foreign corporations, (b) trades or businesses of a domestic corporation, domestic partnership, or other United States person that affect the amount of foreign source taxable income, and (c) foreign partnerships.

(16) SECTION 8.02(1)(a) modifies the rules for when a taxpayer under examination filing a Form 3115 may receive audit protection by replacing the 90-day window that began on the first day of the taxpayer's taxable year in Rev. Proc. 97–27 and Rev. Proc. 2011–14 with a three-month window that applies to taxpayers that have been under examination for at least 12 consecutive months as of the first day of the three-month window. In general, the three-month window begins on the fifteenth day of the seventh month of the taxable year and ends on the fifteenth day of the tenth month of the taxable year, to correspond to the extended due date of a taxpayer's federal income tax return. In addition, a CFC or 10/50 corporation that has had an issue under consideration within the meaning of SECTION 3.08(4) for at least 24 consecutive months and all of its controlling domestic shareholders that are under examination have been under examination for at least 24 consecutive months is eligible to change its method of accounting during the three-month window if the method of accounting is not an issue under consideration within the meaning of SECTION 3.08(1) or an item placed in suspense.

(17) SECTION 8.02(1)(b) is modified to make a CFC or 10/50 corporation ineligible for the 120-day window.

(18) SECTIONS 8.02(1)(c), 8.02(1)(e), and 8.02(1)(f) modify the rules for when a taxpayer under examination filing a Form 3115 may receive audit protection outside of a window period. These rules replace the previous requirement that the taxpayer acquire the director's statement consenting to the filing of the Form 3115 prior to filing the Form 3115.

(19) SECTION 8.02(1)(d) modifies the rules for when a taxpayer under examination filing a Form 3115 may receive audit protection by permitting the parent of a consolidated group to request a change in method of accounting on behalf of a consolidated group member that is under examination solely because it joined the consolidated group in a taxable year for which the group is participating in the CAP. However, the member's method of accounting to be changed must not be an issue under consideration. SECTION 6.03(2)(a)(ii) provides a limited time frame after the member joins the consolidated group for the parent to file the Form 3115 for a year of change that is the taxable year the corporation became a member of the consolidated group, which in some cases permits the common parent of the consolidated group to file the Form 3115 up to 30 calendar days after the end of the taxable year.

(20) SECTION 8.02(5) modifies the rules for audit protection to provide that the IRS may require a CFC or 10/50 corporation to change its method of accounting for a taxable year preceding the requested year of change if any of the controlling domestic shareholders computed an amount of foreign taxes deemed paid with respect to the CFC or 10/50 corporation that exceeds 150 percent of the average amount of foreign taxes deemed paid by the shareholder with respect to the CFC or 10/50 corporation for the three preceding taxable years.

(21) SECTION 12.02(2) clarifies the rules for a § 481(a) adjustment to provide that if the director makes a correction to the amount of the § 481(a) adjustment, ordinarily the director will take the entire amount of the correction into account for the earliest taxable year in the § 481(a) adjustment period that is under examination, regardless of whether the statute of limitations on the assessment of tax under § 6501 has not expired for one or more taxable years in the adjustment period.

.02 *Other changes affecting Rev. Proc. 2011–14*.

(1) SECTIONS 5.01 and 8.02(1) clarify, consistent with the IRS's longstanding interpretation of Rev. Proc. 2011–14, that waiver of a scope limitation under Rev. Proc. 2011–14 or an eligibility requirement under this revenue procedure does not affect whether the taxpayer receives audit protection for the change in method of accounting.

(2) SECTIONS 5.04(2) and 5.05(2) clarify that a taxpayer may file a Form

3115 under the automatic change procedures notwithstanding the fact that the taxpayer previously filed a Form 3115 under the non-automatic change procedures for the same change in method of accounting and for the same year of change, in limited specified circumstances.

(3) SECTION 6.01 modifies section 6.02(1) of Rev. Proc. 2011–14 to require taxpayers to file a Form 3115 in all cases when requesting consent under the automatic change procedures. However, when permitted in the applicable section of the List of Automatic Changes, a taxpayer may file a short Form 3115. See SECTION 3.07(2).

(4) SECTION 6.03(1)(a)(i)(B) modifies section 6.02(3)(a)(ii) of Rev. Proc. 2011–14 to require taxpayers to file a copy of the Form 3115 with the IRS in Ogden, UT for all changes in method of accounting requested under the automatic change procedures.

(5) SECTION 6.03(1)(e) clarifies how taxpayers submit additional correspondence regarding a Form 3115 filed under the automatic change procedures to Ogden, UT.

(6) The list of automatic changes in method of accounting, formerly in the APPENDIX of Rev. Proc. 2011–14, is now in Rev. Proc. 2015–14 (List of Automatic Changes).

.03 *Other changes affecting Rev. Proc. 97–27*.

(1) SECTIONS 5.03 and 11.02(1) provide, consistent with the IRS's longstanding practice, that ordinarily the IRS will not consent to a taxpayer changing a method of accounting in the year it ceases to engage in a trade or business to which the change would relate.

(2) SECTION 11.03(2)(c) modifies section 8.11 of Rev. Proc. 97–27 to generally invalidate a Consent Agreement if the taxpayer does not implement the change in method of accounting by the later of either the due date of the taxpayer's federal income tax return for the taxable year succeeding the year of change or one year from the date of issuance of the letter ruling.

(3) SECTION 13.01(1)(b) modifies the rules for revising the year of change to provide that, if a taxpayer files its Form 3115 on or before the last day of the sixth month of the year of change, it may submit a written request to revise the year of change on or after, but not before, the first day of the taxable year following the original year of change.

(4) SECTION 13.01(3) modifies the § 481(a) acceleration requirement for a revised year of change to generally require that no more than seventy-five percent of a positive § 481(a) adjustment be taken into account in the revised year of change.

DRAFTING INFORMATION

The principal author of this revenue procedure is Christopher W. Call of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Mr. Call at (202) 317-7007 (not a toll-free number).

26 CFR 601.204: Changes in accounting periods and in methods of accounting.
(Also Part I, §§ 56, 61, 77, 118, 162, 163, 166, 167, 168, 171, 174, 179D, 194, 197, 263, 263A, 267, 280F, 404, 446, 447, 448, 451, 454, 455, 460, 461, 467, 471, 472, 475, 481, 585, 816, 832, 833, 846, 860A–860G, 861, 904, 953, 985, 1272, 1273, 1278, 1281, 1363, 1400I, 1400L, 1400N; 1.61–1, 1.61–4, 1.61–8, 1.77–1, 1.77–2, 1.118–2, 1.162–1, 1.162–3, 1.162–4, 1.162–11, 1.162–12, 1.166–1, 1.166–2, 1.166–4, 1.167(a)–2, 1.167(a)–3(b), 1.167(a)–4, 1.167(a)–7, 1.167(a)–8, 1.167(a)–11, 1.167(a)–14, 1.167(e)–1, 1.168(d)–1, 1.168(i)–1, 1.168(i)–4, 1.168(i)–6, 1.168(i)–7, 1.168(i)–8, 1.168(k)–1, 1.171–4, 1.174–1, 1.174–3, 1.174–4, 1.179–5, 1.194–1, 1.197–2, 1.263(a)–1, 1.263(a)–2, 1.263(a)–3, 1.263(a)–4, 1.263(a)–5, 1.263A–1, 1.263A–2, 1.263A–3, 1.263A–4, 1.263A–7, 1.267(a)–1, 1.280F–6, 1.404(b)–1T, 1.446–1, 1.446–1T, 1.446–2, 1.446–5, 1.446–6, 1.448–1T, 1.448–2, 1.451–1, 1.451–5, 1.454–1, 1.455–6, 1.460–1, 1.460–4, 1.461–1, 1.461–4, 1.461–5, 1.467–1, 1.471–1, 1.471–2, 1.471–3, 1.471–4, 1.471–5, 1.471–8, 1.472–1, 1.472–2, 1.472–6, 1.472–8, 1.481–1, 1.481–4, 1.832–4, 1.832–5, 1.860A–6, 1.861–18, 1.985–5, 1.985–8, 1.1016–3, 1.1245–3, 1.1272–1, 1.1273–1, 1.1273–2, 1.1363–2, 1.1374–4, 1.1400L(b)–1.)

Rev. Proc. 2015–14

This revenue procedure provides the List of Automatic Changes to which the automatic change procedures in Rev. Proc. 2015–13, 2015–5 I.R.B. 419, (or successor) apply. The definitions in section 3 of Rev. Proc. 2015–13 apply to this revenue procedure.

LIST OF AUTOMATIC CHANGES

SECTION 1. GROSS INCOME (§ 61)

.01 *Up-front Payments for Network Upgrades received by Utilities*.

(1) *Description of change*. This change applies to a Utility that wants to change its method of accounting for Up-front Payments to the safe harbor method described in Rev. Proc. 2005–35, 2005–2 C.B. 76. In general, this change applies to a Utility that receives an Up-front Payment from a Generator to finance Network Upgrades to the Utility's Transmission System. For federal income tax purposes, if an Up-front Payment is made pursuant to an Interconnection Agreement that satisfies all of the conditions of section 5.02 of Rev. Proc. 2005–35, a Utility may treat that Up-front Payment as not being taxable income under § 61 when received (the safe harbor method). In addition, a Utility that uses the safe harbor method is not entitled to any deduction for its reimbursements of the Up-front Payment. To the extent that Federal Energy Regulatory Commission (FERC) interest is deductible, it must be properly allocated to the periods in which it accrues. A Utility using the safe harbor method must comply with all other applicable provisions of Rev. Proc. 2005–35. See Rev. Proc. 2005–35 for the definitions of certain terms for purposes of this change.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 1.01 is "91."

(3) *Contact information*. For further information regarding a change under this section, contact William E. Blanchard at (202) 317-3900 (not a toll-free number).

.02 *Reserved*.

SECTION 2. COMMODITY CREDIT LOANS (§ 77)

.01 *Treating amounts received as loans*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method of accounting for loans received from the Commodity Credit Corporation from including the loan amount in gross income for the taxable year in which each loan is received to treating each loan amount as a loan.

(2) *Certain eligibility rule inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to this change.

(3) *Manner of making change*. This change is made on a cut-off basis and applies only to loans received from the Commodity Credit Corporation on or after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(4) *Designated automatic accounting method change number*. The designated

automatic accounting method change number for a change under this section 2.01 is "1."

(5) *Contact information*. For further information regarding a change under this section, contact William Ruane at (202) 317-4718 (not a toll-free number).

.02 *Reserved*.

SECTION 3. TRADE OR BUSINESS EXPENSES (§ 162)

.01 *Advances made by a lawyer on behalf of clients*.

(1) *Description of change*. This change applies to a lawyer who advances money to pay for costs of litigation or for other expenses on behalf of clients, and who wants to change the method of accounting for such advances from treating them as deductible business expenses to treating them as loans. This change applies to cases handled either on a non-contingent or a contingent fee basis. *See Pelton & Gunther, P.C. v. Commissioner*, T.C. Memo. 1999–339 (non-contingent fee); *Canelo v. Commissioner*, 53 T.C. 217 (1969), *aff'd per curiam*, 447 F.2d 484 (9^{th} Cir. 1971) (contingent fee).

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 3.01 is "2."

(3) *Contact information*. For further information regarding a change under this section, contact Daniel Cassano at (202) 317-7011 prior to November 1, 2015, or Martin Osborne after October 31, 2015, at (202) 317-7011 (not a toll-free number).

.02 *ISO 9000 costs*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method of accounting for costs incurred to obtain, maintain, and renew ISO 9000 certification to conform with Rev. Rul. 2000–4, 2000–1 C.B. 331, as modified by this revenue procedure.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 3.02 is "3."

(3) *Contact information*. For further information regarding a change under this section, contact Daniel Cassano at (202) 317-7011 prior to November 1, 2015, or Martin Osborne after October 31, 2015, at (202) 317-7011 (not a toll-free number).

.03 *Restaurant or tavern smallwares packages*.

(1) *Description of change*. This change applies to a taxpayer engaged in the trade or business of operating a restaurant or tavern (within the meaning of section 4.01 of Rev. Proc. 2002–12, 2002–1 C.B. 374) that wants to change its method of accounting for the costs of smallwares to the smallwares method described in Rev. Proc. 2002–12, as modified by this revenue procedure.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 3.03 is "4."

(3) *Contact information*. For further information regarding a change under this section, contact Daniel Cassano at (202) 317-7011 prior to November 1, 2015, or Martin Osborne after October 31, 2015, at (202) 317-7011 (not a toll-free number).

.04 *Timber grower fertilization costs*.

(1) *Description of change*. This change applies to a timber grower that wants to change its method of accounting to treat post-establishment fertilization costs of an established timber stand as ordinary and necessary business expenses deductible under § 162. *See* Rev. Rul. 2004–62, 2004–1 C.B. 1072, as modified by this revenue procedure.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 3.04 is "86."

(3) *Contact information*. For further information regarding a change under this section, contact Daniel Cassano at (202) 317-7011 prior to November 1, 2015, or Martin Osborne after October 31, 2015, at (202) 317-7011 (not a toll-free number).

05 *Materials and supplies*. See section 10.11 of this revenue procedure.

.06 *Repair and maintenance costs*. See section 10.11 of this revenue procedure.

.07 *Wireline network asset maintenance allowance and units of property methods of accounting under Rev. Proc. 2011–27*.

(1) *Description of change*. This change applies to a wireline telecommunications carrier that is within the scope of Rev. Proc. 2011–27, 2011–18 I.R.B. 740, and wants to change its treatment of wireline network asset expenditures to use either (a) the wireline network asset maintenance allowance method of accounting, or (b) all or some of the units of property described in Rev. Proc. 2011–27.

(2) *Section 481(a) adjustment*. In general, a change to the wireline network asset maintenance allowance method of accounting or to use all or some of the units of property specified in Rev. Proc. 2011–27 requires an adjustment under § 481(a). The § 481(a) adjustment shall not include any amount attributable to property for which the taxpayer elected to apply the repair allowance under § 1.167(a)–11(d)(2).

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 3.07 is "158."

(4) *Contact information*. For further information regarding a change under this section, contact Lewis Saideman at (202) 317-5100 (not a toll-free number).

.08 *Wireless network asset maintenance allowance and units of property methods of accounting under Rev. Proc. 2011–28*.

(1) *Description of change*. This change applies to a wireless telecommunications carrier that is within the scope of Rev. Proc. 2011–28, 2011–18 I.R.B. 743, and wants to change its treatment of wireless network asset expenditures to use either (a) the wireless network asset maintenance allowance method of accounting, or (b) all or some of the units of property described in Rev. Proc. 2011–28.

(2) *Section 481(a) adjustment*. In general, a change to the wireless network asset maintenance allowance method of accounting or to use all or some of the units of property specified in Rev. Proc. 2011–28 requires an adjustment under § 481(a). The § 481(a) adjustment does not include any amount attributable to property for which the taxpayer elected to apply the repair allowance under § 1.167(a)–11(d)(2).

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 3.08 is "159."

(4) *Contact information*. For further information regarding a change under this

section, contact Lewis Saideman at (202) 317-5100 (not a toll-free number).

.09 *Method of accounting under Rev. Proc. 2011–43 for taxpayers in the business of transporting, delivering, or selling electricity*.

(1) *Description of change*. This change applies to a taxpayer that is within the scope of Rev. Proc. 2011–43, 2011–37 I.R.B. 326, and wants to change its treatment of transmission and distribution property expenditures to use the method of accounting described in Rev. Proc. 2011–43.

(2) *Certain eligibility rules temporarily inapplicable*. The eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, do not apply to an electric transmission or distribution company that changes to the method of accounting provided in Rev. Proc. 2011–43, for its first, second, third, or fourth taxable year ending after December 30, 2010.

(3) *Section 481(a) adjustment*. A taxpayer must take the entire net § 481(a) adjustment into account (whether positive or negative) in computing taxable income for the year of change. The § 481(a) adjustment does not include any amount attributable to property for which the taxpayer elected to apply the repair allowance under § 1.167(a)–11 (d)(2) for any taxable year in which the election was made. For guidance regarding permissible § 481(a) calculation methodologies, see section 7.02 and Appendix A of Rev. Proc. 2011–43.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 3.09 is "160."

(5) *Contact information*. For further information regarding a change under this section, contact Lewis Saideman at (202) 317-5100 (not a toll-free number).

.10 *Reserved*.

.11 *Reserved*.

.12 *Reserved*.

.13 *Reserved*.

.14 *Reserved*.

.15 *Reserved*.

.16 *Reserved*.

.17 *Reserved*.

.18 *Reserved*.

.19 *Reserved*.

.20 *Method of accounting under Rev. Proc. 2013–24 for taxpayers in the business of generating steam or electric power*.

(1) *Description of change*. This change applies to a taxpayer that is within the scope of Rev. Proc. 2013–24, 2013–22 I.R.B. 1142, and wants to change its treatment of generation property expenditures to use all or some of the unit of property definitions and the corresponding major component definitions described in Rev. Proc. 2013–24.

(2) *Certain eligibility rules temporarily inapplicable*. The eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, do not apply to an eligible taxpayer that changes to the method of accounting provided in Rev. Proc. 2013–24 for its first, second, or third taxable year ending after December 30, 2012.

(3) *Section 481(a) adjustment*.

(a) A taxpayer must take the entire net § 481(a) adjustment into account (whether positive or negative) in computing taxable income for the year of change. For guidance regarding the use of extrapolation in computing a § 481(a) adjustment, see sections 6.02 and Appendix B of Rev. Proc. 2013–24.

(b) A taxpayer changing to this method of accounting must not include in the § 481(a) adjustment any amount attributable to property for which the taxpayer elected to apply the repair allowance under § 1.167(a)–11(d)(2) for any taxable year in which the repair allowance election was made.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 3.20 is "182."

(5) *Contact information*. For further information regarding a change under this section, contact Lewis Saideman at (202) 317-5100 (not a toll free number).

.21*Cable network asset capitalization methods of accounting under Rev. Proc. 2015–12*.

(1) *Description of change*. This change applies to a cable system operator that is within the scope of Rev. Proc. 2015–12, 2015–2 I.R.B. 266, and wants to make one or more of the of the following changes in method of accounting:

(a) Change its treatment of cable network asset expenditures to the cable network asset maintenance allowance method of accounting provided in section 5 of Rev. Proc. 2015–12;

(b) Change to use any of the unit of property definitions provided in section 6 of Rev. Proc. 2015–12;

(c) Change to use the specific identification method for installations and customer drop costs described in section 7.01(1) of Rev. Proc. 2015–12;

(d) Change to use the safe harbor allocation method for installations and customer drop costs described in section 7.01(2) of Rev. Proc. 2015–12; or

(e) Change to deduct the labor costs associated with installing customer premises equipment under section 7.02 of Rev. Proc. 2015–12.

(2) *Certain eligibility rules temporarily inapplicable*. The eligibility rules in section 5.01(1)(d) and (f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, do not apply to a cable system operator that changes to a method of accounting provided in section 5, section 6, or section 7 of Rev. Proc. 2015–12 for its first or second taxable year ending after December 31, 2013.

(3) *Concurrent automatic change*. A taxpayer that wants to make both one or more changes in method of accounting pursuant to this section 3.21 and a change to a UNICAP method under section 11 of this revenue procedure for the same year of change should file a single Form 3115 that includes all of these changes and must enter the designated automatic accounting method change numbers for all of these changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes.

(4) *Section 481(a) adjustment*.

(a) In general, a change to one or more of the of the changes in method of accounting described in section 3.21(1) of this revenue procedure requires an adjustment under § 481(a). The § 481(a) adjustment shall not include any amount attributable to property for which the taxpayer elected to apply the repair allowance under § 1.167(a)–11(d)(2).

(b) *Itemized listing on Form 3115*. The taxpayer must include on Form 3115, Part IV, line 25, the total § 481(a) adjustment for all changes in methods of accounting being made. If the taxpayer is making more than one change in method of accounting under Rev. Proc. 2015–12, the taxpayer must include on an attachment to Form 3115:

(i) the information required by Part IV, line 25 for each change in method of accounting (including the amount of the § 481(a) adjustment for each change in method of accounting, which includes the portion of the § 481(a) adjustment attributable to UNICAP);

(ii) the information required by Part II, line 12 of Form 3115 that is associated with each change; and

(iii) the citation to the paragraph of Rev. Proc. 2015–12 that provides for each proposed method of accounting.

(5) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change to a method of accounting provided in section 5 or 6 of Rev. Proc. 2015–12 is "208." The designated automatic accounting method change number for a change to a method of accounting provided in section 7 of Rev. Proc. 2015–12 is "209."

(6) *Contact information*. For further information regarding a change under this section, contact Merrill Feldstein at (202) 317-5100.

SECTION 4. BAD DEBTS (§ 166)

.01 *Change from reserve method to specific charge-off method*.

(1) *Description of change*. This change applies to a taxpayer (other than a bank as defined in § 585(a)(2)) that wants to change its method of accounting for bad debts from a reserve method (or other improper method) to a specific charge-off method that complies with § 166. For procedures applicable to banks, see § 585(c) and the regulations thereunder and section 24 of this revenue procedure.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 4.01 is "5."

(3) *Contact information*. For further information regarding a change under this section, contact Renay France at (202) 317-7003 (not a toll-free number).

.02 *Conformity election by bank after previous election automatically revoked*.

(1) *Description of change*. This change applies to a bank that wants to change its method of accounting for bad debts by making the conformity election under § 1.166–2(d)(3)(iii)(C)(*3*).

(2) *Applicability*. This change only applies to a bank (as defined in § 1.166–2(d)(4)(i)) that:

(a) is subject to supervision by Federal authorities, or by state authorities maintaining substantially equivalent standards;

(b) has previously adopted or elected to change to the method of accounting for bad debts described in § 1.166–2(d)(3);

(c) has had that previous election automatically revoked under § 1.166–2(d)(3)(iv)(C);

(d) meets the express determination requirement of § 1.166–2(d)(3)(iii)(D) for the year of change; and

(e) now seeks the consent of the Commissioner to make an election under § 1.166–2(d)(3)(iii)(C)(*3*).

(3) *Certain eligibility rule inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to this change.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 4.02 is "211."

(5) *Contact information*. For further information regarding a change under this section, contact Timothy Sebastian at (202) 317-6945 (not a toll-free number).

SECTION 5. INTEREST EXPENSE (§163) AND AMORTIZABLE BOND PREMIUM (§ 171)

.01 *Revocation of § 171(c) election*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method of accounting for amortizable bond premium by revoking its § 171(c) election. Under § 171(c), a taxpayer that holds certain taxable bonds may elect to amortize any bond premium on the bonds in accordance with regulations prescribed by the Secretary. Sections 1.171–1 through 1.171–5 provide rules relating to the amortization of bond premium by a taxpayer. Section 1.171–4 provides the procedures to make a § 171(c) election to amortize bond premium.

(2) *Revocation of election*. The revocation of a § 171(c) election applies to all taxable bonds that are held by the taxpayer on the first day of the first taxable year for which the revocation is effective (year of change), and to all taxable bonds that are subsequently acquired by the taxpayer.

(3) *Manner of making change*. This change is made using a cut-off basis and applies only to taxable bonds held on or after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required.

Under the cut-off basis, for taxable bonds held at the beginning of the year of change, the taxpayer may not amortize any remaining bond premium on the bonds. Because the cut-off basis is prescribed for this change, the basis of any bond, adjusted for amounts previously amortized during the period of the election, is not affected by the revocation.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 5.01 is "16."

(5) *Additional requirements*. On a statement attached to the Form 3115, the taxpayer must provide:

(a) the reason(s) for revoking the election; and

(b) a description of the method by which, and the date on which, the taxpayer made the § 171(c) election that is proposed to be revoked.

(6) *Audit protection*. Any audit protection applicable to this change under section 8 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not preclude the Commissioner from examining the method used by the taxpayer to determine the amount of amortizable bond premium under § 171(b) for a taxable year prior to the year of change.

(7) *Contact information*. For further information regarding a change under this section, contact William E. Blanchard at (202) 317-3900 (not a toll-free number).

.02 *Change to comply with § 163(e)(3)*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method or methods of accounting to comply with the requirements of § 163(e)(3), which defers certain deductions attributable to original issue discount debt instruments held by related foreign persons. Any portion of the original issue

discount will not be allowable as a deduction to the U.S. person issuer until paid.

(2) *Accelerated § 481(a) adjustment period in certain situations*. In addition to the circumstances set forth in section 7.03(4) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, the § 481 adjustment period provided in section 7.03 of Rev. Proc. 2015–13 will be accelerated for a U.S. person with a remaining balance of a § 481(a) adjustment that arose by reason of a change in method of accounting described in this section 5.02 if a debt instrument subject to the change is paid off, retired, or significantly modified within the meaning of § 1.1001–3 prior to the end of the § 481(a) adjustment period. The portion of the remaining § 481(a) adjustment attributable to the debt instrument must be taken into account in the taxable year the debt instrument is paid off, retired, or significantly modified within the meaning of § 1.1001–3.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 5.02 is "212."

(4) *Contact information*. For further information regarding a change under this section, contact Joseph Vetting at (202) 317-4960 (not a toll-free number).

SECTION 6 . DEPRECIATION OR AMORTIZATION (§ 56(a)(1), 56(g)(4)(A), 167, 168, 197, 280F(a), 1400I, 1400L, or 1400N(d), OR FORMER § 168)

.01 *Impermissible to permissible method of accounting for depreciation or amortization*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer that wants to change from an impermissible to a permissible method of accounting for depreciation or amortization (depreciation) for any item of depreciable or amortizable property under the taxpayer's present or proposed method of accounting:

(i) for which the taxpayer used the impermissible method of accounting in at least two taxable years immediately preceding the year of change (but see section 6.01(1)(b) of this revenue procedure for property placed in service in the taxable year immediately preceding the year of change);

(ii) for which the taxpayer is making a change in method of accounting under § 1.446–1(e)(2)(ii)(*d*);

(iii) for which depreciation is determined under § 56(a)(1), § 56(g)(4)(A), § 167, §168, §197, §1400I, or §1400L(c), under § 168 prior to its amendment in 1986 (former § 168), or under any additional first year depreciation deduction provision of the Code (for example, § 168(k), § 168(l), § 1400L(b), or § 1400N(d)); and

(iv) that is owned by the taxpayer at the beginning of the year of change (but see section 6.17 of this revenue procedure for property disposed of before the year of change).

(b) *Taxpayer has not adopted a method of accounting for the item of property*. If a taxpayer does not satisfy section 6.01(1)(a)(i) of this revenue procedure for an item of depreciable or amortizable property because this item of property is placed in service by the taxpayer in the taxable year immediately preceding the year of change ("1-year depreciable property"), the taxpayer may change from the impermissible method of determining depreciation to the permissible method of determining depreciation for the 1-year depreciable property by filing a Form 3115 for this change, provided the § 481(a) adjustment reported on the Form 3115 includes the amount of any adjustment that is attributable to all property (including the 1-year depreciable property) subject to the Form 3115. Alternatively, the taxpayer may change from the impermissible method of determining depreciation to the permissible method of determining depreciation for a 1-year depreciable property by filing an amended federal tax return for the property's placed-in-service year prior to the date the taxpayer files its federal tax return for the taxable year succeeding the placed-in-service year.

(c) *Inapplicability*. This change does not apply to:

(i) any property to which § 1016(a)(3) (regarding property held by a tax-exempt organization) applies;

(ii) a taxpayer that is required under § 263A and the regulations thereunder to capitalize the costs with respect to which the taxpayer wants to change its method of accounting under this section 6.01 if the taxpayer is not capitalizing these costs, unless the taxpayer concurrently changes its method to capitalize these costs in conjunction with a change to a UNICAP method under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable);

(iii) any property for which a taxpayer is making a change in depreciation under § 1.446–1(e)(2)(ii)(*d*)(*2*)(*vi*) or (*vii*);

(iv) any property subject to § 167(g) regarding property depreciated under the income forecast method;

(v) any § 1250 property that a taxpayer is reclassifying to an asset class of Rev. Proc. 87–56, 1987–2 C.B. 674 (as clarified and modified by Rev. Proc. 88–22, 1988–1 C.B. 785), or Rev. Proc. 83–35, 1983–1 C.B. 745, as appropriate, that does not explicitly include § 1250 property (for example, asset class 57.0, Distributive Trades and Services);

(vi) any property for which a taxpayer is revoking a timely valid election, or making a late election, under § 167, § 168, § 179, §1400I, § 1400L(c), former § 168, § 13261(g)(2) or (3) of the Revenue Reconciliation Act of 1993 (1993 Act), 1993–3 C.B. 1, 128 (relating to amortizable § 197 intangibles), or any additional first year depreciation deduction provision of the Code (for example, § 168(k), § 168(l), § 1400L(b), or § 1400N(d)). A taxpayer may request consent to revoke or make the election by submitting a request for a letter ruling under Rev. Proc. 2015–1, 2015–1 I.R.B. 1 (or successor). However, if a taxpayer is revoking or making an election under § 179, see § 179(c) and § 1.179–5. *See* § 1.446–1(e)(2)(ii)(*d*)(*3*)(*iii*);

(vii) any property for which depreciation is determined under § 56(g)(4)(A) or § 167 (other than under § 168, § 1400I, § 1400L(c), former § 168, or any additional first year depreciation deduction provision of the Code (for example, § 168(k), § 168(l), § 1400L(b), or § 1400N(d))) and a taxpayer is changing the useful life of the property. A change in the useful life of property is corrected by adjustments in the applicable taxable year provided under § 1.446–1(e)(2)(ii)(*d*)(*5*)(*iv*). However, this section 6.01(1)(c)(vii) does not apply if the taxpayer is changing to or from a useful life, recovery period, or amortization period that is specifically assigned by the Code (for example, § 167(f)(1), § 168(c)), the regulations thereunder, or other guidance published in the Internal Revenue Bulletin and, therefore, this change is a change in method of accounting (unless section 6.01(1)(c)(xv) of this revenue procedure applies). *See* § 1.446–1(e)(2)(ii)(*d*)(*3*)(*i*);

(viii) any depreciable property for which the use changes in the hands of the same taxpayer. *See* § 1.446–1(e)(2)(ii)(*d*)(*3*)(*ii*);

(ix) any property for which depreciation is determined in accordance with § 1.167(a)–11 (regarding the Class Life Asset Depreciation Range System (ADR));

(x) any change in method of accounting involving a change from deducting the cost or other basis of any property as an expense to capitalizing and depreciating the cost or other basis, or vice versa;

(xi) any change in method of accounting involving a change from one permissible method of accounting for the property to another permissible method of accounting for the property. For example:

(A) a change from the straight-line method of depreciation to the income forecast method of depreciating for videocassettes. *See* Rev. Rul. 89–62, 1989–1 C.B. 78; or

(B) a change from charging the depreciation reserve with costs of removal and crediting the depreciation reserve with salvage proceeds to deducting costs of removal as an expense (provided the costs of removal are not required to be capitalized under any provision of the Code, such as § 263(a)) and including salvage proceeds in taxable income (see section 6.02 of this revenue procedure for making this change for property for which depreciation is determined under § 167);

(xii) any change in method of accounting involving both a change from treating the cost or other basis of the property as nondepreciable or nonamortizable property to treating the cost or other basis of the property as depreciable or amortizable property and the adoption of a method of accounting for depreciation requiring an election under § 167, § 168, § 1400I, § 1400L(c), former § 168, § 13261(g)(2) or (3) of the 1993 Act, or any additional first year depreciation deduction provision of the Code (for example, § 168(k), § 168(l), § 1400L(b), or § 1400N(d)) (for example, a change in the treatment of the space consumed in landfills placed in service in 2006 from nondepreciable to depreciable property (assuming section 6.01(1)(c)(xiii) of this revenue procedure does not apply) and the making of an election under §168(f)(1) to depreciate this property under the unit of production method of depreciation under § 167);

(xiii) any change in method of accounting for any item of income or deduction other than depreciation, even if the change results in a change in computing depreciation under § 1.446–1(e)(2)(ii)(*d*)(*2*)(*i*), (*ii*), (*iii*), (*iv*), (*v*), (*vi*), (*vii*), or (*viii*). For example, a change in method of accounting involving:

(A) a change in inventory costs (for example, when property is reclassified from inventory property to depreciable property, or *vice versa*) (but see section 10.02 of this revenue procedure for making a change in method of accounting from inventory property to depreciable property for unrecoverable line pack gas or unrecoverable cushion gas, and section 10.06 of this revenue procedure for making a change in method of accounting from inventory property to depreciable property for rotable spare parts); or

(B) a change in the character of a transaction from sale to lease, or *vice versa* (but see section 6.03 of this revenue procedure for making this change);

(xiv) a change from determining depreciation under § 168 to determining depreciation under former § 168 for any property subject to the transition rules in § 203(b) or § 204(a) of the Tax Reform Act of 1986, 1986–3 (Vol. 1) C.B. 1, 60–80;

(xv) any change in the placed-in-service date of a depreciable or amortizable property. This change is corrected by adjustments in the applicable taxable year provided under § 1.446–1(e)(2)(ii)(*d*)(*5*)(*v*); or

(xvi) any property for which the rehabilitation credit under § 47 was claimed and that a taxpayer is reclassifying to 3-year property, 5-year property, 7-year property, 10-year property, 15-year property, 20-year property, or water utility property (other than real property with a class life of more than 12.5 years).

(2) *Certain eligibility rules inapplicable*. The eligibility rule in section 5.01(1)(d) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to this change. If during any of the five taxable years ending with the year of change, a taxpayer requested or made a change in method of accounting from expensing to capitalizing, or *vice versa*, the cost or other basis of an asset, the eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13 is not applicable to a change under this section 6.01 for that same asset.

(3) *Additional requirements*. A taxpayer also must comply with the following:

(a) *Permissible method of accounting for depreciation*. A taxpayer must change to a permissible method of accounting for depreciation for the item of depreciable or amortizable property. The permissible method of accounting is the same method that determines the depreciation allowable for the item of property (as provided in section 6.01(7) of this revenue procedure).

(b) *Statements required*. A taxpayer (including a qualified small taxpayer as defined in section 6.01(4)(b) of this revenue procedure) must provide the following statements, if applicable, and attach them to the completed Form 3115:

(i) a detailed description of the present and proposed methods of accounting. A general description of these methods of accounting is unacceptable (for example, MACRS to MACRS, erroneous method to proper method, claiming less than the depreciation allowable to claiming the depreciation allowable);

(ii) to the extent not provided elsewhere on the Form 3115, a statement describing the taxpayer's business or income-producing activities. Also, if the taxpayer has more than one business or income-producing activity, a statement describing the taxpayer's business or income-producing activity in which the item of property at issue is primarily used by the taxpayer;

(iii) to the extent not provided elsewhere on the Form 3115, a statement of the facts and law supporting the proposed method of accounting, new classification of the item of property, and new asset class in, as appropriate, Rev. Proc. 87–56 or Rev. Proc. 83–35. If the taxpayer is the owner and lessor of the item of property at issue, the statement of the facts and law supporting the new asset class also must describe the business or income-producing activity in which that item of property is primarily used by the lessee;

(iv) to the extent not provided elsewhere on the Form 3115, a statement identifying the year in which the item of property was placed in service by the taxpayer;

(v) if any item of property is public utility property within the meaning of § 168(i)(10) or former § 167(I)(3)(A), as applicable, a statement providing that the taxpayer agrees to the following additional terms and conditions:

(A) a normalization method of accounting (within the meaning of former § 167(I)(3)(G), former § 168(e)(3)(B), or § 168(i)(9), as applicable) will be used for the public utility property subject to the Form 3115;

(B) as of the beginning of the year of change, the taxpayer will adjust its deferred tax reserve account or similar reserve account in the taxpayer's regulatory books of account by the amount of the deferral of federal income tax liability associated with the § 481(a) adjustment applicable to the public utility property subject to the Form 3115; and

(C) within 30 calendar days of filing the federal income tax return for the year of change, the taxpayer will provide a copy of the completed Form 3115 to any regulatory body having jurisdiction over the public utility property subject to the Form 3115;

(vi) if the taxpayer is changing the classification of an item of § 1250 property placed in service after August 19, 1996, to a retail motor fuels outlet under § 168(e)(3)(E)(iii), a statement containing the following representation: "For purposes of § 168(e)(3)(E)(iii) of the Internal Revenue Code, the taxpayer represents that (A) 50 percent or more of the gross revenue generated from the item of § 1250 property is from the sale of petroleum products (not including gross revenue from related services, such as the labor cost of oil changes and gross revenue from the sale of nonpetroleum products such as tires and oil filters), (B) 50 percent or more of the floor space in the item of property is devoted to the sale of petroleum products (not including floor space devoted to related services, such as oil changes and floor space devoted to nonpetroleum products such as tires and oil filters), or (C) the item of § 1250 property is 1,400 square feet or less."; and

(vii) if the taxpayer is changing the classification of an item of property from § 1250 property to § 1245 property under § 168 or former § 168, a statement of the facts and law supporting the new § 1245 property classification, and a statement containing the following representation: "Each item of depreciable property that is the subject of the Form 3115 filed under section 6.01 of Rev. Proc. 2015–14 for the year of change beginning [*Insert the date]***,** and that is reclassified from [*Insert, as appropriate: nonresidential real property, residential rental property, qualified leasehold improvement property, qualified restaurant property, qualified retail improvement property, 19-year real property, 18-year real property, or 15-year real property*] to an asset class of [*Insert, as appropriate, either: Rev. Proc. 87–56, 1987–2 C.B. 674, or Rev. Proc. 83–35, 1983–1 C.B. 745*] that does not explicitly include § 1250 property, is § 1245 property for depreciation purposes."

(4) *Reduced filing requirement for qualified small taxpayers*.

(a) *In general*. A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(a) The identification section of page 1 (above Part I);

(b) The signature section at the bottom of page 1;

(c) Part I;

(d) Part II, all lines except lines 11, 13, 14, 15, and 17;

(e) Part IV, all lines except line 24; and

(f) Schedule E.

(b) *Definition of qualified small taxpayer*. A "qualified small taxpayer" is a taxpayer whose average annual gross receipts, as determined under § 1.263(a)–3(h)(3), for the three preceding taxable years is less than or equal to $10,000,000.

(5) *Section 481(a) adjustment*. Because the adjusted basis of the property is changed as a result of a method change made under this section 6.01 (*see* section 6.01(5) of this revenue procedure), items are duplicated or omitted. Accordingly, this change is made with a § 481(a) adjustment. This adjustment may result in either a negative § 481(a) adjustment (a decrease in taxable income) or a positive § 481(a) adjustment (an increase in taxable income) and may be a different amount for regular tax, alternative minimum tax, and adjusted current earnings purposes. This § 481(a) adjustment equals the difference between the total amount of depreciation taken into account in computing taxable income for the property under the taxpayer's present method of accounting (including the amount attributable to any property described in section 6.01(1)(b) of this revenue procedure that is included in the taxpayer's Form 3115), and the total amount of depreciation allowable for the property under the taxpayer's proposed method of accounting (as determined under section 6.01(6) of this revenue procedure, and including the amount attributable to any property described in section 6.01(1)(b) of this revenue procedure that is included in the taxpayer's Form 3115), for open and closed years prior to the year of change. However, the amount of the § 481(a) adjustment must be adjusted to account for the proper amount of the depreciation allowable that is required to be capitalized under any provision of the Code (for example, § 263A) at the beginning of the year of change.

(6) *Basis adjustment*. As of the beginning of the year of change, the basis of depreciable property to which this section 6.01 applies must reflect the reductions required by § 1016(a)(2) for the depreciation allowable for the property (as determined under section 6.01(7) of this revenue procedure).

(7) *Meaning of depreciation allowable*.

(a) *In general*. Section 6.01(7) of this revenue procedure provides the amount of the depreciation allowable determined under § 56(a)(1), § 56(g)(4)(A), § 167, § 168, § 197, §1400I, or § 1400L(c), or former § 168. This amount, however, may be limited by other provisions of the Code (for example, § 280F).

(b) *Section 56(a)(1) property*. The depreciation allowable for any taxable year for property for which depreciation is determined under § 56(a)(1) is determined by using the depreciation method, recovery period, and convention provided for under § 56(a)(1) that applies for the property's placed-in-service date.

(c) *Section 56(g)(4)(A) property*. The depreciation allowable for any taxable year for property for which depreciation is determined under § 56(g)(4)(A) is determined by using the depreciation method, recovery period or useful life, as applicable, and convention provided for under § 56(g)(4)(A) that applies for the property's placed-in-service date.

(d) *Section 167 property*. Generally, for any taxable year, the depreciation allowable for property for which depreciation is determined under § 167, is determined either:

(i) under the depreciation method adopted by the taxpayer for the property; or

(ii) if that depreciation method does not result in a reasonable allowance for depreciation or the taxpayer has not adopted a depreciation method for the property, under the straight-line depreciation method.

For determining the estimated useful life and salvage value of the property, see § 1.167(a)–1(b) and (c), respectively.

The depreciation allowable for any taxable year for property subject to § 167(f) (regarding certain property excluded from § 197) is determined by using the depreciation method and useful life prescribed in § 167(f). If computer software is depreciated under § 167(f)(1) and is qualified property (as defined in § 168(k)(2) and § 1.168(k)–1), 50-percent bonus depreciation property (as defined in § 168(k)(4) and § 1.168(k)–1), qualified disaster assistance property (as defined in § 168(n)(2)), qualified New York Liberty Zone (Liberty Zone) property (as defined in § 1400L(b)(2) and § 1.1400L(b)–1), qualified Gulf Opportunity Zone (GO Zone) property (as defined in § 1400N(d)(2) and sections 2.02 and 2.03 of Notice 2006–77, 2006–2 C.B. 590, as clarified, modified, and amplified by Notice 2007–36, 2007–1 C.B. 1000), specified Gulf Opportunity Zone extension property (GO Zone extension property) (as defined in § 1400N(d)(6) and section 4 of Notice 2007–36), or qualified Recovery Assistance (RA) property (as defined in sections 2.02 and 2.03 of Notice 2008–67, 2008–32 I.R.B. 307), the depreciation allowable for that computer software under § 167(f)(1) is also determined by taking into account the additional first year depreciation deduction provided by § 168(k), § 168(n), § 1400L(b), or § 1400N(d), or by § 15345(a)(1) and (d)(1) of the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110–246, 122 Stat. 1651 (June 18, 2008), as applicable, unless the taxpayer made a timely valid election not to deduct any additional first year depreciation for the computer software.

(e) *Section 168 property*. The depreciation allowable for any taxable year for property for which depreciation is determined under § 168, is determined as follows:

(i) by using either:

(A) the general depreciation system in § 168(a); or

(B) the alternative depreciation system in § 168(g) if the property is required to be depreciated under the alternative depreciation system pursuant to § 168(g)(1) or other provisions of the Code (for example, property described in § 263A(e)(2)(A) or § 280F(b)(1)). Property required to be depreciated under the alternative depreciation system pursuant to § 168(g)(1) includes property in a class (as set out in § 168(e)) for which the taxpayer made a timely valid election under § 168(g)(7);

(ii) if the property is qualified property, 50-percent bonus depreciation property, qualified disaster assistance property, Liberty Zone property, GO Zone property, GO Zone extension property, or RA property, by also taking into account the additional first year depreciation deduction provided by § 168(k), § 168(n), § 1400L(b), or § 1400N(d), or by § 15345(a)(1) and (d)(1) of the Food, Conservation, and Energy Act of 2008, as applicable, unless the taxpayer made a timely valid election not to deduct the additional first year depreciation (or made a deemed election not to deduct the additional first year depreciation; for further guidance, see Rev. Proc. 2002–33, 2002–1 C.B. 963, Rev. Proc. 2003–50, 2003–2 C.B. 119, or Notice 2006–77) for the class of property (as defined in § 1.168(k)–1(e)(2), § 1.1400L(b)–1(e)(2), or section 4.02 of Notice 2006–77, as applicable) in which that property is included;

(iii) if the property is qualified second generation biofuel plant property (as defined in § 168(l)(2)) or qualified cellulosic biofuel plant property (as defined in former § 168(l)(2)), by also taking into account the additional first year depreciation deduction provided by § 168(l)(1), unless the taxpayer made a timely valid election not to deduct the additional first year depreciation for the property; and

(iv) if the property is qualified reuse and recycling property (as defined in § 168(m)(2)), by also taking into account the additional first year depreciation deduction provided by § 168(m)(1), unless the taxpayer made a timely valid election not to deduct the additional first year depreciation for the property.

(f) *Section 197 property*. The amortization allowable for any taxable year for an amortizable § 197 intangible (including any property for which a timely election under § 13261(g)(2) of the 1993 Act was made) is determined in accordance with § 1.197–2(f).

(g) *Former § 168 property*. The depreciation allowable for any taxable year for property subject to former § 168 is determined by using either:

(i) the accelerated method of cost recovery applicable to the property (for example, for 5-year property, the recovery method under former § 168(b)(1)); or

(ii) the straight-line method applicable to the property if the property is required to be depreciated under the straight-line method (for example, property described in former § 168(f)(2) or former § 280F(b)(2)) or if the taxpayer elected to determine the depreciation allowance under the optional straight-line percentage (for example, the straight-line method in former § 168(b)(3)).

(h) *Qualified revitalization building*. The depreciation allowable for any taxable year for any qualified revitalization building (as defined in § 1400I(b)(1)) for which the taxpayer has made a timely valid election under § 1400I(a) is determined as follows:

(i) if the taxpayer elected to deduct one-half of any qualified revitalization expenditures (as defined in § 1400I(b)(2) and as limited by § 1400I(c)) chargeable to a capital account with respect to the qualified revitalization building for the taxable year in which the building is placed in service by the taxpayer, the depreciation allowable for the qualified revitalization building's placed-in-service year is equal to one-half of the qualified revitalization expenditures for the building and the depreciation allowable for the remaining depreciable basis of the qualified revitalization building for its placed-in-service year and subsequent taxable years is determined using the general depreciation system of § 168(a) or the alternative depreciation system of § 168(g), as applicable; or

(ii) if the taxpayer elected to amortize all of the qualified revitalization expenditures chargeable to a capital account with respect to the qualified revitalization building ratably over the 120-month period beginning with the month in which the building is placed in service, the depreciation allowable for the qualified revitalization expenditures is determined in accordance with this election and the depreciation allowable for the remaining depreciable basis of the qualified revitalization building is determined using the general depreciation system of § 168(a) or the alternative depreciation system of § 168(g), as applicable.

(i) *Qualified New York Liberty Zone leasehold improvement property*. The depreciation allowable for any taxable year for qualified New York Liberty Zone leasehold improvement property (as defined in § 1400L(c)(2)) is determined by using the depreciation method and recovery period prescribed in § 1400L(c) unless the taxpayer made a timely valid election under § 1400L(c)(5) not to use that recovery period.

(8) *Concurrent automatic change*.

(a) A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets and provide a single net § 481(a) adjustment for all the changes included in that Form 3115. If one or more of the changes in that single Form 3115 generate a negative § 481(a) adjustment and other changes in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment and a single positive § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment. For example, a taxpayer files a single Form 3115 to change the depreciation methods, recovery periods, and/or conventions under § 168(a) resulting from the reclassification of two computers from nonresidential real property to 5-year property, one office desk from nonresidential real property to 7-year property, and two office desks from 5-year property to 7-year property. On that Form 3115, the taxpayer must provide either (i) a single net § 481(a) adjustment that covers all the changes resulting from all of these reclassifications, or (ii) a single negative § 481(a) adjustment that covers the changes resulting from the reclassifications of the two computers and one office desk from nonresidential real property to 5-year property and 7-year property, respectively, and a single positive § 481(a) adjustment that covers the changes resulting from the reclassifications of the two office desks from 5-year property to 7-year property.

(b) A taxpayer making both this change and a change to a UNICAP method under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable) for the same year of change should file a single Form 3115 for both changes, in which case the taxpayer must enter the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required by section 6.01(4)(a) of this revenue procedure for this change and the information required by the lines on Form 3115 applicable to the UNICAP method change, including Part II line 12 and 13, Part IV, and Schedule D, and must include a separate response to each line on Form 3115 that is applicable to both changes (such as Part II lines 4b, 5c, 12, and, as applicable for this change, Part IV) for which the taxpayer's response is different for this change and the change to a UNICAP method.

(9) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 6.01 is "7."

(10) *Contact information*. For further information regarding a change under this section, contact Douglas Kim at (202) 317-7005 (not a toll-free number).

.02 *Permissible to permissible method of accounting for depreciation*.

(1) *Description of change*. This change applies to a taxpayer that wants to change from a permissible method of accounting for depreciation under § 56(g)(4)(A)(iv) or § 167 to another permissible method of accounting for depreciation under § 56(g)(4)(A)(iv) or § 167. Pursuant to § 1.167(a)–7(a) and (c), a taxpayer may account for depreciable property either by treating each individual asset as an account or by combining two or more assets in a single account and, for each account, depreciation allowances are computed separately.

(2) *Applicability*.

(a) *In general*. This change applies to any taxpayer wanting to make a change in method of accounting for depreciation specified in section 6.02(4) of this revenue procedure for the property in an account:

(i) for which the present and proposed methods of accounting for depreciation specified in section 6.02(4) of this revenue procedure are permissible methods for the property under § 56(g)(4)(A)(iv) or § 167; and

(ii) that is owned by the taxpayer at the beginning of the year of change.

(b) *Inapplicability*. This change does not apply to:

(i) a taxpayer that is required under § 263A and the regulations thereunder to capitalize the costs with respect to which the taxpayer wants to change its method of accounting under this section 6.02 if the taxpayer is not capitalizing these costs, unless the taxpayer concurrently changes its method to capitalize these costs in conjunction with a change to a UNICAP method under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable);

(ii) any property to which § 1016(a)(3) (regarding property held by a tax-exempt organization) applies;

(iii) any property described in § 167(f) (regarding certain property excluded from § 197);

(iv) any property subject to § 167(g) (regarding property depreciated under the income forecast method);

(v) any property for which depreciation is determined under § 56(a)(1), § 56(g)(4)(A)(i), (ii), (iii), or (v), § 168, § 1400I, § 1400L(c), § 168 prior to its amendment in 1986 (former § 168), or any additional first year depreciation deduction provision of the Code (for example, § 168(k), § 168(l), § 1400L(b), or § 1400N(d));

(vi) any property that the taxpayer elected under § 168(f)(1) or former § 168(e)(2) to exclude from the application of, respectively, § 168 or former § 168;

(vii) any property for which depreciation is determined in accordance with § 1.167(a)–11 (ADR);

(viii) any depreciable property for which the taxpayer is changing the depreciation method pursuant to § 1.167(e)–1(b) (change from declining-balance method to straight-line method), § 1.167(e)–1(c) (certain changes for § 1245 property), or § 1.167(e)–1(d) (certain changes for § 1250 property). These changes must be made prospectively and are not permitted under the cited regulations for property for which the depreciation is determined under § 168, § 1400I, § 1400L(c), former § 168, or any additional first year depreciation deduction provision of the Code (for example, § 168(k), § 168(l), § 1400L(b), or § 1400N(d)); or

(ix) any distributor commissions (as defined by section 2 of Rev. Proc. 2000–38, 2000–2 C.B. 310, as modified by Rev. Proc. 2007–16, 2007–1 C.B. 358) for which the taxpayer is changing the useful life under the distribution fee period method or the useful life method (both described in Rev. Proc. 2000–38). A change in this useful life is corrected by adjustments in the applicable taxable year provided under § 1.446–1(e)(2)(ii)(*d*)(*5*)(*iv*).

(3) *Certain eligibility rule inapplicable*. The eligibility rule in section 5.01(1)(d) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to this change.

(4) *Changes covered*. This section 6.02 only applies to the following changes in methods of accounting for depreciation:

(a) a change from the straight-line method to the sum-of-the-years-digits method, the sinking fund method, the unit-of-production method, or the declining-balance method using any proper percentage of the straight-line rate;

(b) a change from the declining-balance method using any percentage of the straight-line rate to the sum-of-the-years-digits method, the sinking fund method, or the declining-balance method using a different proper percentage of the straight-line rate;

(c) a change from the sum-of-the-years-digits method to the sinking fund method, the declining-balance method using any proper percentage of the straight-line rate, or the straight-line method;

(d) a change from the unit-of-production method to the straight-line method;

(e) a change from the sinking fund method to the straight-line method, the unit-of-production method, the sum-of-the-years-digits method, or the declining-balance method using any proper percentage of the straight-line rate;

(f) a change in the interest factor used in connection with a compound interest method or sinking fund method;

(g) a change in averaging convention as set forth in § 1.167(a)–10(b). However, as specifically provided in § 1.167(a)–10(b), in any taxable year in which an averaging convention substantially distorts the depreciation allowance for the taxable year, it may not be used (*see* Rev. Rul. 73–202, 1973–1 C.B. 81);

(h) a change from charging the depreciation reserve with costs of removal and crediting the depreciation reserve with salvage proceeds to deducting costs of removal as an expense and including salvage proceeds in taxable income as set forth in § 1.167(a)–8(e)(2). *See* Rev. Rul. 74–455, 1974–2 C.B. 63. This section 6.02 applies to this change, however, only if:

(i) the change is applied to all items in the account for which the change is being made; and

(ii) the removal costs are not required to be capitalized under any provision of the Code (for example, § 263(a), 263A, or 280B);

(i) a change from crediting the depreciation reserve with the salvage proceeds realized on normal retirement sales to computing and recognizing gains and losses on the sales (*see* Rev. Rul. 70–165, 1970–1 C.B. 43);

(j) a change from crediting ordinary income (including the combination method of crediting the lesser of estimated salvage value or actual salvage proceeds to the depreciation reserve, with any excess of salvage proceeds over estimated salvage value credited to ordinary income) with the salvage proceeds realized on normal retirement sales, to computing and recognizing gains and losses on the sales (*see* Rev. Rul. 70–166, 1970–1 C.B. 44);

(k) a change from item accounting for specific assets to multiple asset accounting (pooling) for the same assets, or *vice versa*;

(l) a change from one type of multiple asset accounting (pooling) for specific assets to a different type of multiple asset accounting (pooling) for the same assets;

(m) a change from one method described in Rev. Proc. 2000–38 for amortizing distributor commissions (as defined by section 2 of Rev. Proc. 2000–38) to another method described in Rev. Proc. 2000–38 for amortizing distributor commissions; or

(n) a change from pooling to a single asset, or *vice versa*, for distributor commissions (as defined by section 2 of Rev. Proc. 2000–38) for which the taxpayer is using the distribution fee period method or the useful life method (both described in Rev. Proc. 2000–38).

(5) *Additional requirements*. A taxpayer also must comply with the following:

(a) *Basis for depreciation*. At the beginning of the year of change, the basis for depreciation of property to which this change applies is the adjusted basis of the property as provided in § 1011 at the end of the taxable year immediately preceding the year of change (determined under taxpayer's present method of accounting for depreciation). If applicable under the taxpayer's proposed method of accounting for depreciation, this adjusted basis is reduced by the estimated salvage value of the property (for example, a change to the straight-line method).

(b) *Rate of depreciation*. The rate of depreciation for property changed to:

(i) the straight-line or the sum-of-the-years-digits method of depreciation must be based on the remaining useful life of the property as of the beginning of the year of change; or

(ii) the declining-balance method of depreciation must be based on the useful life of the property measured from the placed-in-service date, and not the expected remaining life from the date the change becomes effective.

(c) *Regulatory requirements*. For changes in method of depreciation to the sum-of-the-years-digits or declining-balance method, the property must meet the requirements of § 1.167(b)–0 or 1.167(c)–1, as appropriate.

(d) *Public utility property*. If any item of property is public utility property within the meaning of former § 167(l)(3)(A), the taxpayer (including a qualified small taxpayer as defined in section 6.01(4)(b) of this revenue procedure) must attach to the Form 3115 a statement providing that the taxpayer agrees to the following additional terms and conditions:

(i) a normalization method of accounting within the meaning of former § 167(l)(3)(G) will be used for the public utility property subject to the Form 3115; and

(ii) within 30 calendar days of filing the federal income tax return for the year of change, the taxpayer will provide a copy of the completed Form 3115 to any regulatory body having jurisdiction over the public utility property subject to the Form 3115.

(6) *Reduced filing requirement for qualified small taxpayers*. A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(a) The identification section of page 1 (above Part I);

(b) The signature section at the bottom of page 1;

(c) Part I;

(d) Part II, all lines except lines 11, 13, 14, 15, and 17;

(e) Part IV, line 24; and

(f) Schedule E.

(7) *Section 481(a) adjustment*. Because the adjusted basis of the property is not changed as a result of a method change made under this section 6.02, no items are being duplicated or omitted. Accordingly, a § 481(a) adjustment is neither required nor permitted.

(8) *Concurrent automatic change*.

(a) A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets.

(b) A taxpayer making both this change and a change to a UNICAP method under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable) for the same year of change should file a single Form 3115 for both changes, in which case the taxpayer must enter the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required by section 6.02(6) of this revenue procedure for this change and the information required by the lines on Form 3115 applicable to the UNICAP method change, including Part II line 12 and 13, Part IV, and Schedule D, and must include a separate response to each line on Form 3115 that is applicable to both changes (such as Part II lines 4b, 5c, 12, and, as applicable for this change, Part IV) for which the taxpayer's response is different for this change and the change to a UNICAP method.

(9) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 6.02 is "8."

(10) *Contact information*. For further information regarding a change under this section, contact Douglas Kim at (202) 317-7005 (not a toll-free number).

.03 *Sale, lease, or financing transactions*.

(1) *Description of change and scope*.

(a) *Applicability*. This change applies to a taxpayer that wants to change its method of accounting from:

(i) improperly treating property as sold by the taxpayer to properly treating property as leased or financed by the taxpayer;

(ii) improperly treating property as leased by the taxpayer to properly treating property as sold or financed by the taxpayer;

(iii) improperly treating property as financed by the taxpayer to properly treating property as sold or leased by the taxpayer;

(iv) improperly treating property as purchased by the taxpayer to properly treating property as leased by the taxpayer; and

(v) improperly treating property as leased by the taxpayer to properly treating property as purchased by the taxpayer.

(b) *Inapplicability*. This change does not apply to:

(i) a rent-to-own dealer that wants to change its method of accounting for rent-to-own contracts described in section 3 of Rev. Proc. 95–38, 1995–2 C.B. 397; or

(ii) a taxpayer that holds assets for sale or lease, if any asset so held is not the subject of a sale or lease transaction as of the beginning of the year of change.

(2) *Manner of making change*.

(a) The change in method of accounting under this section 6.03 is made using a cut-off method and applies to transactions entered into on or after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither required nor permitted.

(b) If a taxpayer wants to change its method of accounting for sale, lease or financing transactions entered into before the beginning of the year of change, the taxpayer must file a Form 3115 under the non-automatic change procedures of Rev. Proc. 2015–13, 2015–5 I.R.B. 419. A change involving sale, lease, or financing transactions entered into before the beginning of the year of change will require a § 481(a) adjustment. The IRS will generally not consider a taxpayer's request to change a method of accounting for a sale, lease, or financing transaction entered into before the beginning of the year of change unless the taxpayer's proposed method of accounting is consistent with the method used by the counterparty to the agreement. The following information should be submitted with Form 3115 to substantiate that the taxpayer's proposed method is consistent with the counterparty's method: (i) the name of the counterparty to the transaction; and (ii) a representation, signed under penalties of perjury, from the counterparty that provides the method of accounting for the agreement used by the counterparty for federal income tax purposes. If a taxpayer does not submit the counterparty information, the taxpayer's request to change a method of accounting for a sale, lease, or financing transaction entered into before the beginning of the year of change will be considered only in unusual and compelling circumstances. The requirement to obtain counterparty information from multiple counterparties will not be considered unusual or compelling.

(3) *No audit protection*. A taxpayer does not receive audit protection under section 8.01 of Rev. Proc. 2015–13 in connection with this change. *See* section 8.02(2) of Rev. Proc. 2015–13.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 6.03 is "10."

(5) *Contact information*. For further information regarding a change under this section, contact Edward Schwartz at (202) 317-7006 (not a toll-free number).

.04 *Reserved*.

.05 *Reserved*.

.06 *Reserved*.

.07 *Reserved*.

.08 *Depreciation of cable TV fiber optics*.

(1) *Description of change*. This change applies to a taxpayer that wants to change the method of accounting for depreciation of fiber optic node and trunk line consisting of fiber optic cable used in a cable television distribution system owned by the taxpayer at the beginning of the year of change to the safe harbor method of accounting provided by section 4 of Rev. Proc. 2003–63, 2003–2 C.B. 304. The taxpayer must operate a cable television distribution system designed to provide one-way and two-way communication services to subscribers (as described in section 3.02 of Rev. Proc. 2003–63). The safe harbor method of accounting provided by section 4 of Rev. Proc. 2003–63 determines the unit of property for calculating depreciation under §§ 167 and 168, and the primary use and placed-in-service date of that unit of property. This change applies only to taxable years ending on or before December 31, 2013. For taxable years ending after December 31, 2013, see section 6.42 of this revenue procedure for making a change to the safe harbor method of accounting provided in section 8.03 of Rev. Proc. 2015–12, 2015–2 I.R.B. 266, for depreciation of fiber optic transfer node and trunk line consisting of fiber optic cable used in a cable distribution network. The safe harbor method of accounting provided in section 8.03 of Rev. Proc. 2015–12 determines the asset for purposes of §§ 167 and 168. See section 9 of Rev. Proc. 2015–12 for the safe harbor manner of determining the primary use of that asset for taxable years ending after December 31, 2013.

(2) *Reduced filing requirement for qualified small taxpayers*. A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(a) The identification section of page 1 (above Part I);

(b) The signature section at the bottom of page 1;

(c) Part I;

(d) Part II, all lines except lines 11, 13, 14, 15, and 17;

(e) Part IV, all lines except line 24; and

(f) Schedule E.

(3) *Concurrent automatic change*. A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets and provide a single net § 481(a) adjustment for all the changes included in that Form 3115. If one or more of the changes in that single Form 3115 generate a negative § 481(a) adjustment and other changes in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment and a single positive § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 6.08 is "15."

(5) *Contact information*. For further information regarding a change under this section, contact Charles Magee at (202) 317-7005 (not a toll-free number).

.09 *Change in general asset account treatment due to a change in the use of MACRS property*.

(1) *Description of change*. This change applies to a taxpayer that wants to change the method of accounting for general asset account treatment of MACRS property (as defined in § 1.168(b)–1(a)(2)) to the method of accounting provided in § 1.168(i)–1(c)(2)(ii)(I) or § 1.168(i)–1(h)(2), which applies when there is a change in the use of MACRS property pursuant to § 1.168(i)–4(d).

(2) *Manner of making change*.

(a) The change is made on a modified cut-off basis (as defined in § 1.446–1(e)(2)(ii)(*d*)(*5*)(*iii*)) and, thus, the adjusted depreciable basis of the MACRS property as of the beginning of the year of change is recovered using the proposed method of accounting for general asset account treatment. Accordingly, a § 481(a) adjustment is neither permitted nor required. See § 1.168(i)–1(h)(2)(ii) and (iii) for more information regarding how to establish the general asset account when a change in the use of MACRS property occurs pursuant to § 1.168(i)–4(d).

(b) *Reduced filing requirement for qualified small taxpayers*. A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I;

(iv) Part II, all lines except lines 11, 13, 14, 15, and 17;

(v) Part IV, line 24; and

(vi) Schedule E.

(3) *Concurrent automatic change*. A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 6.09 is "87."

(5) *Contact information*. For further information regarding a change under this section, contact Charles Magee at (202) 317-7005 (not a toll-free number).

.10 *Change in method of accounting for depreciation due to a change in the use of MACRS property*.

(1) *Description of change*. This change applies to a taxpayer that wants to (a) change the method of accounting for depreciation of MACRS property (as de-

fined in § 1.168(b)–1(a)(2)) to the method of accounting for depreciation provided in § 1.168(i)–4, which applies when there is a change in the use of MACRS property, or (b) revoke the election provided in § 1.168(i)–4(d)(3)(ii) to disregard a change in the use of MACRS property. *See* § 1.168(i)–4(g)(2).

(2) *Reduced filing requirement for qualified small taxpayers*. A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(a) The identification section of page 1 (above Part I);

(b) The signature section at the bottom of page 1;

(c) Part I;

(d) Part II, all lines except lines 11, 13, 14, 15, and 17;

(e) Part IV, all lines except line 24; and

(f) Schedule E.

(3) *Concurrent automatic change*. A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets and provide a single net § 481(a) adjustment for all the changes included in that Form 3115. If one or more of the changes in that single Form 3115 generate a negative § 481(a) adjustment and other changes in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment and a single positive § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 6.10 is "88."

(5) *Contact information*. For further information regarding a change under this section, contact Charles Magee at (202) 317-7005 (not a toll-free number).

.11 *Depreciation of qualified nonpersonal use vans and light trucks*.

(1) *Description of change*. This change applies to a taxpayer that wants to change the method of accounting for depreciation for certain vehicles in accordance with § 1.280F–6(f)(2)(iv). Section 1.280F–6(f)(2)(iv) applies to a truck or van that is a qualified nonpersonal use vehicle as defined under § 1.274–5T(k), was placed in service by the taxpayer before July 7, 2003, and was treated by the taxpayer as a passenger automobile under § 1.280F–6T as in effect prior to July 7, 2003. If the taxpayer files Form 3115, in accordance with § 1.280F–6(f)(2)(iv), the treatment of the truck or van will be changed from property to which § 280F(a) applies to property to which § 280F(a) does not apply.

(2) *Reduced filing requirement for qualified small taxpayers*. A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(a) The identification section of page 1 (above Part I);

(b) The signature section at the bottom of page 1;

(c) Part I;

(d) Part II, all lines except lines 11, 13, 14, 15, and 17;

(e) Part IV, all lines except line 24; and

(f) Schedule E.

(3) *Concurrent automatic change*. A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets and provide a single net § 481(a) adjustment for all the changes included in that Form 3115. If one or more of the changes in that single Form 3115 generate a negative § 481(a) adjustment and other changes in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment and a single positive § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 6.11 is "89."

(5) *Contact information*. For further information regarding a change under this section, contact Bernard Harvey at (202) 317-7005 (not a toll-free number).

.12 *Reserved*.

.13 *Reserved*.

.14 *Reserved*.

.15 *Reserved*.

.16 *Reserved*.

.17 *Impermissible to permissible method of accounting for depreciation or amortization for disposed depreciable or amortizable property*.

(1) *Description of change*. This change applies to a taxpayer that wants to make the change in method of accounting for depreciation or amortization (depreciation) provided under section 3 of Rev. Proc. 2007–16, 2007–1 C.B. 358, for an item of depreciable or amortizable property that has been disposed of by the taxpayer. Section 3 of Rev. Proc. 2007–16 allows a taxpayer to make a change in method of accounting for depreciation for the disposed property if the taxpayer used an impermissible method of accounting for depreciation for the property under which the taxpayer did not take into account any depreciation allowance, or did take into account some depreciation but less than the depreciation allowable, in the year of change (as defined in section 6.17(4) of this revenue procedure) or any prior taxable year.

(2) *Applicability*.

(a) *In general*. Except as provided in section 6.17(2)(b) of this revenue procedure, this section 6.17 applies to a taxpayer that is changing from an impermissible method of accounting for depreciation to a permissible method of accounting for depreciation for any item of depreciable or amortizable property subject to §§ 167, 168, 197, 1400I, or 1400L(c), to former § 168, or to any additional first year depreciation deduction provision of the Code (for example, § 168(k), § 168(l), § 1400L(b), or § 1400N(d)):

(i) that has been disposed of by the taxpayer during the year of change (as defined in section 6.17(4) of this revenue procedure); and

(ii) for which the taxpayer did not take into account any depreciation allowance, or did take into account some depreciation but less than the depreciation allowable (hereinafter, both are referred to as "claimed less than the depreciation allowable"), in the year of change (as defined in section 6.17(4) of this revenue procedure) or any prior taxable year.

(b) *Inapplicability*. This section 6.17 does not apply to:

(i) any property to which § 1016(a)(3) (regarding property held by a tax-exempt organization) applies;

(ii) any property for which a taxpayer is revoking a timely valid depreciation election, or making a late depreciation election, under the Code or regulations thereunder, or under other guidance published in the Internal Revenue Bulletin (including under § 13261(g)(2) or (3) of the Revenue Reconciliation Act of 1993 (1993 Act), 1993–3 C.B. 1, 128 (relating to amortizable § 197 intangibles));

(iii) any property for which the taxpayer deducted the cost or other basis of the property as an expense; or

(iv) any property disposed of by the taxpayer in a transaction to which a nonrecognition section of the Code applies (for example, § 1031, transactions subject to § 168(i)(7)(B)). However, this section 6.17(2)(b)(iv) does not apply to property disposed of by the taxpayer in a § 1031 or § 1033 transaction if the taxpayer elects under § 1.168(i)–6(i) and (j) to treat the entire basis (that is, both the exchanged and excess basis (as defined in § 1.168(i)–6(b)(7) and (8), respectively) of the replacement MACRS property (as defined in § 1.168(i)–6(b)(1)) as property placed in service by the taxpayer at the time of replacement and treat the adjusted depreciable basis of the relinquished MACRS property (as defined in § 1.168(i)–6(b)(2)) as being disposed of by the taxpayer at the time of disposition.

(3) *Manner of making the change*.

(a) *Change made on an original return for the year of change*. This change may be made on a taxpayer's timely filed (including any extension) original federal tax return for the year of change (as defined in section 6.17(4) of this revenue procedure), provided the taxpayer files the original Form 3115 in accordance with section 6.03(1)(a) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419.

(b) *Change made on an amended return for the year of change*. This change may also be made on an amended federal tax return for the year of change (as defined in section 6.17(4) of this revenue procedure), provided:

(i) the taxpayer files the original Form 3115 with the taxpayer's amended federal tax return for the year of change (as defined in section 6.17(4) of this revenue procedure) prior to the expiration of the period of limitation for assessment under § 6501(a) for the taxable year in which the item of depreciable or amortizable property was disposed of by the taxpayer; and

(ii) the taxpayer's amended federal tax return for the year of change (as defined in section 6.17(4) of this revenue procedure) includes the adjustments to taxable income and any collateral adjustments to taxable income or tax liability (for example, adjustments to the amount or character of the gain or loss of the disposed depreciable or amortizable property) resulting from the change in method of accounting for depreciation made by the taxpayer under this section 6.17.

(4) *Year of change*. The year of change for this change is the taxable year in which the item of depreciable or amortizable property was disposed of by the taxpayer.

(5) *Certain eligibility rules inapplicable*. The eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13 do not apply to this change.

(6) *Filing requirements*.

(a) Notwithstanding section 6.03(1)(a) of Rev. Proc. 2015–13, a taxpayer making this change in accordance with section 6.17(3)(b) of this revenue procedure must attach the original Form 3115 to the taxpayer's timely filed amended federal tax return for the year of change and must file the required copy (with signature) of the Form 3115 with the IRS in Ogden, UT, no later than when the original Form 3115 is filed with the amended federal tax return for the year of change. If a taxpayer is making this change in accordance with section 6.17(3)(a) of this revenue procedure, the filing requirements in section 6.03(1)(a) of Rev. Proc. 2015–13 apply.

(b) *Reduced filing requirement for qualified small taxpayers*. A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I;

(iv) Part II, all lines except lines 11, 13, 14, 15, and 17;

(v) Part IV, all lines except line 24; and

(vi) Schedule E.

(7) *Section 481(a) adjustment period*. A taxpayer must take the entire § 481(a) adjustment into account in computing taxable income for the year of change.

(8) *Concurrent automatic change*. A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets.

(9) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 6.17 is "107."

(10) *Contact information*. For further information regarding a change under this section, contact Douglas Kim at (202) 317-7005 (not a toll-free number).

.18 *Reserved*.

.19 *Reserved*.

.20 *Reserved*.

.21 *Reserved*.

.22 *Reserved*.

.23 *Tenant construction allowances*.

(1) *Description of change and scope*.

(a) *Applicability*. This change applies to a taxpayer that wants to change its method of accounting for tenant construction allowances:

(i) from improperly treating the taxpayer as having a depreciable interest in the property subject to the tenant construction allowances for federal income tax purposes to properly treating the taxpayer as not having a depreciable interest in such property for federal income tax purposes; or

(ii) from improperly treating the taxpayer as not having a depreciable interest in the property subject to the tenant construction allowances for federal income tax purposes to properly treating the taxpayer as having a depreciable interest in such property for federal income tax purposes.

(b) *Inapplicability*. This change does not apply to:

(i) any tenant construction allowance that qualifies under § 110;

(ii) any portion of a tenant construction allowance that is not expended on depreciable property; or

(iii) any amount expended for depreciable property in excess of the tenant construction allowance.

(2) *Definition*. For purposes of this section 6.23, the term "tenant construction allowance(s)" means any amount received by a lessee from a lessor to construct, acquire, or improve property for use by the lessee pursuant to a lease.

(3) *Manner of making the change*.

(a) The change in method of accounting under this section 6.23 is made using a cut-off method and only applies to leases entered into on or after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither required nor permitted.

(b) If a taxpayer wants to change its method of accounting for tenant construction allowances under existing leases, the taxpayer must file a Form 3115 with the Commissioner in accordance with the non-automatic change procedures of Rev. Proc. 2015–13, 2015–5 I.R.B. 419. A change involving tenant construction allowances under existing leases will require a § 481(a) adjustment. The Commissioner may grant consent to change a method of accounting for tenant construction allowances under existing leases only if the taxpayer's treatment of the property subject to the tenant construction allowances is consistent with the treatment of such property by the counterparty for federal income tax purposes. The taxpayer must submit the following information with a Form 3115 submitted under the non-automatic change procedures of Rev. Proc. 2015–13 and this section 6.23.

(i) If a lessee is filing the Form 3115, the lessee must submit with the Form 3115: (A) a statement that provides the amount of the tenant construction allowance received by the lessee, the amount of such tenant construction allowance expended by the lessee on property, and the name of the lessor that provided the tenant construction allowance; and (B) a representation, signed under penalties of perjury, from such lessor that provides the amount of the tenant construction allowance provided to the lessee and an explanation as to how the lessor is treating the property subject to such tenant construction allowance for federal income tax purposes. If the lessor capitalized the tenant construction allowance (or any portion thereof) provided to the lessee and depreciated the property subject to such tenant construction allowance, the representation must also include the amount that was capitalized by the lessor, the Internal Revenue Code section under which the property is depreciated by the lessor, and the life over which the property is depreciated by the lessor.

(ii) If a lessor is filing the Form 3115, the lessor must submit with the Form 3115: (A) a statement that provides the amount of the tenant construction allowance provided to a lessee and the name of the lessee that received such tenant construction allowance; and (B) a representation, signed under penalties of perjury, from such lessee that provides the amount of the tenant construction allowance received from the lessor, the amount of such tenant construction allowance recognized as gross income by the lessee, the amount of the tenant construction allowance expended by the lessee on property, and an explanation as to how the lessee is treating the property subject to the tenant construction allowance for federal income tax purposes. If the lessee capitalized the tenant construction allowance (or any portion thereof) received from the lessor and depreciated the property subject to such tenant construction allowance, the representation must also include the amount that was capitalized by the lessee, the Internal Revenue Code section under which the property is depreciated by the lessee, and the life over which the property is depreciated by the lessee.

(4) *Reduced filing requirement for qualified small taxpayers*. A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(a) The identification section of page 1 (above Part I);

(b) The signature section at the bottom of page 1;

(c) Part I;

(d) Part II, all lines except lines 11, 13, 14, 15, and 17;

(e) Part IV, line 24; and

(f) Schedule E.

(5) *No audit protection*. A taxpayer does not receive audit protection under section 8.01 of Rev. Proc. 2015–13 in connection with this change. *See* section 8.02(2) of Rev. Proc. 2015–13.

(6) *Concurrent automatic change*. A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets.

(7) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 6.23 is "145."

(8) *Contact information*. For further information regarding a change under this section, contact Charles Magee at (202) 317-7005 (not a toll-free number).

.24 *Reserved*.

.25 *Reserved*.

.26 *Safe harbor method of accounting for determining the depreciation of certain tangible assets used by wireless telecommunications carriers under Rev. Proc. 2011–22*.

(1) *Description of change*. This change applies to a taxpayer that is within the scope of Rev. Proc. 2011–22, 2011–18 I.R.B. 737, and wants to change to the recovery periods described in section 5 of Rev. Proc. 2011–22 and any collateral change to the depreciation methods for all, or some of, the assets listed in that section.

(2) *Reduced filing requirement for qualified small taxpayers*. A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(a) The identification section of page 1 (above Part I);

(b) The signature section at the bottom of page 1;

(c) Part I;

(d) Part II, all lines except lines 11, 13, 14, 15, and 17;

(e) Part IV, all lines except line 24; and

(f) Schedule E.

(3) *Concurrent automatic change*. A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets and provide a single net § 481(a) adjustment for all the changes included in that Form 3115. If one or more of the

changes in that single Form 3115 generate a negative § 481(a) adjustment and other changes in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment and a single positive § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 6.26 is "157."

(5) *Contact information*. For further information regarding a change under this section, contact Charles Magee at (202) 317-7005 (not a toll-free number).

.27 *Depreciation of leasehold improvements (§§ 167, 168, and 197; § 1.167(a)–4T*).

(1) *Description of change*.

(a) *Applicability*. This change, as described in Rev. Proc. 2014–17, 2014–12 I.R.B. 661, applies to a taxpayer that wants to change its method of accounting to comply with § 1.167(a)–4T for leasehold improvements in which the taxpayer has a depreciable interest at the beginning of the year of change:

(i) from improperly depreciating the leasehold improvements to which § 168 applies over the term of the lease (including renewals, if applicable) to properly depreciating these improvements under § 168;

(ii) from improperly amortizing leasehold improvements to which § 197 applies over the term of the lease (including renewals, if applicable) to properly amortizing these improvements under § 197; or

(iii) from improperly amortizing leasehold improvements to which § 167(f)(1) applies over the term of the lease (including renewals, if applicable) to properly amortizing these improvements under § 167(f)(1).

(b) *Inapplicability*. This change does not apply to a taxpayer that wants to make this change for any taxable year beginning before January 1, 2012, or beginning on or after January 1, 2014.

(2) *Certain eligibility rules temporarily inapplicable*. The eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, do not apply to a taxpayer that makes this change for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014.

(3) *Manner of making change*.

(a) A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I, line 1(a);

(iv) Part II, all lines except lines 11, 14, 15, and 17;

(v) Part IV, lines 25 and 26; and

(vi) Schedule E.

(b) If any leasehold improvement is public utility property within the meaning of § 168(i)(10) or former § 167(l)(3)(A), a taxpayer (including a qualified small taxpayer) making this change must attach to its Form 3115 a statement providing that the taxpayer agrees to the following additional terms and conditions:

(i) A normalization method of accounting (within the meaning of § 168(i)(9) or former § 167(l)(3)(G)) will be used for the public utility property subject to the change;

(ii) As of the beginning of the year of change, the taxpayer will adjust its deferred tax reserve account or similar account in the taxpayer's regulatory books of account by the amount of the deferral of federal income tax liability associated with the § 481(a) adjustment applicable to the public utility property subject to the change; and

(iii) Within 30 calendar days of filing the federal income tax return for the year of change, the taxpayer will provide a copy of the completed Form 3115 to any regulatory body having jurisdiction over the public utility property subject to the change.

(4) *Concurrent automatic change*.

(a) A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets and provide a single net § 481(a) adjustment for all the changes included in that Form 3115. If one or more of the changes in that single Form 3115 generate a negative § 481(a) adjustment and other changes in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment and a single positive § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment.

(b) A taxpayer making both this change and a change to a UNICAP method under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable) for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required by section 6.27(3)(a) of this revenue procedure for this change and the information required by the lines on Form 3115 applicable to the UNICAP method change, including Part II line 12 and 13, Part IV, and Schedule D, and must include a separate response to each line on Form 3115 that is applicable to both changes (such as Part II lines 4b, 5c, 12, and, as applicable for this change, Part IV) for which the taxpayer's response is different for this change and the change to a UNICAP method.

(5) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change to a method of accounting under this section 6.27 is "175."

(6) *Contact information*. For further information regarding a change under this section, contact Patrick Clinton at (202) 317-7005 (not a toll-free number).

.28 *Permissible to permissible method of accounting for depreciation of MACRS property (§ 168; §§1.168(i)–1T, 1.168(i)–7T, and 1.168(i)–8T, Prop. Reg. §§1.168(i)–1, 1.168(i)–7, and 1.168(i)–8)*.

(1) *Description of change*.

(a) *Applicability*. This change, as described in Rev. Proc. 2014–17, 2014–12 I.R.B. 661, applies to a taxpayer that wants to make a change in method of accounting for depreciation that is specified in section 6.28(3) of this revenue procedure for an asset:

(i) to which § 168 applies (MACRS property);

(ii) for which the present and proposed methods of accounting are permissible methods of accounting under § 1.168(i)–1T, § 1.168(i)–7T, § 1.168(i)–8T, Prop. Reg. § 1.168(i)–1, Prop. Reg. § 1.168(i)–7, or Prop. Reg. § 1.168(i)–8, as applicable; and

(iii) that is owned by the taxpayer at the beginning of the year of change.

(b) *Inapplicability*. This change does not apply to the following:

(i) A taxpayer that wants to make this change for any taxable year beginning before January 1, 2012, or beginning on or after January 1, 2014; or

(ii) Any property that is not depreciated under § 168 under the taxpayer's present and proposed methods of accounting.

(2) *Certain eligibility rules temporarily inapplicable*. The eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, do not apply to a taxpayer that makes this change for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014.

(3) *Changes covered*. This section 6.28 only applies to the following changes in methods of accounting for depreciation of MACRS property:

(a) For the items of MACRS property not subject to a general asset account election under § 168(i)(4) and the regulations thereunder—

(i) a change from single asset accounts (or item accounts) for specific items of MACRS property to multiple asset accounts (or pools) for the same assets, or *vice versa*, in accordance with § 1.168(i)–7T or Prop. Reg. § 1.168(i)–7;

(ii) a change from grouping specific items of MACRS property in multiple asset accounts to a different grouping of the same assets in multiple asset accounts in accordance with § 1.168(i)–7T(c);

(iii) for the items of MACRS property accounted for in multiple asset accounts, a change in the method of identifying which assets have been disposed of by the taxpayer from the specific identification method under § 1.168(i)–8T(f)(1) or Prop. Reg. § 1.168(i)–8(g)(1), as applicable, to the first-in, first-out (FIFO) method of accounting under § 1.168(i)–8T(f)(2)(i) or Prop. Reg. § 1.168(i)–8(g)(2)(i), as applicable, or the modified FIFO method of accounting under § 1.168(i)–8T(f)(2)(ii) or Prop. Reg. § 1.168(i)–8(g)(2)(ii), as applicable;

(iv) for the items of MACRS property accounted for in multiple asset accounts, a change in the method of identifying which assets have been disposed of by the taxpayer from the FIFO method of accounting under § 1.168(i)–8T(f)(2)(i) or Prop. Reg. § 1.168(i)–8(g)(2)(i), as applicable, or the modified FIFO method of accounting under § 1.168(i)–8T(f)(2)(ii) or Prop. Reg. § 1.168(i)–8(g)(2)(ii), as applicable, to the specific identification method under § 1.168(i)–8T(f)(1) or Prop. Reg. § 1.168(i)–8(g)(1), as applicable;

(v) for the items of MACRS property accounted for in multiple asset accounts, a change in the method of identifying which assets have been disposed of by the taxpayer from the FIFO method of accounting under § 1.168(i)–8T(f)(2)(i) or Prop. Reg. § 1.168(i)–8(g)(2)(i), as applicable, to the modified FIFO method of accounting under § 1.168(i)–8T(f)(2)(ii) or Prop. Reg. § 1.168(i)–8(g)(2)(ii), as applicable, or *vice versa*;

(vi) for the items of MACRS property that are mass assets (as defined in § 1.168(i)–8T(b)(2) or Prop. Reg. § 1.168(i)–8(b)(3), as applicable) accounted for in multiple asset accounts, a change in the method of identifying which assets have been disposed of by the taxpayer from the specific identification method under § 1.168(i)–8T(f)(1) or Prop. Reg. § 1.168(i)–8(g)(1), as applicable, to a mortality dispersion table in accordance with § 1.168(i)–8T(f)(2)(iii) or Prop. Reg. § 1.168(i)–8(g)(2)(iii), as applicable;

(vii) for the items of MACRS property that are mass assets (as defined in § 1.168(i)–8T(b)(2) or Prop. Reg. § 1.168(i)–8(b)(3), as applicable) accounted for in multiple asset accounts, a change in the method of identifying which assets have been disposed of by the taxpayer from the FIFO method of accounting under § 1.168(i)–8T(f)(2)(i) or Prop. Reg. § 1.168(i)–8(g)(2)(i), as applicable, or the modified FIFO method of accounting under § 1.168(i)–8T(f)(2)(ii) or Prop. Reg. § 1.168(i)–8(g)(2)(ii), as applicable, to a mortality dispersion table in accordance with § 1.168(i)–8T(f)(2)(iii) or Prop. Reg. § 1.168(i)–8(g)(2)(iii), as applicable;

(viii) for the items of MACRS property that are mass assets (as defined in § 1.168(i)–8T(b)(2) or Prop. Reg. § 1.168(i)–8(b)(3), as applicable) accounted for in multiple asset accounts, a change in the method of identifying which assets have been disposed of by the taxpayer from a mortality dispersion table in accordance with § 1.168(i)–8T(f)(2)(iii) or Prop. Reg. § 1.168(i)–8(g)(2)(iii), as applicable, to the specific identification method under § 1.168(i)–8T(f)(1) or Prop. Reg. § 1.168(i)–8(g)(1), as applicable, the FIFO method of accounting under § 1.168(i)–8T(f)(2)(i) or Prop. Reg. § 1.168(i)–8(g)(2)(i), as applicable, or the modified FIFO method of accounting under § 1.168(i)–8T(f)(2)(ii) or Prop. Reg. § 1.168(i)–8(g)(2)(ii), as applicable;

(ix) if § 1.168(i)–8T(e)(2) or Prop. Reg. § 1.168(i)–8(f)(2), as applicable, applies to a disposition of an item of MACRS property in a multiple asset account, a change in the method of determining the unadjusted depreciable basis of all assets in the multiple asset account from one reasonable method to another reasonable method for purposes of determining the unadjusted depreciable basis of the disposed asset; or

(x) if Prop. Reg. § 1.168(i)–8(f)(3) applies to a disposition of more than one portion of the same asset, a change in the method of determining the unadjusted depreciable basis of all portions of the asset from one reasonable method to another reasonable method for purposes of determining the unadjusted depreciable basis of each disposed portion of the asset; and

(b) For the items of MACRS property subject to a general asset account election under § 168(i)(4) and the regulations thereunder—

(i) a change from grouping specific items of MACRS property in general asset accounts to a different grouping of the same assets in general asset accounts in accordance with § 1.168(i)–1T(c) or Prop. Reg. § 1.168(i)–1(c), as applicable;

(ii) a change in the method of identifying which assets have been disposed of by the taxpayer from the specific identification method under § 1.168(i)–1T(j)(2)(i) or

Prop. Reg. § 1.168(i)–1(j)(2)(i)(A), as applicable, to the FIFO method of accounting under § 1.168(i)–1T(j)(2)(ii) or Prop. Reg. § 1.168(i)–1(j)(2)(i)(B), as applicable, or the modified FIFO method of accounting under § 1.168(i)–1T(j)(2)(iii) or Prop. Reg. § 1.168(i)–1(j)(2)(i)(C), as applicable;

(iii) a change in the method of identifying which assets have been disposed of by the taxpayer from the FIFO method of accounting under § 1.168(i)–1T(j)(2)(ii) or Prop. Reg. § 1.168(i)–1(j)(2)(i)(B), as applicable, or the modified FIFO method of accounting under § 1.168(i)–1T(j)(2)(iii) or Prop. Reg. § 1.168(i)–1(j)(2)(i)(C), as applicable, to the specific identification method under § 1.168(i)–1T(j)(2)(i) or Prop. Reg. § 1.168(i)–1(j)(2)(i)(A), as applicable;

(iv) a change in the method of identifying which assets have been disposed of by the taxpayer from the FIFO method of accounting under § 1.168(i)–1T(j)(2)(ii) or Prop. Reg. § 1.168(i)–1(j)(2)(i)(B), as applicable, to the modified FIFO method of accounting under § 1.168(i)–1T(j)(2)(iii), or Prop. Reg. § 1.168(i)–1(j)(2)(i)(C), as applicable, or *vice versa*;

(v) for the items of MACRS property that are mass assets (as defined in § 1.168(i)–1T(b)(5) or Prop. Reg. § 1.168(i)–1(b)(6), as applicable) accounted for in a separate general asset account in accordance with § 1.168–1T(c)(2)(ii)(H) or Prop. Reg. § 1.168(i)–1(c)(2)(ii)(H), as applicable, a change in the method of identifying which assets have been disposed of by the taxpayer from the specific identification method under § 1.168(i)–1T(j)(2)(i) or Prop. Reg. § 1.168(i)–1(j)(2)(i)(A), as applicable, to a mortality dispersion table in accordance with § 1.168(i)–1T(j)(2)(iv) or Prop. Reg. § 1.168(i)–1(j)(2)(i)(D), as applicable;

(vi) for the items of MACRS property that are mass assets (as defined in § 1.168(i)–1T(b)(5) or Prop. Reg. § 1.168(i)–1(b)(6), as applicable) accounted for in a separate general asset account in accordance with § 1.168–1T(c)(2)(ii)(H) or Prop. Reg. § 1.168(i)–1(c)(2)(ii)(H), as applicable, a change in the method of identifying which assets have been disposed of by the taxpayer from the FIFO method of accounting under § 1.168(i)–1T(j)(2)(ii) or Prop. Reg. § 1.168(i)–1(j)(2)(i)(B), as applicable, or the modified FIFO method of accounting under § 1.168(i)–1T(j)(2)(iii) or Prop. Reg. § 1.168(i)–1(j)(2)(i)(C), as applicable, to a mortality dispersion table in accordance with § 1.168(i)–1T(j)(2)(iv) or Prop. Reg. § 1.168(i)–1(j)(2)(i)(D), as applicable;

(vii) for the items of MACRS property that are mass assets (as defined in § 1.168(i)–1T(b)(5) or Prop. Reg. § 1.168(i)–1(b)(6), as applicable) accounted for in a separate general asset account in accordance with § 1.168–1T(c)(2)(ii)(H) or Prop. Reg. § 1.168(i)–1(c)(2)(ii)(H), as applicable, a change in the method of identifying which assets have been disposed of by the taxpayer from a mortality dispersion table in accordance with § 1.168(i)–1T(j)(2)(iv) or Prop. Reg. § 1.168(i)–1(j)(2)(i)(D), as applicable, to the specific identification method under § 1.168(i)–1T(j)(2)(i) or Prop. Reg. § 1.168(i)–1(j)(2)(i)(A), as applicable, the FIFO method of accounting under § 1.168(i)–1T(j)(2)(ii) or Prop. Reg. § 1.168(i)–1(j)(2)(i)(B), as applicable, or the modified FIFO method of accounting under § 1.168(i)–1T(j)(2)(iii) or Prop. Reg. § 1.168(i)–1(j)(2)(i)(C), as applicable; or

(viii) for purposes of determining the unadjusted depreciable basis of a disposed asset or a disposed portion of an asset in a general asset account, a change in the method of determining the unadjusted depreciable basis of all assets in the general asset account from one reasonable method to another reasonable method, in accordance with § 1.168(i)–1T(j)(3) or Prop. Reg. § 1.168(i)–1(j)(3), as applicable.

(4) *Manner of making change*.

(a) The changes in methods of accounting specified in section 6.28(3)(a)(i) and (ii) and section 6.28(3)(b)(i) of this revenue procedure are made using a modified cut-off method under which the unadjusted depreciable basis and the depreciation reserve of the asset as of the beginning of the year of change are accounted for using the proposed method of accounting.

(i) If the change specified in section 6.28(3)(a)(i) of this revenue procedure is a change to a single asset account, the new single asset account must include a beginning balance for both the unadjusted depreciable basis and the depreciation reserve of the asset included in that single asset account.

(ii) If the change specified in section 6.28(3)(a)(i) or (ii) of this revenue procedure is a change to a multiple asset account (either a new one or a different grouping), the multiple asset account must include a beginning balance for both the unadjusted depreciable basis and the depreciation reserve. The beginning balance for the unadjusted depreciable basis of each multiple asset account is equal to the sum of the unadjusted depreciable bases as of the beginning of the year of change for all assets included in that multiple asset account. The beginning balance of the depreciation reserve of each multiple asset account is equal to the sum of the greater of the depreciation allowed or allowable as of the beginning of the year of change for all assets included in that multiple asset account.

(iii) The change specified in section 6.28(3)(b)(i) of this revenue procedure requires the general asset account to include a beginning balance for both the unadjusted depreciable basis and the depreciation reserve. The beginning balance for the unadjusted depreciable basis of each general asset account is equal to the sum of the unadjusted depreciable bases as of the beginning of the year of change for all assets included in that general asset account. The beginning balance of the depreciation reserve of each general asset account is equal to the sum of the greater of the depreciation allowed or allowable as of the beginning of the year of change for all assets included in that general asset account.

(b) The changes in methods of accounting specified in section 6.28(3)(a)(iii), (vi), (ix), and (x) and section 6.28(3)(b)(ii), (v), and (viii) of this revenue procedure are made using a cut-off method and apply to dispositions occurring on or after the beginning of the year of change.

(c) Even though the changes in methods of accounting specified in section 6.28(3)(a)(iv), (v), (vii), and (viii) and section 6.28(3)(b)(iii), (iv), (vi), and (vii) of this revenue procedure are changes from one permissible method of accounting to another permissible method of accounting, these changes are made with a § 481(a) adjustment. For the changes in methods of accounting specified in section

6.28(3)(b)(iii), (iv), (vi), and (vii) of this revenue procedure, the § 481(a) adjustment should be zero unless § 1.168(i)–1T(e)(3) or Prop. Reg. § 1.168(i)–1(e)(3), as applicable, applies to the asset subject to the change.

(d) A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I, line 1(a);

(iv) Part II, all lines except lines 11, 13, 14, 15, and 17;

(v) Part IV, lines 24, 25, and 26; and

(vi) Schedule E, lines 3, 4a, 4b, and 4c.

(e) If any asset subject to this change is public utility property within the meaning of § 168(i)(10), a taxpayer (including a qualified small taxpayer) making this change must attach to its Form 3115 a statement that the taxpayer agrees to the following additional terms and conditions:

(i) A normalization method of accounting (within the meaning of § 168(i)(9)) will be used for the public utility property subject to the change;

(ii) As of the beginning of the year of change, the taxpayer will adjust its deferred tax reserve account or similar account in the taxpayer's regulatory books of account by the amount of the deferral of federal income tax liability associated with the § 481(a) adjustment applicable to a change in method of accounting specified in section 6.28(3)(a)(iv), (v), (vii), or (viii) or section 6.28(3)(b)(iii), (iv), (vi), or (vii) of this revenue procedure made for the public utility property subject to the change; and

(iii) Within 30 calendar days of filing the federal income tax return for the year of change, the taxpayer will provide a copy of the completed Form 3115 to any regulatory body having jurisdiction over the public utility property subject to the change.

(5) *Concurrent automatic change*.

(a) A taxpayer making a change under this section 6.28 for more than one asset for the same year of change should file a single Form 3115 for all such assets. If the change for more than one asset included in that Form 3115 is specified in section 6.28(3)(a)(iv), (v), (vii), or (viii) or section 6.28(3)(b)(iii), (iv), (vi), or (vii) of this revenue procedure, the single Form 3115 also should provide a single net § 481(a) adjustment for all such changes. If one or more of the changes specified in section 6.28(3)(a)(iv), (v), (vii), or (viii) or section 6.28(3)(b)(iii), (iv), (vi), or (vii) of this revenue procedure in that single Form 3115 generate a negative § 481(a) adjustment and other changes specified in section 6.28(3)(a)(iv), (v), (vii), or (viii) or section 6.28(3)(b)(iii), (iv), (vi), or (vii) of this revenue procedure in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all such changes that are included in that Form 3115 generating such negative adjustment and a single positive § 481(a) adjustment for all such changes that are included in that Form 3115 generating such positive adjustment.

(b) For a building, condominium unit, cooperative unit, structural component, or an improvement or addition thereto, a taxpayer making a change under section 6.28(3)(a)(iii), (iv), (v), (vi), (vii), (viii), (ix), or (x) of this revenue procedure, a change under section 6.29 of this revenue procedure, and/or a change under section 6.01 of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(c) For section 1245 property or a depreciable land improvement, a taxpayer making a change under section 6.28(3)(a)(iii), (iv), (v), (vi), (vii), (viii), (ix), or (x) of this revenue procedure, a change under section 6.30 of this revenue procedure, and/or a change under section 6.01 of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(d) A taxpayer making a change under section 6.28(3)(b)(ii), (iii), (iv), (v), (vi), (vii), or (viii) of this revenue procedure, a change under section 6.31 of this revenue procedure, and/or a change under section 6.01 of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(e) A taxpayer making a change under section 6.28(3)(b)(ii), (iii), (iv), (v), (vi), (vii), or (viii) of this revenue procedure, a change under section 6.32(1)(a)(ii), (iii), (iv), or (v) of this revenue procedure, and/or a change under section 6.01 of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. This section 6.28(5)(e) applies only if all of these changes are made for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(f) A taxpayer making a change under section 6.28(3)(b)(ii), (iii), (iv), (v), (vi), (vii), or (viii) of this revenue procedure, a change under section 6.31 of this revenue procedure, a change under section 6.32(1)(a)(ii), (iii), (iv), or (v) of this revenue procedure, and/or a change under section 6.01 of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. This section 6.28(5)(f) applies only if all of these changes are made for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(g) A taxpayer making both this change and a change under section 6.01 of this revenue procedure for the same year of change should file a single Form 3115 for both changes and must enter the designated automatic accounting method change numbers for both changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(6) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change to the method of accounting under this section 6.28 is "176."

(7) *Contact information*. For further information regarding a change under this section, contact Patrick Clinton at (202) 317-7005 (not a toll-free number).

.29 *Disposition of a building or structural component (§ 168; § 1.168(i)–8T, and Prop. Reg. § 1.168(i)–8).*

(1) *Description of change*.

(a) *Applicability*. This change, as described in Rev. Proc. 2014–17, 2014–12 I.R.B. 661, applies to a taxpayer that wants to make a change in method of accounting that is specified in section 6.29(3) of this revenue procedure pertaining to the disposition of a building or a structural component or the disposition of a portion of a building (including its structural components) to which the partial disposition rule in Prop. Reg. § 1.168(i)–8(d)(1) applies. These specified changes are consistent with §§ 1.168(i)–8T(b)(1), 1.168(i)–8T(c)(4)(ii)(A), (B), (C), (E), and (F), and 1.168(i)–8T(f), or Prop. Reg. §§ 1.168(i)–8(b)(2), 1.168(i)–8(c)(4)(ii)(A), (B), and (D), and 1.168(i)–8(g), as applicable. This change also affects the determination of gain or loss from the disposition of the building, the structural component, or the portion of the building (including its structural components) and may affect whether the taxpayer must capitalize amounts paid to restore a unit of property (as determined under § 1.263(a)–3T(e) or (f), or § 1.263(a)–3(e) or (f), as applicable) under § 1.263(a)–3T(i) or § 1.263(a)–3(k), as applicable.

(b) *Inapplicability*. This change does not apply to the following:

(i) A taxpayer making this change for any taxable year beginning before January 1, 2012, or beginning on or after January 1, 2014;

(ii) Any property (or if applicable, a portion thereof) that is not depreciated under § 168 under the taxpayer's present method of accounting and, if applicable, under the taxpayer's proposed method of accounting;

(iii) Any property subject to a general asset account election under § 168(i)(4) and the regulations thereunder (but see section 6.31 of this revenue procedure for making a change for dispositions of tangible depreciable assets subject to a general asset account election);

(iv) Any multiple buildings, condominium units, or cooperative units that are treated as a single building under the taxpayer's present method of accounting, or will be treated as a single building under the taxpayer's proposed method of accounting, pursuant to § 1.1250–1(a)(2)(ii);

(v) Any disposition of a portion of an asset for which a partial disposition election under Prop. Reg. § 1.168(i)–8(d)(2) is required but for which the taxpayer did not make such election in accordance with Prop. Reg. § 1.168(i)–8(d)(2)(ii) or (iii), as applicable (but see section 6.33 of this revenue procedure for making a late partial disposition election and section 6.35 of this revenue procedure for making a partial disposition election pursuant to Prop. Reg. § 1.168(i)–8(d)(2)(iii)); or

(vi) Any demolition of a structure to which § 280B and § 1.280B–1 apply.

(2) *Certain eligibility rules temporarily inapplicable*. The eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, do not apply to a taxpayer that makes this change for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014.

(3) *Covered changes*. This section 6.29 only applies to the following changes in methods of accounting for a building, condominium unit, cooperative unit, structural component, or an improvement or addition thereto:

(a) For purposes of applying § 1.168(i)–8T(c)(4) (determination of asset disposed of), a change to the appropriate asset as determined under § 1.168(i)–8T(c)(4)(ii)(A), (B), (C), (E), or (F), as applicable;

(b) If the taxpayer makes the change specified in section 6.29(3)(a) of this revenue procedure, and if the taxpayer disposed of the asset as determined under section 6.29(3)(a) of this revenue procedure in a taxable year prior to the year of change but continues to deduct depreciation for such disposed asset under the taxpayer's present method of accounting, a change from depreciating the disposed asset to recognizing gain or loss upon disposition;

(c) If the taxpayer's present method of accounting is in accord with § 1.168(i)–8T(c)(4)(ii)(A), (B), (C), (E), and (F), and if the taxpayer disposed of a building, condominium unit, cooperative unit, structural component, or an improvement or addition thereto in a taxable year prior to the year of change but continues to deduct depreciation for such disposed asset under the taxpayer's present method of accounting, a change from depreciating the disposed asset to recognizing gain or loss upon disposition;

(d) For buildings, condominium units, cooperative units, structural components, or improvements or additions thereto accounted for in multiple asset accounts, a change in the method of identifying which assets have been disposed of from a method of accounting not specified in § 1.168(i)–8T(f)(1) or (2)(i), (ii), or (iii) (for example, the last-in, first-out (LIFO) method of accounting) to a method of accounting specified in § 1.168(i)–8T(f)(1) or (2)(i), (ii), or (iii), as applicable;

(e) For purposes of applying Prop. Reg. § 1.168(i)–8(c)(4) (determination of asset disposed of), a change to the appropriate asset as determined under Prop. Reg. § 1.168(i)–8(c)(4)(ii)(A), (B), or (D), as applicable;

(f) If the taxpayer makes the change specified in section 6.29(3)(e) of this revenue procedure, and if the taxpayer disposed of the asset as determined under section 6.29(3)(e) of this revenue procedure or disposed of a portion of such asset in a taxable year prior to the year of change but continues to deduct depreciation for such disposed asset or such disposed portion under the taxpayer's present method of accounting, a change from depreciating the disposed asset or disposed portion to recognizing gain or loss upon disposition;

(g) If the taxpayer's present method of accounting is in accord with Prop. Reg. § 1.168(i)–8(c)(4)(ii)(A), (B), and (D), and if the taxpayer disposed of an asset as determined under Prop. Reg. § 1.168(i)–8(c)(4)(ii)(A), (B), or (D), as applicable, or disposed of a portion of such asset in a taxable year prior to the year of change but continues to deduct depreciation for such disposed asset or such disposed portion under the taxpayer's present method of accounting, a change from depreciating the disposed asset or disposed portion to recognizing gain or loss upon disposition;

(h) For buildings (including their structural components), condominium units (including their structural components), cooperative units (including their structural components), or improvements or additions thereto accounted for in multiple asset accounts, a change in the method of identifying which assets have been disposed of from a method of accounting not specified in Prop. Reg. § 1.168(i)–8(g)(1) or (2)(i), (ii), or (iii) (for example, the last-in, first-out (LIFO) method of accounting) to a method of accounting specified in Prop. Reg. § 1.168(i)–8(g)(1) or (2)(i), (ii), or (iii), as applicable; or

(i) If the taxpayer makes the change specified in section 6.34 of this revenue procedure (revocation of a general asset account election), the taxpayer made a qualifying disposition election under § 1.168(i)–1T(e)(3)(iii) in a taxable year prior to the year of change for the disposition of an asset (as determined under Prop. Reg. § 1.168(i)–8(c)(4)(ii)(A), (B), or (D), as applicable) included in a general asset account, the taxpayer's present method of accounting for such asset is in accord with Prop. Reg. § 1.168(i)–8(c)(4)(ii)(A), (B), or (D), as applicable, and the taxpayer recognized a gain or loss under § 1.168(i)–8T upon the disposition of such asset in a taxable year prior to the year of change, a change from recognizing gain or loss upon the disposition of that asset under § 1.168(i)–8T to recognizing gain or loss upon the disposition of the same asset under Prop. Reg. § 1.168(i)–8.

(4) *Examples*. The following examples illustrate the covered changes specified in section 6.29(3) of this revenue procedure.

(a) *Example 1*. X, a calendar year taxpayer, acquired and placed in service a building and its structural components in 1990. X depreciates this building and its structural components under § 168. In 2000, X replaced the entire roof of the building. X did not recognize a loss on the retirement of the original roof and continues to depreciate the original roof. X also capitalized the cost of the replacement roof and has been depreciating this roof under § 168 since 2000. A change by X to treating the building as an asset and each structural component of the building as a separate asset for disposition purposes and also to change from depreciating the original roof to recognizing a loss upon its retirement is a covered change described in section 6.29(3)(a) and (b) of this revenue procedure solely for purposes of § 1.168(i)–8T(c)(4).

(b) *Example 2*. Y, a calendar-year taxpayer, acquired and placed in service a building and its structural components in 2000. In 2005, Y constructed and placed in service an addition to this building. Y depreciates the building, the addition, and their structural components under § 168. A change by Y to treating the original building as an asset, the addition to the building as a separate asset, and each structural component of the original building and the addition as a separate asset for disposition purposes is a change described in section 6.29(3)(a) of this revenue procedure solely for purposes of § 1.168(i)–8T(c)(4).

(c) *Example 3*. Z, a calendar-year taxpayer, acquired and placed in service a building and its structural components in 2000. In 2005, Z constructed and placed in service an addition to this building. Z depreciates the building, the addition, and their structural components under § 168. A change by Z to treating the original building (including its structural components) as an asset and the addition to the building (including the structural components of such addition) as a separate asset for disposition purposes is a change described in section 6.29(3)(e) of this revenue procedure solely for purposes of Prop. Reg. § 1.168(i)–8(c)(4).

(5) *Manner of making change*.

(a) A taxpayer (including a qualified small taxpayer as defined in section 6.01(4)(b) of this revenue procedure) making this change must attach to its Form 3115 a statement with the following:

(i) A description of the assets to which this change applies;

(ii) If the taxpayer is making a change specified in section 6.29(3)(a) or section 6.29(3)(e) of this revenue procedure, a description of the assets disposed of under the taxpayer's present and proposed methods of accounting;

(iii) If the taxpayer is making the change specified in section 6.29(3)(d) or section 6.29(3)(h) of this revenue procedure, a description of the method of identifying which assets have been disposed of under the taxpayer's present and proposed methods of accounting; and

(iv) If any asset is public utility property within the meaning of § 168(i)(10), a statement providing that the taxpayer agrees to the following additional terms and conditions:

(A) A normalization method of accounting (within the meaning of § 168(i)(9)) will be used for the public utility property subject to the Form 3115;

(B) As of the beginning of the year of change, the taxpayer will adjust its deferred tax reserve account or similar account in the taxpayer's regulatory books of account by the amount of the deferral of federal income tax liability associated with the § 481(a) adjustment applicable to the public utility property subject to the Form 3115; and

(C) Within 30 calendar days of filing the federal income tax return for the year of change, the taxpayer will provide a copy of the completed Form 3115 to any regulatory body having jurisdiction over the public utility property subject to the Form 3115.

(b) A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I, line 1(a);

(iv) Part II, all lines except lines 11, 13, 14, 15, and 17;

(v) Part IV, lines 25 and 26; and

(vi) Schedule E, line 3.

(6) *No ruling on asset*. The consent granted under section 9 of Rev. Proc. 2015–13 for a change specified in section 6.29(3)(a) of this revenue procedure is not a determination by the Commissioner that the taxpayer is using the appropriate asset under § 1.168(i)–8T(c)(4) for determining what asset is disposed of by the taxpayer and does not create any presumption that the proposed asset is permissible under § 1.168(i)–8T(c)(4). Further, the consent granted under section 9 of Rev. Proc. 2015–13 for a change specified in section 6.29(3)(e) of this revenue procedure is not a determination by the Commissioner that the taxpayer is using the appropriate asset under Prop. Reg. § 1.168(i)–8(c)(4) for determining what asset is disposed of by the taxpayer and does not create any presumption that the proposed asset is permissible under Prop. Reg. § 1.168(i)–8(c)(4). The director will ascertain whether the taxpayer's determination of its asset under § 1.168(i)–8T(c)(4) or Prop. Reg. § 1.168(i)–8(c)(4), as applicable, is permissible.

(7) *Section 481(a) adjustment*. A taxpayer changing its method of accounting under this section 6.29 may use statistical sampling in determining the § 481(a) adjustment by following the guidance provided in Rev. Proc. 2011–42, 2011–37 I.R.B. 318.

(8) *Section 481(a) adjustment period*.

(a) A taxpayer must take the entire § 481(a) adjustment into account in computing taxable income for the year of change:

(i) If the taxpayer is making the change specified in section 6.29(3)(e) of this revenue procedure and if the taxpayer recognized a gain or loss under § 1.168(i)–8T on the disposition of the asset (or if applicable, a portion thereof) in a taxable year prior to the year of change; or

(ii) If the taxpayer is making the change specified in section 6.29(3)(i) of this revenue procedure.

(b) For a change not described in section 6.29(8)(a) of this revenue procedure, see section 7.03 of Rev. Proc. 2015–13 for the § 481(a) adjustment period.

(c) *Example*. Y, a calendar year taxpayer, acquired and placed in service a building and its structural components in 2000. Y depreciates this building and its structural components under § 168. The roof is a structural component of the building. Y replaced the entire roof in 2010. On its federal tax return for the taxable year ended December 31, 2010, Y did not recognize a loss on the retirement of the original roof and continues to depreciate the original roof. Y also capitalized the cost of the replacement roof and has been depreciating this roof under § 168 since June 2010. In accordance with § 1.168(i)–8T(c)(4)(ii)(A) and (B) and section 6.29(3)(a) and (b) of the APPENDIX to Rev. Proc. 2011–14, as modified by Rev. Proc. 2012–20, 2012–14 I.R.B. 700, Y filed with its federal income tax return for the taxable year ended December 31, 2012, a Form 3115 to treat the building as an asset and each structural component of the building as a separate asset for disposition purposes and also to change from depreciating the original roof to recognizing a loss upon its retirement. The amount of the net negative § 481(a) adjustment on this Form 3115 is $10,000, which is the amount of the loss recognized upon the retirement of the original roof. Y decides to apply Prop. Reg. § 1.168(i)–8 for its taxable year ending December 31, 2013, but decides not to make any late partial disposition election under section 6.33 of this revenue procedure. In accordance with section 6.29(3)(e) of this revenue procedure, Y files a Form 3115 with its 2013 federal income tax return to change to treating the original building (including its original roof and other original structural components) as an asset and the replacement roof as a separate asset for disposition purposes. Because Y is not making a late partial disposition election for the original roof, Y does not recognize the loss of $10,000 upon the retirement of the original roof under Prop. Reg. § 1.168(i)–8 and Y will continue to depreciate the original roof. Assume the depreciation deduction for the original roof is $500 for the 2012 taxable year. Thus, the net positive § 481(a) adjustment for this change is $9,500 (loss of $10,000 claimed on the 2012 return for the retirement of the original roof less depreciation of $500 for the original roof for 2012) and is included in Y's taxable income for 2013.

(9) *Concurrent automatic change*.

(a) A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets and provide a single net § 481(a) adjustment for all the changes included in that Form 3115. If one or more of the changes in that single Form 3115 generate a negative § 481(a) adjustment and other changes in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all the changes that are included in that Form 3115 generating such negative adjustment and a single positive § 481(a) adjustment for all the changes that are included in that Form 3115 generating such positive adjustment.

(b) For a building, condominium unit, cooperative unit, structural component, or an improvement or addition thereto, a taxpayer making this change, a change under section 6.28(3)(a)(iii), (iv), (v), (vi), (vii), (viii), (ix), or (x) of this revenue procedure, and/or a change under section 6.01 of this revenue procedure for the same year of change should file a single Form 3115 for all of such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(c) A taxpayer making a change under section 6.29(3)(e), (f), (g), (h), or (i) of this revenue procedure, a change under section 6.01 of this revenue procedure, and/or a change under section 6.34 of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. This section 6.29(9)(c) applies only if all of these changes are made for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(d) A taxpayer making both this change and a change under section 6.01 of this revenue procedure for the same year of change should file a single Form 3115 for both changes and must enter the designated automatic accounting method change numbers for both changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(10) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change to the method of accounting under this section 6.29 is "177."

(11) *Contact information*. For further information regarding a change under this section, contact Patrick Clinton at (202) 317-7005 (not a toll-free number).

.30 *Dispositions of tangible depreciable assets (other than a building or its structural components) (§ 168; § 1.168(i)–8T and Prop. Reg. § 1.168(i)–8)*.

(1) *Description of change*.

(a) *Applicability*. This change, as described in Rev. Proc. 2014–17, 2014–12 I.R.B. 661, applies to a taxpayer that wants to make a change in method of accounting that is specified in section 6.30(3) of this revenue procedure pertaining to the disposition of § 1245 property or a depreciable land improvement or the disposition of a portion of § 1245 property or a depreciable land improvement to which the partial disposition rule in Prop. Reg. § 1.168(i)–8(d)(1) applies. These specified changes are consistent with §§ 1.168(i)–8T(c)(4)(i), 1.168(i)–8T(c)(4)(ii)(D), (E), and (F), and 1.168(i)–8T(f), or Prop. Reg. §§ 1.168(i)–8(c)(4)(i), 1.168(i)–8(c)(4)(ii)(C) and (D), and 1.168(i)–8(g), as applicable. This change also affects the determination of gain or loss from the disposition of the § 1245 property, the depreciable land improvement, or a portion of the § 1245 property or depreciable land improvement, and may affect whether the taxpayer must capitalize amounts paid to restore a unit of property (as determined under § 1.263(a)–3T(e) or (f), or § 1.263(a)–3(e) or (f), as applicable) under § 1.263(a)–3T(i) or § 1.263(a)–3(k), as applicable.

(b) *Inapplicability*. This change does not apply to the following:

(i) A taxpayer that wants to make this change for any taxable year beginning before January 1, 2012, or beginning on or after January 1, 2014;

(ii) Any property (or if applicable, a portion thereof) that is not depreciated under § 168 under the taxpayer's present method of accounting and, if applicable, under the taxpayer's proposed method of accounting;

(iii) Any building, condominium unit, cooperative unit, structural component, or improvement or addition thereto (but see section 6.29 of this revenue procedure for making this change);

(iv) Any property subject to a general asset account election under § 168(i)(4) and the regulations thereunder (but see section 6.31 of this revenue procedure for making a change for dispositions of tangible depreciable assets subject to a general asset account election); or

(v) Any disposition of a portion of an asset for which a partial disposition election under Prop. Reg. § 1.168(i)–8(d)(2) is required but for which the taxpayer did not make such election in accordance with Prop. Reg. § 1.168(i)–8(d)(2)(ii) or (iii), as applicable (but see section 6.33 of this revenue procedure for making a late partial disposition election and section 6.35 of this revenue procedure for making a partial disposition election pursuant to Prop. Reg. § 1.168(i)–8(d)(2)(iii)).

(2) *Certain eligibility rules temporarily inapplicable*. The eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, do not apply to a taxpayer that makes this change for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014.

(3) *Covered changes*. This section 6.30 only applies to the following changes in methods of accounting for a § 1245 property, a depreciable land improvement, or an improvement or addition thereto:

(a) For purposes of applying § 1.168(i)–8T(c)(4) (determination of asset disposed of), a change to the appropriate asset as determined under § 1.168(i)–8T(c)(4)(i), (ii)(D), (ii)(E), or (ii)(F), as applicable;

(b) If the taxpayer makes the change specified in section 6.30(3)(a) of this revenue procedure, and if the taxpayer disposed of the asset as determined under section 6.30(3)(a) of this revenue procedure in a taxable year prior to the year of change but continues to deduct depreciation for such disposed asset under the taxpayer's present method of accounting, a change from depreciating the disposed asset to recognizing gain or loss upon disposition;

(c) If the taxpayer's present method of accounting is in accord with § 1.168(i)–8T(c)(4)(i) or (ii), as applicable, for the § 1245 property, the depreciable land improvement, or the improvement or addition thereto, and if the taxpayer disposed of such asset in a taxable year prior to the year of change but continues to deduct depreciation for this disposed asset under the taxpayer's present method of accounting, a change from depreciating the disposed asset to recognizing gain or loss upon disposition;

(d) For § 1245 property, depreciable land improvements, or improvements or additions thereto accounted for in multiple asset accounts, a change in the method of identifying which assets have been disposed of from a method of accounting not specified in § 1.168(i)–8T(f)(1) or (2)(i), (ii), or (iii) (for example, the last-in, first-out (LIFO) method of accounting) to a method of accounting specified in § 1.168(i)–8T(f)(1) or (2)(i), (ii), or (iii), as applicable;

(e) For purposes of applying Prop. Reg. § 1.168(i)–8(c)(4) (determination of asset disposed of), a change to the appropriate asset as determined under Prop. Reg. § 1.168(i)–8(c)(4)(i), (ii)(C), or (ii)(D), as applicable;

(f) If the taxpayer makes the change specified in section 6.30(3)(e) of this revenue procedure, and if the taxpayer disposed of the asset as determined under section 6.30(3)(e) of this revenue procedure or disposed of a portion of such asset in a taxable year prior to the year of change but continues to deduct depreciation for such disposed asset or such disposed portion, as applicable, under the taxpayer's present method of accounting, a change from depreciating the disposed asset or disposed portion, as applicable, to recognizing gain or loss upon disposition;

(g) If the taxpayer's present method of accounting is in accord with Prop. Reg. § 1.168(i)–8(c)(4)(i) or (ii), as applicable, for the § 1245 property, the depreciable land improvement, or the improvement or addition thereto and if the taxpayer disposed of such asset or a portion of such asset in a taxable year prior to the year of change but continues to deduct depreciation for this disposed asset or disposed portion, as applicable, under the taxpayer's present method of accounting, a change from depreciating the disposed asset or disposed portion, as applicable, to recognizing gain or loss upon disposition;

(h) For § 1245 property, depreciable land improvements, or improvements or additions thereto accounted for in multiple asset accounts, a change in the method of identifying which assets have been disposed of from a method of accounting not specified in Prop. Reg. § 1.168(i)–8(g)(1) or (2)(i), (ii), or (iii) (for example, the last-in, first-out (LIFO) method of accounting) to a method of accounting specified in Prop. Reg. § 1.168(i)–8(g)(1) or (2)(i), (ii), or (iii), as applicable; or

(i) If the taxpayer makes the change specified in section 6.34 of this revenue procedure (revocation of a general asset account election), the taxpayer made a qualifying disposition election under § 1.168(i)–1T(e)(3)(iii) in a taxable year prior to the year of change for the disposition of a § 1245 property, depreciable land improvement, or improvement or addition thereto included in a general asset account, the taxpayer's present method of accounting for such asset is in accord with Prop. Reg. § 1.168(i)–8(c)(4)(i) or (ii), as applicable, and the taxpayer recognized a gain or loss under § 1.168(i)–8T on the disposition of such asset in a taxable year prior to the year of change, a change from recognizing gain or loss upon the disposition of that asset under § 1.168(i)–8T to recognizing gain or loss upon the disposition of the same asset under Prop. Reg. § 1.168(i)–8.

(4) *Manner of making change.*

(a) A taxpayer (including a qualified small taxpayer as defined in section 6.01(4)(b) of this revenue procedure) making this change must attach to its Form 3115 a statement with the following:

(i) A description of the assets to which this change applies;

(ii) If the taxpayer is making a change specified in section 6.30(3)(a) of this revenue procedure, a description of the assets disposed of under the taxpayer's present and proposed methods of accounting and a statement as to whether or not the taxpayer, under its proposed method of accounting, is treating each of an asset's components as the asset in accordance with § 1.168(i)–8T(c)(4)(ii)(F);

(iii) If the taxpayer is making a change specified in section 6.30(3)(e) of this revenue procedure, a description of the assets disposed of under the taxpayer's present and proposed methods of accounting;

(iv) If the taxpayer is making the change specified in section 6.30(3)(d) or section 6.30(3)(h) of this revenue procedure, a description of the method of identifying which assets have been disposed of under the taxpayer's present and proposed methods of accounting; and

(v) If any asset is public utility property within the meaning of § 168(i)(10), a statement providing that the taxpayer agrees to the following additional terms and conditions:

(A) A normalization method of accounting (within the meaning of § 168(i)(9)) will be used for the public utility property subject to the Form 3115;

(B) As of the beginning of the year of change, the taxpayer will adjust its deferred tax reserve account or similar account in the taxpayer's regulatory books of account by the amount of the deferral of federal income tax liability associated with the § 481(a) adjustment applicable to the public utility property subject to the Form 3115; and

(C) Within 30 calendar days of filing the federal income tax return for the year of change, the taxpayer will provide a copy of the completed Form 3115 to any regulatory body having jurisdiction over the public utility property subject to the Form 3115.

(b) A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I, line 1(a);

(iv) Part II, all lines except lines 11, 13, 14, 15, and 17;

(v) Part IV, lines 25 and 26; and

(vi) Schedule E, line 3.

(5) *No ruling on asset.* The consent granted under section 9 of Rev. Proc. 2015–13 for a change specified in section 6.30(3)(a) of this revenue procedure is not a determination by the Commissioner that the taxpayer is using the appropriate asset under § 1.168(i)–8T(c)(4) for determining what asset is disposed of by the taxpayer and does not create any presumption that the proposed asset is permissible under § 1.168(i)–8T(c)(4). Further, the consent granted under section 9 of Rev. Proc. 2015–13 for a change specified in section 6.30(3)(e) of this revenue procedure is not a determination by the Commissioner that the taxpayer is using the appropriate asset under Prop. Reg. § 1.168(i)–8(c)(4) for determining what asset is disposed of by the taxpayer and does not create any presumption that the proposed asset is permissible under Prop. Reg. § 1.168(i)–8(c)(4). The director will ascertain whether the taxpayer's determination of its asset under § 1.168(i)–8T(c)(4) or Prop. Reg. § 1.168(i)–8(c)(4), as applicable, is permissible.

(6) *Section 481(a) adjustment.* A taxpayer changing its method of accounting under this section 6.30 may use statistical sampling in determining the § 481(a) adjustment by following the guidance provided in Rev. Proc. 2011–42, 2011–37 I.R.B. 318.

(7) *Section 481(a) adjustment period.*

(a) A taxpayer must take the entire § 481(a) adjustment into account in computing taxable income for the year of change:

(i) If the taxpayer is making the change specified in section 6.30(3)(e) of this revenue procedure and if the taxpayer recognized a gain or loss under § 1.168(i)–8T on the disposition of the § 1245 property, depreciable land improvement, or improvement or addition thereto (or if applicable, a portion of such asset) in a taxable year prior to the year of change; or

(ii) If the taxpayer is making the change specified in section 6.30(3)(i) of this revenue procedure.

(b) For a change not described in section 6.30(7)(a) of this revenue procedure, see section 7.03 of Rev. Proc. 2015–13 for the § 481(a) adjustment period.

(8) *Concurrent automatic change*.

(a) A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets and provide a single net § 481(a) adjustment for all the changes included in that Form 3115. If one or more of the changes in that single Form 3115 generate a negative § 481(a) adjustment and other changes in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all the changes that are included in that Form 3115 generating such negative adjustment and a single positive § 481(a) adjustment for all the changes that are included in that Form 3115 generating such positive adjustment.

(b) For a § 1245 property or a depreciable land improvement that is depreciated under § 168, a taxpayer making this change, a change under section 6.28(3)(a)(iii), (iv), (v), (vi), (vii), (viii), (ix), or (x) of this revenue procedure, and/or a change under section 6.01 of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(c) A taxpayer making a change under section 6.30(3)(e), (f), (g), (h), or (i) of this revenue procedure, a change under section 6.01 of this revenue procedure, and/or a change under section 6.34 of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. This section 6.30(8)(c) applies only if all of these changes are made for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(d) A taxpayer making both this change and a change under section 6.01 of this revenue procedure for the same year of change should file a single Form 3115 for both changes and must enter the designated automatic accounting method change numbers for both changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(9) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change to the method of accounting under this section 6.30 is "178."

(10) *Contact information*. For further information regarding a change under this section, contact Patrick Clinton at (202) 317-7005 (not a toll-free number).

.31 *Dispositions of tangible depreciable assets in a general asset account (§ 168(i)(4); § 1.168(i)–1T and Prop. Reg. § 1.168(i)–1)*.

(1) *Description of change*.

(a) *Applicability*. This change, as described in Rev. Proc. 2014–17, 2014–12 I.R.B. 661, applies to a taxpayer that wants to make a change in method of accounting that is specified in section 6.31(3) of this revenue procedure pertaining to the disposition of an asset subject to a general asset account election under § 168(i)(4) and the regulations thereunder. These specified changes are consistent with §§ 1.168(i)–1T(e)(1), 1.168(i)–1T(e)(2)(viii), and 1.168(i)–1T(j), or Prop. Reg. §§ 1.168(i)–1(e)(1), 1.168(i)–1(e)(2)(viii), and 1.168(i)–1(j), as applicable. This change also may affect the determination of gain or loss from the disposition of the asset and may affect whether the taxpayer must capitalize amounts paid to restore a unit of property (as determined under § 1.263(a)–3T(e) or (f), or § 1.263(a)–3(e) or (f), as applicable) under § 1.263(a)–3T(i) or § 1.263(a)–3(k), as applicable.

(b) *Inapplicability*. This change does not apply to the following:

(i) A taxpayer that wants to make this change for any taxable year beginning before January 1, 2012, or beginning on or after January 1, 2014;

(ii) Any property that is not depreciated under § 168 under the taxpayer's present method of accounting and, if applicable, proposed method of accounting; or

(iii) Any property not subject to a general asset account election under § 168(i)(4) and the regulations thereunder (but see sections 6.29 and 6.30 of this revenue procedure for making a change for dispositions of tangible depreciable assets not subject to a general asset account election).

(2) *Certain eligibility rules temporarily inapplicable*. The eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, do not apply to a taxpayer that makes this change for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014.

(3) *Covered changes*. This section 6.31 only applies to the following changes in methods of accounting for an asset subject to a general asset account election under § 168(i)(4) and the regulations thereunder:

(a) For purposes of applying § 1.168(i)–1T(e)(2)(viii) (determination of asset disposed of), a change to the appropriate asset as determined under § 1.168(i)–1T(e)(2)(viii)(A) or (B), as applicable;

(b) A change in the method of identifying which assets have been disposed of from a method of accounting not specified in § 1.168(i)–1T(j)(2)(i), (ii), (iii), or (iv) (for example, the last-in, first-out (LIFO) method of accounting) to a method of accounting specified in § 1.168(i)–1T(j)(2)(i), (ii), (iii), or (iv), as applicable;

(c) For purposes of applying Prop. Reg. § 1.168(i)–1(e)(2)(viii) (determination of asset disposed of), a change to the appropriate asset as determined under Prop. Reg. § 1.168(i)–1(e)(2)(viii)(A) or (B), as applicable; or

(d) A change in the method of identifying which assets have been disposed of from a method of accounting not specified in Prop. Reg. § 1.168(i)–1(j)(2)(i)(A), (B), (C), or (D) (for example, the last-in, first-out (LIFO) method of accounting) to a method of accounting specified in Prop. Reg. § 1.168(i)–1(j)(2)(i)(A), (B), (C), or (D), as applicable.

(4) *Manner of making change*.

(a) A taxpayer (including a qualified small taxpayer as defined in section 6.01(4)(b) of this revenue procedure) making this change must attach to its Form 3115 a statement with the following:

(i) A description of the assets to which this change applies;

(ii) If the taxpayer is making the change specified in section 6.31(3)(a) of this revenue procedure, a description of the assets disposed of by the taxpayer under the taxpayer's present and proposed methods of accounting and a statement as to whether or not the taxpayer, under its proposed method of accounting, is treating each of an asset's components as the asset in accordance with § 1.168(i)–1T(e)(2)(viii)(B)(6);

(iii) If the taxpayer is making the change specified in section 6.31(3)(c) of this revenue procedure, a description of the assets disposed of by the taxpayer under the taxpayer's present and proposed methods of accounting;

(iv) If the taxpayer is making the change specified in section 6.31(3)(b) or section 6.31(3)(d) of this revenue procedure, a description of the method of identifying which assets have been disposed of under the taxpayer's present and proposed methods of accounting; and

(v) If any asset is public utility property within the meaning of § 168(i)(10), a statement providing that the taxpayer agrees to the following additional terms and conditions:

(A) A normalization method of accounting (within the meaning of § 168(i)(9)) will be used for the public utility property subject to the Form 3115;

(B) As of the beginning of the year of change, the taxpayer will adjust its deferred tax reserve account or similar account in the taxpayer's regulatory books of account by the amount of the deferral of federal income tax liability associated with the § 481(a) adjustment applicable to the public utility property subject to the Form 3115; and

(C) Within 30 calendar days of filing the federal income tax return for the year of change, the taxpayer will provide a copy of the completed Form 3115 to any regulatory body having jurisdiction over the public utility property subject to the Form 3115.

(b) A qualified small taxpayer is required to complete only the following information on Form 3115 to make this change:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I, line 1(a);

(iv) Part II, all lines except lines 11, 13, 14, 15, and 17;

(v) Part IV, lines 25 and 26; and

(vi) Schedule E, line 3.

(5) *No ruling on asset*. The consent granted under section 9 of Rev. Proc. 2015–13 for a change specified in section 6.31(3)(a) of this revenue procedure is not a determination by the Commissioner that the taxpayer is using the appropriate asset under § 1.168(i)–1T(e)(2)(viii) for determining what asset is disposed of by the taxpayer and does not create any presumption that the proposed asset is permissible under § 1.168(i)–1T(e)(2)(viii). Further, the consent granted under section 9 of Rev. Proc. 2015–13 for a change specified in section 6.31(3)(c) of this revenue procedure is not a determination by the Commissioner that the taxpayer is using the appropriate asset under Prop. Reg. § 1.168(i)–1(e)(2)(viii) for determining what asset is disposed of by the taxpayer and does not create any presumption that the proposed asset is permissible under Prop. Reg. § 1.168(i)–1(e)(2)(viii). The director will ascertain whether the taxpayer's determination of its asset under § 1.168(i)–1T(e)(2)(viii) or Prop. Reg. § 1.168(i)–1(e)(2)(viii), as applicable, is permissible.

(6) *Section 481(a) adjustment period*.

(a) If a taxpayer makes the change specified in section 6.31(3)(c) of this revenue procedure and if the taxpayer recognized a gain or loss under § 1.168(i)–1T or § 1.168(i)–8T, as applicable, on the disposition of a portion of the asset in a taxable year prior to the year of change, the taxpayer must take the entire § 481(a) adjustment into account in computing taxable income for the year of change.

(b) For a change not described in section 6.31(6)(a) of this revenue procedure, see section 7.03 of Rev. Proc. 2015–13 for the § 481(a) adjustment period.

(c) *Example*. (i) X, a calendar year taxpayer, acquired and placed in service a building and its structural components in 2000. X depreciates this building and its structural components under § 168. The roof is a structural component of the building. X replaced the entire roof in 2010. On its federal tax return for the taxable year ended December 31, 2010, X did not recognize a loss on the retirement of the original roof and continues to depreciate the original roof. X also capitalized the cost of the replacement roof and has been depreciating this roof under § 168 since June 2010.

(ii) In accordance with § 1.168(i)–1T and section 6.32(1)(a) of the APPENDIX to Rev. Proc. 2011–14, as modified by Rev. Proc. 2012–20, 2012–14 I.R.B. 700, X filed with its federal tax return for the taxable year ended December 31, 2012, a Form 3115 to: (1) make a late general asset account election to include the building (including its structural components) placed in service in 2000 in one general asset account and the replacement roof in a separate general asset account; and (2) make a late qualifying disposition election for the retirement of the original roof in 2010. As a result, X removed the original roof from the general asset account and reported a net negative § 481(a) adjustment on this Form 3115 of $10,000, which is the loss recognized upon the retirement of the original roof.

(iii) X decides to apply Prop. Reg. § 1.168(i)–1 for its taxable year ending December 31, 2013. In accordance with section 6.31(3)(c) of this revenue procedure, X files a Form 3115 with its 2013 federal income tax return to change to treating the building (including its original roof and other original structural components) placed in service in 2000 as an asset and the replacement roof as a separate asset for disposition purposes. As a result, X must include the original roof that X retired in 2010 in the general asset account. Assume the depreciation for this original roof is $500 for the 2012 taxable year. Thus, the net positive § 481(a) adjustment for this change is $9,500 (loss of $10,000 claimed on the 2012 return for the retirement of the original roof less depreciation of $500 for the original roof for 2012) and is included in X's taxable income for 2013.

(7) *Concurrent automatic change*.

(a) A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets and provide a single net § 481(a) adjustment for all the changes included in that Form 3115. If one or more of the changes in that single Form 3115 generate a negative § 481(a) adjustment and other changes in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all the changes that are included in that Form 3115 generating such negative adjustment and a single positive § 481(a) adjustment for all the changes that are included in that Form 3115 generating such positive adjustment.

(b) A taxpayer making this change, a change under section 6.28(3)(b)(ii), (iii), (iv), (v), (vi), (vii), or (viii) of this revenue procedure, and/or a change under section 6.01 of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(c) A taxpayer making this change, a change under section 6.32(1)(a)(ii), (iii), (iv), or (v) of this revenue procedure, and/or a change under section 6.01 of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. This section 6.31(8)(c) applies only if both changes are made for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(d) A taxpayer making this change, a change under section 6.28(3)(b)(ii), (iii), (iv), (v), (vi), (vii), or (viii) of this revenue procedure, a change under section 6.32(1)(a)(ii), (iii), (iv), or (v) of this revenue procedure, and/or a change under section 6.01 of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. This section 6.31(8)(d) applies only if all of these changes are made for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(e) A taxpayer making both this change and a change under section 6.01 of this revenue procedure for the same year of change should file a single Form 3115 for both changes and must enter the designated automatic accounting method change numbers for both changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(8) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change to the method of accounting under this section 6.31 is "179."

(9) *Contact information*. For further information regarding a change under this section, contact Patrick Clinton at (202) 317-7005 (not a toll-free number).

.32 *General asset account elections (§ 168(i)(4); § 1.168(i)–1; § 1.168(i)–1T, and Prop. Reg. § 1.168(i)–1)*.

(1) *Description of change*.

(a) *Applicability*. This change, as described in Rev. Proc. 2014–54, 2014–41 I.R.B. 675, applies to a taxpayer that wants to make:

(i) A late general asset account election under § 168(i)(4) and § 1.168(i)–1, § 1.168(i)–1T, or Prop. Reg. § 1.168(i)–1, for one or more items of property depreciated under § 168 (MACRS property) that is placed in service by the taxpayer in a taxable year beginning before January 1, 2012, and owned by the taxpayer at the beginning of the year of change. This change also may affect whether the taxpayer must capitalize amounts paid to restore a unit of property (as determined under § 1.263(a)–3T(e) or (f), or § 1.263(a)–3(e) or (f), as applicable) under §1.263(a)–3T(i) or § 1.263(a)–3(k), as applicable;

(ii) A late election to recognize gain or loss upon the disposition of all of the assets, or the last asset, in a general asset account in accordance with § 1.168(i)–1T(e)(3)(ii). This change also may affect whether the taxpayer must capitalize amounts paid to restore a unit of property (as determined under § 1.263(a)–3T(e) or (f), or § 1.263(a)–3(e) or (f), as applicable) under §1.263(a)–3T(i) or § 1.263(a)–3(k), as applicable;

(iii) A late election to recognize gain or loss upon the disposition of all of the assets, the last asset, or the remaining portion of the last asset, in a general asset account in accordance with § 1.168(i)–1(e)(3)(ii) or Prop. Reg. § 1.168(i)–1(e)(3)(ii), as applicable. This change also may affect whether the taxpayer must capitalize amounts paid to restore a unit of property (as determined under § 1.263(a)–3T(e) or (f), or § 1.263(a)–3(e) or (f), as applicable) under §1.263(a)–3T(i) or § 1.263(a)–3(k), as applicable;

(iv) For an item of MACRS property subject to a general asset account election, a late election to recognize gain or loss upon the disposition of that item in a qualifying disposition (as defined in § 1.168(i)–1T(e)(3)(iii)(B)) in accordance with § 1.168(i)–1T(e)(3)(iii). This change also may affect whether the taxpayer must capitalize amounts paid to restore a unit of property (as determined under § 1.263(a)–3T(e) or (f), or § 1.263(a)–3(e) or (f), as applicable) under § 1.263(a)–3T(i) or § 1.263(a)–3(k), as applicable; or

(v) For an item of MACRS property subject to a general asset account election, a late election to recognize gain or loss upon the disposition of that item in a qualifying disposition (as defined in § 1.168(i)–1(e)(3)(iii)(B) or Prop. Reg. § 1.168(i)–1(e)(3)(iii)(B), as applicable) in accordance with § 1.168(i)–1(e)(3)(iii) or Prop. Reg. § 1.168(i)–1(e)(3)(iii), as applicable. This change also may affect whether the taxpayer must capitalize amounts paid to restore a unit of property (as determined under § 1.263(a)–3T(e) or (f), or § 1.263(a)–3(e) or (f), as applicable) under § 1.263(a)–3T(i) or § 1.263(a)–3(k), as applicable.

(b) *Inapplicability*. Because of the changes made to the general asset account temporary regulations (§ 1.168(i)–1T) by § 1.168(i)–1, the IRS will treat the making of the late elections specified in section 6.32(1)(a) of this revenue procedure as a change in method of accounting only for the time specified in section 6.32(2) of this revenue procedure. Accordingly, this treatment does not apply to a taxpayer that makes any election specified in section 6.32(1)(a) of this revenue procedure before or after the time specified in section 6.32(2) of this revenue procedure, and any such election is not a change in method of accounting pursuant to § 1.446–1(e)(2)(ii)(*d*)(*3*)(*iii*).

(2) *Time for making the change*. The change under this section 6.32 must be made for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014.

(3) *Certain eligibility rules inapplicable*.

(a) *In general*. The eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, do not apply to this change.

(b) *Concurrent automatic change*. If a taxpayer makes both a change under this section 6.32 and a change under section 6.01 of this revenue procedure for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014, on a single Form 3115 for the same asset for the year of change in accordance with section 6.32(5)(b) of this revenue procedure, the eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13 do not apply to the taxpayer for either change.

(4) *Manner of making change*.

(a) The change specified in section 6.32(1)(a)(i) of this revenue procedure is made using a modified cut-off method under which the unadjusted depreciable basis and the depreciation reserve of the asset as of the beginning of the year of change are accounted for using the proposed method of accounting. This change requires the general asset account to include a beginning balance for both the unadjusted depreciable basis and the depreciation reserve. The beginning balance for the unadjusted depreciable basis of each general asset account is equal to the sum of the unadjusted depreciable bases as of the beginning of the year of change for all assets included in that general asset account. The beginning balance of the depreciation reserve of each general asset account is equal to the sum of the greater of the depreciation allowed or allowable as of the beginning of the year of change for all assets included in that general asset account.

(b) The change specified in section 6.32(1)(a)(ii), (iii), (iv), or (v) of this revenue procedure is made with a § 481(a) adjustment.

(c) A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I, line 1(a);

(iv) Part II, all lines except lines 11, 13, 14, 15, and 17;

(v) Part IV, lines 24, 25, and 26; and

(vi) Schedule E, lines 3, 4a, 4b, and 4c.

(d) A taxpayer (including a qualified small taxpayer) making the change specified in section 6.32(1)(a)(i), (iv), or (v) of this revenue procedure must attach to its Form 3115 a statement with a description of the asset(s) to which this change applies (for example, all 5-year property placed in service in 2009 in Holmdel, New Jersey facility (for a change specified in section 6.32(1)(a)(i) of this revenue procedure) or one desk costing $2,000 in 2007 General Asset Account #1 (for a change specified in section 6.32(1)(a)(iv) of this revenue procedure)).

(e) A taxpayer (including a qualified small taxpayer) making the change specified in section 6.32(1)(a)(ii) or (iii) of this revenue procedure must attach to its Form 3115 a statement with a description of the general asset account(s) to which this change applies (for example, General Asset Account #2 – all 2008 5-year property additions).

(f) A taxpayer (including a qualified small taxpayer) making the change specified in section 6.32(1)(a)(i) of this revenue procedure must attach to its Form 3115 a statement providing that the taxpayer agrees to the following additional terms and conditions:

(i) The taxpayer consents to, and agrees to apply, all of the provisions of *[Insert, as appropriate, either: § 1.168(i)–1, § 1.168(i)–1T, or Prop. Reg. § 1.168(i)–1]* to the assets that are subject to the election specified in section 6.32(1)(a)(i) of this revenue procedure; and

(ii) Except as provided in *[Insert, as appropriate, either: § 1.168(i)–1(c)(1)(iii)(A), (e)(3), (g), or (h), § 1.168(i)–1T(c)(1)(ii)(A), (e)(3), (g), or (h), or Prop. Reg. § 1.168(i)–1(c)(1)(iii)(A), (e)(3), (g), or (h)]*, the election made by the taxpayer under section 6.32(1)(a)(i) of this revenue procedure is irrevocable and will be binding on the taxpayer for computing taxable income for the year of change and for all subsequent taxable years with respect to the assets that are subject to this election.

(g) If any asset is public utility property within the meaning of § 168(i)(10), a taxpayer (including a qualified small taxpayer) making this change must attach to its Form 3115 a statement providing that the taxpayer agrees to the following additional terms and conditions:

(i) A normalization method of accounting (within the meaning of § 168(i)(9)) will be used for the public utility property subject to the Form 3115;

(ii) Within 30 calendar days of filing the federal income tax return for the year of change, the taxpayer will provide a copy of the completed Form 3115 to any regulatory body having jurisdiction over the public utility property subject to the Form 3115; and

(iii) As of the beginning of the year of change, the taxpayer will adjust its deferred tax reserve account or similar account in the taxpayer's regulatory books of account by the amount of the deferral of federal income tax liability associated with the § 481(a) adjustment applicable to the public utility property subject to the Form 3115. This additional term and condition only has to be included in the statement by a taxpayer making the change specified in section 6.32(1)(a)(ii), (iii), (iv), or (v) of this revenue procedure.

(5) *Concurrent automatic change*.

(a) A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets. If the change for more than one asset included in that Form 3115 is specified in section 6.32(1)(a) of this revenue procedure, the single Form 3115 should provide a single net § 481(a) adjustment for all such changes. If one or more of the changes specified in section 6.32(1)(a) of this revenue procedure in that single Form 3115 generate a negative § 481(a) adjustment and other changes specified in section 6.32(1)(a) of this revenue procedure in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all such changes that are included in that Form 3115 generating such negative adjustment and a single positive § 481(a) adjustment for all such changes that are included in that Form 3115 generating such positive adjustment.

(b) A taxpayer making a change under section 6.32(1)(a)(ii), (iii), (iv), or (v) of this revenue procedure and any change listed in this section 6.32(5)(b)(i)–(ix) of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. This section 6.32(5)(b) applies only if all of these changes are made for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115. The listed changes are:

(i) A change under section 6.01 of this revenue procedure;

(ii) A change under section 6.28(3)(b) of this revenue procedure;

(iii) A change under section 6.29 of this revenue procedure;

(iv) A change under section 6.30 of this revenue procedure;

(v) A change under section 6.31 of this revenue procedure;

(vi) A change under section 6.37(3)(b) of this revenue procedure;

(vii) A change under section 6.38 of this revenue procedure;

(viii) A change under section 6.39 of this revenue procedure; and

(ix) A change under section 6.40 of this revenue procedure.

(6) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change to the method of accounting under this section 6.32 is "180."

(7) *Contact information*. For further information regarding a change under this section, contact Patrick Clinton at (202) 317-7005 (not a toll-free number).

.33 *Late partial disposition election (§ 168; § 1.168(i)–8 and Prop. Reg. § 1.168(i)–8)*.

(1) *Description of change*.

(a) *Applicability*. This change, as described in Rev. Proc. 2014–54, 2014–41 I.R.B. 675, applies to a taxpayer that wants to make a late partial disposition election under § 1.168(i)–8(d)(2)(i) or Prop. Reg. § 1.168(i)–8(d)(2)(i) for the disposition of a portion of an asset (as determined under § 1.168(i)–8(c)(4) or Prop. Reg. § 1.168(i)–8(c)(4), as applicable) by the taxpayer. This change includes the late partial disposition election specified in § 1.168(i)–8(d)(2)(i) that is made pursuant to § 1.168(i)–8(d)(2)(iv)(B) or in Prop. Reg. § 1.168(i)–8(d)(2)(i) that is made pursuant to Prop. Reg. § 1.168(i)–8(d)(2)(iv)(B). This change also may affect whether the taxpayer must capitalize amounts paid to restore a unit of property (as determined under § 1.263(a)–3T(e) or (f), or § 1.263(a)–3(e) or (f), as applicable) under § 1.263(a)–3T(i) or § 1.263(a)–3(k), as applicable.

(b) *Inapplicability*. This change does not apply to the following:

(i) A taxpayer making a late partial disposition election under Prop. Reg. § 1.168(i)–8(d)(2)(i) but does not apply all the provisions of Prop. Reg. § 1.168(i)–8;

(ii) Any asset of which the disposed portion was a part that is not owned by the taxpayer at the beginning of the year of change;

(iii) A taxpayer making any late election specified in section 6.33(1)(a) of this revenue procedure after the time specified in section 6.33(3) of this revenue procedure. Any such late election is not a change in method of accounting pursuant to § 1.446–1(e)(2)(ii)(*d*)(*3*)(*iii*); or

(iv) The partial disposition election specified in § 1.168(i)–8(d)(2)(i) that is made pursuant to § 1.168(i)–8(d)(2)(iii) or in Prop. Reg. § 1.168(i)–8(d)(2)(i) that is made pursuant to Prop. Reg. § 1.168(i)–8(d)(2)(iii), as applicable (but see section 6.35 of this revenue procedure for making this change).

(2) *Change in method of accounting*. The IRS will treat the making of the late election specified in section 6.33(1) of this revenue procedure as a change in method of accounting only for the time specified in section 6.33(3) of this revenue procedure.

(3) *Time for making the change*.

(a) If the change under this section 6.33 is made pursuant to § 1.168(i)–8(d)(2)(i), this change must be made for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2015.

(b) If the change under this section 6.33 is made pursuant to Prop. Reg. § 1.168(i)–8(d)(2)(i), this change must be made for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014.

(c) If the change under this section 6.33 is made pursuant to § 1.168(i)–8(d)(2)(iv)(B) or Prop. Reg. § 1.168(i)–8(d)(2)(iv)(B), as applicable, this change must be made for the first or second taxable year succeeding the applicable taxable year (as defined in § 1.168(i)–8(d)(2)(iv) or Prop. Reg. § 1.168(i)–8(d)(2)(iv), as applicable), pursuant to

§ 1.168(i)–8(d)(2)(iv)(B) or Prop. Reg. § 1.168(i)–8(d)(2)(iv)(B), as applicable.

(4) *Certain eligibility rules inapplicable*.

(a) *In general*. The eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, do not apply to this change.

(b) *Concurrent automatic change*. If a taxpayer makes both a change under this section of this revenue procedure and a change under section 6.01 of this revenue procedure for any taxable year specified in section 6.33(3) of this revenue procedure, as applicable, on a single Form 3115 for the same asset for the same year of change in accordance with section 6.33(6)(b) of this revenue procedure, the eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13 do not apply to the taxpayer for either change.

(5) *Manner of making change*.

(a) A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I, line 1(a);

(iv) Part II, all lines except lines 11, 13, 14, 15, and 17;

(v) Part IV, lines 25 and 26; and

(vi) Schedule E, line 3.

(b) A taxpayer (including a qualified small taxpayer) making this change must:

(i) Apply § 1.168(i)–8(h)(i) and (3) or Prop. Reg. § 1.168(i)–8(h)(1) and (3), as applicable (accounting for asset disposed of);

(ii) If the asset (as determined under § 1.168(i)–8(c)(4) or Prop. Reg. § 1.168(i)–8(c)(4), as applicable) of which the disposed portion is a part is properly included in one of the asset classes 00.11 through 00.4 of Rev. Proc. 87–56, 1987–2 C.B. 674, classify the replacement portion of such asset under the same asset class as the disposed portion of the asset in the taxable year in which the replacement portion is placed in service by the taxpayer;

(iii) If the taxpayer's present method of accounting is not in accord with § 1.168(i)–8(c)(4) or Prop. Reg. § 1.168(i)–8(c)(4), as applicable (determination of asset disposed of), change to the appropriate asset as determined under § 1.168(i)–8(c)(4) or Prop. Reg. § 1.168(i)–8(c)(4), as applicable;

(iv) If the taxpayer continues to deduct depreciation for the disposed portion of the asset (as determined under § 1.168(i)–8(c)(4) or Prop. Reg. § 1.168(i)–8(c)(4), as applicable) under the taxpayer's present method of accounting, change from depreciating such disposed portion to recognizing gain or loss for the disposed portion or, if § 280B and § 1.280B–1 apply to the disposition, change from depreciating such disposed portion to capitalizing the loss sustained on account of the demolition to the land on which the demolished structure was located;

(v) If the taxpayer recognized a gain or loss under § 1.168(i)–1T or § 1.168(i)–8T for the disposed portion of the asset in a taxable year prior to the year of change, recognize gain or loss for such disposed portion under § 1.168(i)–8 or Prop. Reg. § 1.168(i)–8, as applicable; and

(vi) If any asset is public utility property within the meaning of § 168(i)(10), attach to its Form 3115 a statement providing that the taxpayer agrees to the following additional terms and conditions:

(A) A normalization method of accounting (within the meaning of § 168(i)(9)) will be used for the public utility property subject to the Form 3115;

(B) Within 30 calendar days of filing the federal income tax return for the year of change, the taxpayer will provide a copy of the completed Form 3115 to any regulatory body having jurisdiction over the public utility property subject to the Form 3115; and

(C) As of the beginning of the year of change, the taxpayer will adjust its deferred tax reserve account or similar account in the taxpayer's regulatory books of account by the amount of the deferral of federal income tax liability associated with the § 481(a) adjustment applicable to the public utility property subject to the Form 3115.

(6) *Concurrent automatic change*.

(a) A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets. If the change for more than one asset included in that Form 3115 is specified in section 6.33(1) of this revenue procedure, the single Form 3115 should provide a single net § 481(a) adjustment for all such changes. If one or more of the changes specified in section 6.33(1) of this revenue procedure in that single Form 3115 generate a negative § 481(a) adjustment and other changes specified in section 6.33(1) of this revenue procedure in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all such changes that are included in that Form 3115 generating such negative adjustment and a single positive § 481(a) adjustment for all such changes that are included in that Form 3115 generating such positive adjustment.

(b) A taxpayer making this change and any change listed in this section 6.33(6)(b)(i)–(ii) of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. This section 6.33(6)(b) applies only if all of these changes are made for any taxable year specified in section 6.33(3) of this revenue procedure, as applicable (for example, for a taxable year beginning on or after January 1, 2012, and beginning before January 1, 2015, if the change under section 6.33 of this revenue procedure is made pursuant to § 1.168(i)–8(d)(2)(i)). See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115. The listed changes are:

(i) A change under section 6.01 of this revenue procedure; and

(ii) A change under section 6.34 of this revenue procedure.

(7) *Examples*. The following examples illustrate the changes that may be made under this section 6.33.

(a) *Example 1*. (i) X, a calendar year taxpayer, acquired and placed in service a truck in 2009. The truck is described in asset class 00.242 of Rev. Proc. 87–56. X depreciates the truck under § 168. X does not reasonably expect to replace the engine of the truck more than once during its class life of 6 years.

The engine is a major component of the truck under § 1.263(a)–3T(i)(1)(vi).

(ii) In 2012, X replaced the engine of the truck. X applied § 1.168(i)–8T and § 1.263(a)–3T for its taxable year ended December 31, 2012. Because the truck is the asset for disposition purposes, X did not recognize a loss on the retirement of the engine under § 1.168(i)–8T and continues to depreciate the original engine. Further, X capitalized the new engine as an improvement, classified the new engine under asset class 00.242 of Rev. Proc. 87–56, and depreciates the new engine under § 168.

(iii) X decides to apply § 1.168(i)–8 beginning with its taxable year ending December 31, 2013. X also decides to make the late partial disposition election under this section 6.33 for the truck's original engine that X retired in 2012. Although the truck is the asset for disposition purposes under § 1.168(i)–8(c)(4)(ii)(C), the partial disposition rule under § 1.168(i)–8(d)(2)(i) results in the retirement of the engine being a disposition under § 1.168(i)–8(b)(2). Thus, in accordance with section 6.33 of this revenue procedure, X may file a Form 3115 with its 2013 federal income tax return to make the late disposition election for the engine and change from depreciating the original engine to recognizing a loss upon its retirement.

(b) *Example 2*. (i) Y, a calendar year taxpayer, acquired and placed in service a building and its structural components in 2000. Y depreciates this building and its structural components under § 168. The roof is a structural component of the building. Y replaced the entire roof in 2010. On its federal income tax return for the taxable year ended December 31, 2010, Y did not recognize a loss on the retirement of the original roof and continued to depreciate the original roof. Y also capitalized the cost of the replacement roof and has been depreciating this roof under § 168 since June 2010. The adjusted depreciable basis of the original roof at the time of the retirement in 2010 (taking into account the applicable convention) is $11,000, and Y claimed depreciation of $1,000 for such roof after its retirement (taking into account the applicable convention) and before the 2012 taxable year.

(ii) In accordance with § 1.168(i)–8T(c)(4)(ii)(A) and (B) and section 6.29(3)(a) and (b) of the APPENDIX to Rev. Proc. 2011–14, as modified by Rev. Proc. 2012–20, 2012–14 I.R.B. 700, Y filed with its federal income tax return for the taxable year ended December 31, 2012, a Form 3115 to treat the building as an asset and each structural component of the building as a separate asset for disposition purposes and also to change from depreciating the original roof to recognizing a loss upon its retirement. The amount of the net negative § 481(a) adjustment on this Form 3115 is $10,000 (adjusted depreciable basis of $11,000 for the original roof at the time of its retirement (taking into account the applicable convention) less depreciation of $1,000 claimed for such roof after its retirement (taking into account the applicable convention) and before the 2012 taxable year).

(iii) Y complies with § 1.168(i)–8 beginning with its taxable year ending December 31, 2014. Y also decides to make the late partial disposition election under this section 6.33 for the building's original roof that Y retired in 2010. Although the original building (including its original roof and other original structural components) is the asset for disposition purposes under § 1.168(i)–8(c)(4)(ii)(A), the partial disposition rule under § 1.168(i)–8(d)(2)(i) results in the retirement of the original roof being a disposition under § 1.168(i)–8(b)(2). Thus, in accordance with section 6.33 of this revenue procedure, Y may file a Form 3115 with its 2014 federal income tax return to make a late partial disposition election for the original roof, treat the original building (including its original roof and other original structural components) as an asset and the replacement roof to the building as a separate asset for disposition purposes and recognize a loss upon the retirement of the original roof under § 1.168(i)–8.

(iv) The computation of the net § 481 adjustment for this change is computed as follows:

Net Loss on retirement of original roof on 2012 return under § 1.168(i)–8T	$10,000
Net Loss on retirement of original roof under § 1.168(i)–8	(*10,000*)
Net § 481(a) adjustment for the roof	$ 0

(8) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change to the method of accounting under this section 6.33 is "196."

(9) *Contact information*. For further information regarding a change under this section, contact Patrick Clinton at (202) 317-7005 (not a toll-free number).

.34 *Revocation of a general asset account election (§ 168; § 1.168(i)–1, § 1.168(i)–1T and Prop. Reg. § 1.168(i)–1)*.

(1) *Description of change*.

(a) *Applicability*. This change, as described in Rev. Proc. 2014–54, 2014–41 I.R.B. 675, applies to a taxpayer that wants to revoke its general asset account election:

(i) Made under section 6.32(1)(a)(i) of this revenue procedure or section 6.32(1)(a)(i) of the APPENDIX to Rev. Proc. 2011–14 for one or more items of property depreciated under § 168 (MACRS property) included in the general asset account. This change also may affect whether the taxpayer must capitalize amounts paid to restore a unit of property (as determined under § 1.263(a)–3T(e) or (f), or § 1.263(a)–3(e) or (f), as applicable) under §1.263(a)–3T(i) or § 1.263(a)–3(k), as applicable; or

(ii) Made under § 1.168(i)–1, § 1.168(i)–1T, or Prop. Reg. § 1.168(i)–1 for one or more items of MACRS property placed in service by the taxpayer in a taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014. This change also may affect whether the taxpayer must capitalize amounts paid to restore a unit of property (as determined under § 1.263(a)–3T(e) or (f), or § 1.263(a)–3(e) or (f), as applicable) under §1.263(a)–3T(i) or § 1.263(a)–3(k), as applicable.

(b) *Inapplicability*. Because of the changes made to the general asset account temporary regulations (§ 1.168(i)–1T) by § 1.168(i)–1, the IRS will treat the revocation of the elections specified in section 6.34(1)(a) of this revenue procedure as a change in method of accounting only for the time specified in section 6.34(2) of this revenue procedure. Accordingly, this treatment does not apply to a taxpayer that makes any revocation specified in section 6.34(1)(a) of this revenue procedure before or after the time specified in section 6.34(2) of this revenue procedure. Any such revocation is not a change in method of accounting pursuant to § 1.446–1(e)(2)(ii)(*d*)(*3*)(*iii*). The elections specified in section 6.34(1)(a) of this revenue procedure are irrevocable except as provided in § 1.168(i)–1(c)(1)(ii)(A), (e)(3), (g), or (h), § 1.168(i)–1T(c)(1)(ii)(A), (e)(3), (g), or (h), or Prop. Reg. § 1.168(i)–1(c)(1)(ii)(A), (e)(3), (g), or (h), as applicable.

(2) *Time for making the change*. The change under this section 6.34 must be made for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2015.

(3) *Certain eligibility rules inapplicable*.

(a) *In general*. The eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, do not apply to this change.

(b) *Concurrent automatic change*. If a taxpayer makes both a change under this section of the revenue procedure and a change under section 6.01 of this revenue procedure for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2015, on a single Form

3115 for the same asset for the same year of change in accordance with section 6.34(6)(b) of this revenue procedure, the eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13 do not apply to the taxpayer for either change. If a taxpayer makes both a change under this section of the revenue procedure and a change under section 6.01 of this revenue procedure for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014, on a single Form 3115 for the same asset for the same year of change in accordance with section 6.34(6)(c) of this revenue procedure, the eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13 do not apply to the taxpayer for either change.

(4) *Section 481(a) adjustment period*. A taxpayer making this change must take the entire § 481(a) adjustment into account in computing taxable income for the year of change.

(5) *Manner of making change*.

(a) A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I, line 1(a);

(iv) Part II, all lines except lines 11, 13, 14, 15, and 17;

(v) Part IV, lines 25 and 26; and

(vi) Schedule E, lines 3, 4a, 4b, and 4c.

(b) A taxpayer (including a qualified small taxpayer) making this change must:

(i) Attach to its Form 3115 a statement with a description of the asset(s) to which this change applies (for example, all general asset accounts established pursuant to a Form 3115 filed under section 6.32(1)(a)(i) of the APPENDIX to Rev. Proc. 2011–14 for the year of change beginning January 1, 2012 (for a change specified in section 6.34(1)(a)(i) of this revenue procedure); one desk costing $2,000 in 2012 General Asset Account #1 (for a change specified in section 6.34(1)(a)(ii) of this revenue procedure));

(ii) Include the asset(s) that were in the general asset account(s) at the end of the taxable year immediately preceding the year of change in a single asset account or a multiple asset account in accordance with § 1.168(i)–7. The single asset account or the multiple asset account must include a beginning balance for both the unadjusted depreciable basis and the depreciation reserve. For a single asset account, the beginning balance for the unadjusted depreciable basis of that single asset account is equal to the unadjusted depreciable basis as of the beginning of the year of change for the asset included in that single asset account and the beginning balance of the depreciation reserve of that single asset account is the greater of the depreciation allowed or allowable as of the beginning of the year of change for the asset included in that single asset account. For a multiple asset account, the beginning balance for the unadjusted depreciable basis of that multiple asset account is equal to the sum of the unadjusted depreciable bases as of the beginning of the year of change for all assets included in that multiple asset account and the beginning balance of the depreciation reserve of that multiple asset account is equal to the sum of the greater of the depreciation allowed or allowable as of the beginning of the year of change for all assets included in that multiple asset account; and

(iii) If any asset is public utility property within the meaning of § 168(i)(10), attach to its Form 3115 a statement providing that the taxpayer agrees to the following additional terms and conditions:

(A) A normalization method of accounting (within the meaning of § 168(i)(9)) will be used for the public utility property subject to the Form 3115;

(B) Within 30 calendar days of filing the federal income tax return for the year of change, the taxpayer will provide a copy of the completed Form 3115 to any regulatory body having jurisdiction over the public utility property subject to the Form 3115; and

(C) As of the beginning of the year of change, the taxpayer will adjust its deferred tax reserve account or similar account in the taxpayer's regulatory books of account by the amount of the deferral of federal income tax liability associated with the § 481(a) adjustment applicable to the public utility property subject to the Form 3115.

(6) *Concurrent automatic change*.

(a) A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets. If the change for more than one asset included in that Form 3115 is specified in section 6.34(1)(a) of this revenue procedure, the single Form 3115 must provide a single net § 481(a) adjustment for all such changes.

(b) A taxpayer making this change and any change listed in section 6.34(6)(b)(i)–(iv) of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. This section 6.34(6)(b) applies only if all of these changes are made for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2015. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115. The listed changes are:

(i) A change under section 6.01 of this revenue procedure;

(ii) A change under section 6.33 of this revenue procedure made pursuant to § 1.168(i)–8(d)(2)(i);

(iii) A change under section 6.38 of this revenue procedure; and

(iv) A change under section 6.39 of this revenue procedure.

(c) A taxpayer making this change, any change listed in section 6.34(6)(b)(i), (iii), or (iv) of this revenue procedure, and any change listed in this section 6.34(6)(c)(i)–(iii) of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. This section 6.34(6)(c) applies only if all of these changes are made for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. The listed changes are:

(i) A change under section 6.29 of this revenue procedure;

(ii) A change under section 6.30 of this revenue procedure; and

(iii) A change under section 6.33 of this revenue procedure made pursuant to Prop. Reg. § 1.168(i)–8(d)(2)(i).

(7) *Examples*. The following examples illustrate the changes that may be made under this section 6.34.

(a) *Example 1*. (i) On its federal tax return for the taxable year ended December 31, 2012, X made a general asset account election under § 1.168(i)–1T to apply § 1.168(i)–1T to all of its assets placed in service during 2012. No such assets were disposed of during 2012. X decides to apply §§ 1.168(i)–1 and 1.168(i)–8 for its taxable year ending December 31, 2013. Because of the change in the definition of a qualifying disposition under § 1.168(i)–1(e)(3)(iii), X does not want its assets placed in service during 2012 in general asset accounts. In accordance with this section 6.34, X files with its federal tax return for the taxable year ending December 31, 2013, a Form 3115 to revoke the general asset account election for all assets placed in service during 2012 and include such assets in one multiple asset account in accordance with § 1.168(i)–7. Because the adjusted depreciable basis of the assets is not changed as a result of this change, a § 481(a) adjustment is neither required nor permitted.

(b) *Example 2*. (i) Y, a calendar year taxpayer, acquired and placed in service three used trucks in 2011. The trucks are described in asset class 00.242 of Rev. Proc. 87–56, 1987–2 C.B. 674. Of the three trucks, one truck costs $20,000 and the other two trucks cost a total of $30,000. Y depreciates the trucks under § 168. In 2012, Y sold the truck that cost $20,000 to an unrelated party for $12,000. The adjusted depreciable basis of the truck at the time of its disposition (taking into account the applicable convention) is $12,800 (cost of $20,000 less depreciation of $7,200 for 2011 and 2012).

(ii) In accordance with § 1.168(i)–1T and section 6.32(1)(a)(i) of the APPENDIX to Rev. Proc. 2011–14, as modified by Rev. Proc. 2012–20, 2012–14 I.R.B. 700, Y filed with its federal tax return for the taxable year ended December 31, 2012, a Form 3115 to make a late general asset account election to include the three trucks in one general asset account. Because a sales transaction is a qualifying disposition under § 1.168(i)–1T(e)(3)(iii)(B), Y also elected to apply § 1.168(i)–1T(e)(3)(iii) for the sale of the truck in 2012. As a result, Y removed this truck from the general asset account and, on its 2012 federal tax return, recognized a loss of $800 under § 1.168(i)–8T (sales proceeds of $12,000 less the adjusted depreciable basis of $12,800 for the truck.)

(iii) Y complies with §§ 1.168(i)–1 and 1.168(i)–8 beginning with its taxable year ending December 31, 2014. Because a sales transaction is not a qualifying disposition under § 1.168(i)–1(e)(3)(iii)(B), Y should have recognized all of the sales proceeds of $12,000 from the sale of the truck in 2012 as ordinary income and continued to deduct depreciation for this truck in the general asset account. As a result and in accordance with sections 6.34 and 6.39(3)(i) of this revenue procedure, Y files with its 2014 federal tax return a Form 3115 to revoke the general asset account election for the three trucks placed in service in 2011, include the two unsold trucks in one multiple asset account in accordance with § 1.168(i)–7, and recognize the loss of $800 upon the sale of the truck in 2012 under § 1.168(i)–8.

(iv) The computation of the § 481 adjustment for this change is computed as follows:

Loss on sale of truck on 2012 return under § 1.168(i)–8T	$ 800
Loss on sale of truck under § 1.168(i)–8	(800)
Net § 481(a) adjustment for the asset	$ 0

(c) *Example 3*. (i) Z, a calendar year taxpayer, acquired and placed in service a building and its structural components in 2000. Z depreciates this building and its structural components under § 168. The roof is a structural component of the building. Z replaced the entire roof in 2010. On its federal tax return for the taxable year ended December 31, 2010, Z did not recognize a loss on the retirement of the original roof and continued to depreciate the original roof. Z also capitalized the cost of the replacement roof and has been depreciating this roof under § 168 since June 2010. The adjusted depreciable basis of the original roof at the time of its retirement in 2010 (taking into account the applicable convention) is $11,000, and Z claimed depreciation of $1,000 for such roof after its retirement (taking into account the applicable convention) and before the 2012 taxable year. Also, the 12-month allowable depreciation deduction for the original roof is $500 for the 2012 taxable year.

(ii) In accordance with § 1.168(i)–1T and section 6.32(1)(a) of the APPENDIX to Rev. Proc. 2011–14, as modified by Rev. Proc. 2012–20, 2012–14 I.R.B. 700, Z filed with its federal tax return for the taxable year ended December 31, 2012, a Form 3115 to: (1) make a late general asset account election to include the building (including its structural components) placed in service in 2000 in one general asset account and the replacement roof in a separate general asset account; and (2) make a late qualifying disposition election for the retirement of the original roof in 2010. As a result, Z removed the original roof from the general asset account and reported a net negative § 481(a) adjustment on this Form 3115 of $10,000 (adjusted depreciable basis of $11,000 for the original roof at the time of its retirement (taking into account the applicable convention) less depreciation of $1,000 claimed for such roof after its retirement (taking into account the applicable convention) and before the 2012 taxable year).

(iii) Z decides to apply §§ 1.168(i)–1 and 1.168(i)–8 for its taxable year ending December 31, 2013, but decides not to make any late partial disposition election under section 6.33 of this revenue procedure. In accordance with sections 6.34 and 6.38(3)(a) of this revenue procedure, Z files a Form 3115 with its 2013 federal income tax return to revoke the general asset account election for the building (including its structural components) placed in service in 2000 and for the replacement roof, and to change to treating the building (including its original roof and other original structural components) placed in service in 2000 as an asset and the replacement roof as a separate asset for disposition purposes. The net positive § 481(a) adjustment for this change is $9,500 (net loss of $10,000 claimed on the 2012 return for the retirement of the original roof less depreciation of $500 for the original roof for 2012) and is included in Z's taxable income for 2013.

(8) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change to the method of accounting under this section 6.34 is "197."

(9) *Contact information*. For further information regarding a change under this section, contact Patrick Clinton at (202) 317-7005 (not a toll-free number).

.35 *Partial dispositions of tangible depreciable assets to which the IRS's adjustment pertains (§ 168; § 1.168(i)–8 and Prop. Reg. § 1.168(i)–8)*.

(1) *Description of change*.

(a) *Applicability*. This change, as described in Rev. Proc. 2014–54, 2014–41 I.R.B. 675, applies to a taxpayer that is described in § 1.168(i)–8(d)(2)(iii) or Prop. Reg. § 1.168(i)–8(d)(2)(iii) and, pursuant to § 1.168(i)–8(d)(2)(iii) or Prop. Reg. § 1.168(i)–8(d)(2)(iii), that wants to make the partial disposition election specified in § 1.168(i)–8(d)(2)(i) or Prop. Reg. § 1.168(i)–8(d)(2)(i) to the disposition of a portion of an asset to which the IRS's adjustment (as described in § 1.168(i)–8(d)(2)(iii) or Prop. Reg. § 1.168(i)–8(d)(2)(iii), as applicable) pertains.

(b) *Inapplicability*. This change does not apply to:

(i) Any asset of which the disposed portion was a part that is not owned by the taxpayer at the beginning of the year of change;

(ii) The partial disposition election specified in § 1.168(i)–8(d)(2)(i) that is made pursuant to § 1.168(i)–8(d)(2)(iv) or specified in Prop. Reg. § 1.168(i)–8(d)(2)(i) that is made pursuant to Prop. Reg. § 1.168(i)–8(d)(2)(iv) (but see section 6.33 of this revenue procedure for making this change).

(2) *Change in method of accounting*. The IRS will treat the making of the late election specified in section 6.35(1) of this

revenue procedure as a change in method of accounting.

(3) *Certain eligibility rules inapplicable*. The eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, do not apply to this change.

(4) *Manner of making change*.

(a) A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I;

(iv) Part II, all lines except lines 11, 13, 14, 15, and 17;

(v) Part IV, lines 25 and 26; and

(vi) Schedule E, line 3.

(b) A taxpayer (including a qualified small taxpayer) making this change must:

(i) Apply § 1.168(i)–8(h)(1) and (3) or Prop. Reg. § 1.168(i)–8(h)(1)and (3), as applicable (accounting for asset disposed of);

(ii) If the asset (as determined under § 1.168(i)–8(c)(4) or Prop. Reg. § 1.168(i)–8(c)(4), as applicable) of which the disposed portion is a part is properly included in one of the asset classes 00.11 through 00.4 of Rev. Proc. 87–56, 1987–2 C.B. 674, classify the replacement portion of such asset under the same asset class as the disposed portion of the asset in the taxable year in which the replacement portion is placed in service by the taxpayer;

(iii) If the taxpayer's present method of accounting is not in accord with § 1.168(i)–8(c)(4) or Prop. Reg. § 1.168(i)–8(c)(4), as applicable (determination of asset disposed of), change to the appropriate asset as determined under § 1.168(i)–8(c)(4) or Prop. Reg. § 1.168(i)–8(c)(4), as applicable;

(iv) If the taxpayer continues to deduct depreciation for the disposed portion of the asset (as determined under § 1.168(i)–8(c)(4) or Prop. Reg. § 1.168(i)–8(c)(4), as applicable) under the taxpayer's present method of accounting, change from depreciating such disposed portion to recognizing gain or loss for the disposed portion or, if § 280B and § 1.280B–1 apply to the disposition, change from depreciating such disposed portion to capitalizing the loss sustained on account of the demolition to the land on which the demolished structure was located; and

(v) If any asset is public utility property within the meaning of § 168(i)(10), attach a statement to its Form 3115 providing that the taxpayer agrees to the following additional terms and conditions:

(A) A normalization method of accounting (within the meaning of § 168(i)(9)) will be used for the public utility property subject to the Form 3115;

(B) Within 30 calendar days of filing the federal income tax return for the year of change, the taxpayer will provide a copy of the completed Form 3115 to any regulatory body having jurisdiction over the public utility property subject to the Form 3115; and

(C) As of the beginning of the year of change, the taxpayer will adjust its deferred tax reserve account or similar account in the taxpayer's regulatory books of account by the amount of the deferral of federal income tax liability associated with the § 481(a) adjustment applicable to the public utility property subject to the Form 3115.

(5) *Concurrent automatic change*. A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets. If the change for more than one asset included in that Form 3115 is specified in section 6.35(1) of this revenue procedure, the single Form 3115 should provide a single net § 481(a) adjustment for all such changes. If one or more of the changes specified in section 6.35(1) of this revenue procedure in that single Form 3115 generate a negative § 481(a) adjustment and other changes specified in section 6.35(1) of this revenue procedure in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all such changes that are included in that Form 3115 generating such negative adjustment and a single positive § 481(a) adjustment for all such changes that are included in that Form 3115 generating such positive adjustment.

(6) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change to the method of accounting under this section 6.35 is "198."

(7) *Contact information*. For further information regarding a change under this section, contact Patrick Clinton at (202) 317-7005 (not a toll-free number).

.36 *Depreciation of leasehold improvements (§§ 167, 168, and 197; § 1.167(a)–4)*.

(1) *Description of change*. This change, as described in Rev. Proc. 2014–17, 2014–12 I.R.B. 661, applies to a taxpayer that wants to change its method of accounting to comply with § 1.167(a)–4 for leasehold improvements in which the taxpayer has a depreciable interest at the beginning of the year of change:

(a) From improperly depreciating the leasehold improvements to which § 168 applies over the term of the lease (including renewals, if applicable) to properly depreciating these improvements under § 168;

(b) From improperly amortizing leasehold improvements to which § 197 applies over the term of the lease (including renewals, if applicable) to properly amortizing these improvements under § 197; or

(c) From improperly amortizing leasehold improvements to which § 167(f)(1) applies over the term of the lease (including renewals, if applicable) to properly amortizing these improvements under § 167(f)(1).

(2) *Certain eligibility rules inapplicable*.

(a) *In general*. The eligibility rule in section 5.01(1)(d) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to a taxpayer making this change.

(b) *Special rule*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13 does not apply to a taxpayer making this change for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2015.

(3) *Manner of making change*.

(a) A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I;

(iv) Part II, all lines except lines 11, 14, 15, and 17;

(v) Part IV, lines 25 and 26; and

(vi) Schedule E.

(b) If any leasehold improvement is public utility property within the meaning of § 168(i)(10) or former § 167(l)(3)(A), a taxpayer (including a qualified small taxpayer) making this change must attach to its Form 3115 a statement providing that the taxpayer agrees to the following additional terms and conditions:

(i) A normalization method of accounting (within the meaning of § 168(i)(9) or former § 167(l)(3)(G)) will be used for the public utility property subject to the change;

(ii) As of the beginning of the year of change, the taxpayer will adjust its deferred tax reserve account or similar account in the taxpayer's regulatory books of account by the amount of the deferral of federal income tax liability associated with the § 481(a) adjustment applicable to the public utility property subject to the change; and

(iii) Within 30 calendar days of filing the federal income tax return for the year of change, the taxpayer will provide a copy of the completed Form 3115 to any regulatory body having jurisdiction over the public utility property subject to the change.

(4) *Concurrent automatic change*.

(a) A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets and provide a single net § 481(a) adjustment for all the changes included in that Form 3115. If one or more of the changes in that single Form 3115 generate a negative § 481(a) adjustment and other changes in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment and a single positive § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment.

(b) A taxpayer making both this change and a change to a UNICAP method under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable) for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required by section 6.36(3)(a) of this revenue procedure for this change and the information required by the lines on Form 3115 applicable to the UNICAP method change, including Part II line 12 and 13, Part IV, and Schedule D, and must include a separate response to each line on Form 3115 that is applicable to both changes (such as Part II lines 4b, 5c, 12, and, as applicable for this change, Part IV) for which the taxpayer's response is different for this change and the change to a UNICAP method.

(5) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change to a method of accounting under this section 6.36 is "199."

(6) *Contact information*. For further information regarding a change under this section, contact Patrick Clinton at (202) 317-7005 (not a toll-free number).

.37 *Permissible to permissible method of accounting for depreciation of MACRS property (§ 168; §§ 1.168(i)–1, 1.168(i)–7, and 1.168(i)–8)*.

(1) *Description of change*.

(a) *Applicability*. This change, as described in Rev. Proc. 2014–54, 2014–41 I.R.B. 675, applies to a taxpayer that wants to make a change in method of accounting for depreciation that is specified in section 6.37(3) of this revenue procedure for an asset:

(i) to which § 168 applies (MACRS property);

(ii) for which the present and proposed methods of accounting are permissible methods of accounting under § 1.168(i)–1, § 1.168(i)–7, or § 1.168(i)–8, as applicable; and

(iii) that is owned by the taxpayer at the beginning of the year of change.

(b) *Inapplicability*. This change does not apply to any property that is not depreciated under § 168 under the taxpayer's present and proposed methods of accounting.

(2) *Certain eligibility rules inapplicable*.

(a) *In general*. The eligibility rule in section 5.01(1)(d) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to a taxpayer making this change.

(b) *Special rule*.

(i) The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13 does not apply to a taxpayer making this change for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2015.

(ii) If a taxpayer makes both a change under this section of this revenue procedure and a change under section 6.01 of this revenue procedure for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2015, on a single Form 3115 for the same asset for the same year of change in accordance with section 6.37(5)(b) of this revenue procedure, the eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13 do not apply to the taxpayer for either change. If a taxpayer makes both a change under this section of the revenue procedure and a change under section 6.01 of this revenue procedure for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014, on a single Form 3115 for the same asset for the same year of change in accordance with section 6.37(5)(c) of this revenue procedure, the eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13 do not apply to the taxpayer for either change.

(3) *Changes covered*. This section 6.37 only applies to the following changes in methods of accounting for depreciation of MACRS property: (a) For the items of MACRS property not subject to a general asset account election under § 168(i)(4) and the regulations thereunder—

(i) a change from single asset accounts (or item accounts) for specific items of MACRS property to multiple asset accounts (or pools) for the same assets, or *vice versa*, in accordance with § 1.168(i)–7;

(ii) a change from grouping specific items of MACRS property in multiple asset accounts to a different grouping of the same assets in multiple asset accounts in accordance with § 1.168(i)–7(c);

(iii) a change in the method of identifying which assets in multiple asset accounts or which portions of assets have been disposed of by the taxpayer from the specific identification method under § 1.168(i)–8(g)(1) to the first-in, first-out (FIFO) method of accounting under § 1.168(i)–8(g)(2)(i) or the modified FIFO method of accounting under § 1.168(i)–8(g)(2)(ii);

(iv) a change in the method of identifying which assets in multiple asset accounts or which portions of assets have been disposed of by the taxpayer from the FIFO method of accounting under § 1.168(i)–8(g)(2)(i) or the modified FIFO method of accounting under § 1.168(i)–(g)(2)(ii) to the specific identification method under § 1.168(i)–8(g)(1);

(v) a change in the method of identifying which assets in multiple asset accounts or which portions of assets have been disposed of by the taxpayer from the FIFO method of accounting under § 1.168(i)–8(g)(2)(i) to the modified FIFO method of accounting under § 1.168(i)–8(g)(2)(ii), or *vice versa*;

(vi) a change in the method of identifying which mass assets (as defined in § 1.168(i)–8(b)(3)) in multiple asset accounts or which portions of mass assets have been disposed of by the taxpayer from the specific identification method under § 1.168(i)–8(g)(1) to a mortality dispersion table in accordance with § 1.168(i)–8(g)(2)(iii);

(vii) a change in the method of identifying which mass assets (as defined in § 1.168(i)–8(b)(3)) in multiple asset accounts or which portions of mass assets have been disposed of by the taxpayer from the FIFO method of accounting under § 1.168(i)–8(g)(2)(i) or the modified FIFO method of accounting under § 1.168(i)–8(g)(2)(ii) to a mortality dispersion table in accordance with § 1.168(i)–8(g)(2)(iii);

(viii) a change in the method of identifying which mass assets (as defined in § 1.168(i)–8(b)(3)) in multiple asset accounts or which portions of mass assets have been disposed of by the taxpayer from a mortality dispersion table in accordance with § 1.168(i)–8(g)(2)(iii) to the specific identification method under § 1.168(i)–8(g)(1), the FIFO method of accounting under § 1.168(i)–8(g)(2)(i), or the modified FIFO method of accounting under § 1.168(i)–8(g)(2)(ii);

(ix) if § 1.168(i)–8(f)(2) applies (disposition of an asset in a multiple asset account) and it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of the asset disposed of, a change in the method of determining the unadjusted depreciable basis of all assets in the same multiple asset account from one reasonable method to another reasonable method; or

(x) if § 1.168(i)–8(f)(3) applies (disposition of a portion of an asset) and it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of the disposed portion of the asset, a change in the method of determining the unadjusted depreciable basis of all disposed portions of the asset from one reasonable method to another reasonable method; and

(b) For the items of MACRS property subject to a general asset account election under § 168(i)(4) and the regulations thereunder—

(i) a change from grouping specific items of MACRS property in general asset accounts to a different grouping of the same assets in general asset accounts in accordance with § 1.168(i)–1(c);

(ii) a change in the method of identifying which assets or which portions of assets have been disposed of by the taxpayer from the specific identification method under § 1.168(i)–1(j)(2)(i)(A) to the FIFO method of accounting under § 1.168(i)–1(j)(2)(i)(B) or the modified FIFO method of accounting under § 1.168(i)–1(j)(2)(i)(C);

(iii) a change in the method of identifying which assets or which portions of assets have been disposed of by the taxpayer from the FIFO method of accounting under § 1.168(i)–1(j)(2)(i)(B) or the modified FIFO method of accounting under § 1.168(i)–1(j)(2)(i)(C) to the specific identification method under § 1.168(i)–1(j)(2)(i)(A);

(iv) a change in the method of identifying which assets or which portions of assets have been disposed of by the taxpayer from the FIFO method of accounting under § 1.168(i)–1(j)(2)(i)(B) to the modified FIFO method of accounting under § 1.168(i)–1(j)(2)(i)(C), or *vice versa*;

(v) a change in the method of identifying which mass assets (as defined in § 1.168(i)–1(b)(6)) or which portions of mass assets that are in a separate general asset account in accordance with § 1.168–1(c)(2)(ii)(H), have been disposed of by the taxpayer from the specific identification method under § 1.168(i)–1(j)(2)(i)(A) to a mortality dispersion table in accordance with § 1.168(i)–1(j)(2)(i)(D);

(vi) a change in the method of identifying which mass assets (as defined in § 1.168(i)–1(b)(6)) or which portions of mass assets that are in a separate general asset account in accordance with § 1.168–1(c)(2)(ii)(H), have been disposed of by the taxpayer from the FIFO method of accounting under § 1.168(i)–1(j)(2)(i)(B) or the modified FIFO method of accounting under § 1.168(i)–1(j)(2)(i)(C) to a mortality dispersion table in accordance with § 1.168(i)–1(j)(2)(i)(D);

(vii) a change in the method of identifying which mass assets (as defined in § 1.168(i)–1(b)(6)), or which portions of mass assets that are in a separate general asset account in accordance with § 1.168–1(c)(2)(ii)(H), have been disposed of by the taxpayer from a mortality dispersion table in accordance with § 1.168(i)–1(j)(2)(i)(D) to the specific identification method under § 1.168(i)–1(j)(2)(i)(A), the FIFO method of accounting under § 1.168(i)–1(j)(2)(i)(B), or the modified FIFO method of accounting under § 1.168(i)–1(j)(2)(i)(C); or

(viii) if § 1.168(i)–1(j)(3) applies (basis of a disposed asset or a disposed portion of an asset in a general asset account) and it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of the disposed asset or the disposed portion of the asset, a change in the method of determining the unadjusted depreciable basis of all assets in the same general asset account from one reasonable method to another reasonable method.

(4) *Manner of making change.*

(a) The changes in methods of accounting specified in section 6.37(3)(a)(i) and (ii) and section 6.37(3)(b)(i) of this revenue procedure are made using a modified cut-off method under which the unadjusted depreciable basis and the depreciation reserve of the asset as of the beginning of the year of change are accounted for using the proposed method of accounting.

(i) If the change specified in section 6.37(3)(a)(i) of this revenue procedure is a change to a single asset account, the new single asset account must include a beginning balance for both the unadjusted depreciable basis and the depreciation reserve of the asset included in that single asset account.

(ii) If the change specified in section 6.37(3)(a)(i) or (ii) of this revenue procedure is a change to a multiple asset account (either a new one or a different grouping), the multiple asset account must include a beginning balance for both the unadjusted depreciable basis and the depreciation reserve. The beginning balance for the unadjusted depreciable basis of each multiple asset account is equal to the sum of the unadjusted depreciable bases as of the beginning of the year of change for all assets included in that multiple asset account. The beginning balance of the depreciation reserve of each multiple asset account is equal to the sum of the greater of the depreciation allowed or allowable as of the beginning of the year of change for all assets included in that multiple asset account.

(iii) The change specified in section 6.37(3)(b)(i) of this revenue procedure requires the general asset account to include a beginning balance for both the unadjusted depreciable basis and the depreciation reserve. The beginning balance for the unadjusted depreciable basis of each general asset account is equal to the sum of the unadjusted depreciable bases as of the beginning of the year of change for all assets included in that general asset account. The beginning balance of the depreciation reserve of each general asset account is equal to the sum of the greater of the depreciation allowed or allowable as of the beginning of the year of change for all assets included in that general asset account.

(b) The changes in methods of accounting specified in section 6.37(3)(a)(iii), (vi), (ix), and (x) and section 6.37(3)(b)(ii), (v), and (viii) of this revenue procedure are made using a cut-off method and apply to dispositions occurring on or after the beginning of the year of change.

(c) Even though the changes in methods of accounting specified in section 6.37(3)(a)(iv), (v), (vii), and (viii) and section 6.37(3)(b)(iii), (iv), (vi), and (vii) of this revenue procedure are changes from one permissible method of accounting to another permissible method of accounting, these changes are made with a § 481(a) adjustment. For the changes in methods of accounting specified in section 6.37(3)(b)(iii), (iv), (vi), and (vii) of this revenue procedure, the § 481(a) adjustment should be zero unless § 1.168(i)–1(e)(3) applies to the asset subject to the change.

(d) A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I;

(iv) Part II, all lines except lines 11, 13, 14, 15, and 17;

(v) Part IV, lines 24, 25, and 26; and

(vi) Schedule E, lines 3, 4a, 4b, and 4c.

(e) If any asset subject to this change is public utility property within the meaning of § 168(i)(10), a taxpayer (including a qualified small taxpayer) making this change must attach to its Form 3115 a statement providing that the taxpayer agrees to the following additional terms and conditions:

(i) A normalization method of accounting (within the meaning of § 168(i)(9)) will be used for the public utility property subject to the change;

(ii) As of the beginning of the year of change, the taxpayer will adjust its deferred tax reserve account or similar account in the taxpayer's regulatory books of account by the amount of the deferral of federal income tax liability associated with the § 481(a) adjustment applicable to a change in method of accounting specified in section 6.37(3)(a)(iv), (v), (vii), or (viii) or section 6.37(3)(b)(iii), (iv), (vi), or (vii) of this revenue procedure made for the public utility property subject to the change; and

(iii) Within 30 calendar days of filing the federal income tax return for the year of change, the taxpayer will provide a copy of the completed Form 3115 to any regulatory body having jurisdiction over the public utility property subject to the change.

(5) *Concurrent change*.

(a) A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets. If the change for more than one asset included in that Form 3115 is specified in section 6.37(3)(a)(iv), (v), (vii), or (viii) or section 6.37(3)(b)(iii), (iv), (vi), or (vii) of this revenue procedure, the single Form 3115 also should provide a single net § 481(a) adjustment for all such changes. If one or more changes specified in section 6.37(3)(a)(iv), (v), (vii), or (viii) or section 6.37(3)(b)(iii), (iv), (vi), or (vii) of this revenue procedure in that single Form 3115 generate a negative § 481(a) adjustment and other changes specified in section 6.37(3)(a)(iv), (v), (vii), or (viii) or section 6.37(3)(b)(iii), (iv), (vi), or (vii) of this revenue procedure in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all such changes that are included in that Form 3115 generating such negative adjustment and a single positive § 481(a) adjustment for all such changes that are included in that Form 3115 generating such positive adjustment.

(b) A taxpayer making this change and any change listed in this section 6.37(5)(b)(i)–(iv) of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115. The listed changes are:

(i) A change under section 6.01 of this revenue procedure;

(ii) A change under section 6.38 of this revenue procedure;

(iii) A change under section 6.39 of this revenue procedure;

(iv) A change under section 6.40 of this revenue procedure; and

(v) A change under section 10.07(3)(c) of this revenue procedure.

(c) A taxpayer making a change under section 6.37(3)(b)(ii), (iii), (iv), (v), (vi), (vii), or (viii) of this revenue procedure (certain permissible to permissible changes for general asset accounts) and a change under section 6.32(1)(a)(ii), (iii), (iv), or (v) of this revenue procedure (certain late general asset account elections) and/or any change listed in this section 6.37(5)(c)(i)–(vii) of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. This section 6.37(5)(c) applies only if all of these changes are made for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115. The listed changes are:

(i) A change under section 6.01 of this revenue procedure;

(ii) A change under section 6.29 of this revenue procedure;

(iii) A change under section 6.30 of this revenue procedure;

(iv) A change under section 6.31 of this revenue procedure;

(v) A change under section 6.38 of this revenue procedure;

(vi) A change under section 6.39 of this revenue procedure; and

(vii) A change under section 6.40 of this revenue procedure.

(6) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change to a method of accounting under this section 6.37 is "200."

(7) *Contact information*. For further information regarding a change under this section, contact Patrick Clinton at (202) 317-7005 (not a toll-free number).

.38 *Disposition of a building or structural component (§ 168; § 1.168(i)–8)*.

(1) *Description of change*.

(a) *Applicability*. This change, as described in Rev. Proc. 2014–54, 2014–41 I.R.B. 675, applies to a taxpayer that wants to make a change in method of accounting that is specified in section 6.38(3) of this revenue procedure for disposing of a building or a structural component or disposing of a portion of a building (including its structural components) to which the partial disposition rule in § 1.168(i)–8(d)(1) applies. These specified changes are consistent with §§ 1.168(i)–8(b)(2), 1.168(i)–8(c)(4)(ii)(A), (B), and (D), 1.168(i)–8(f), and 1.168(i)–8(g), as applicable. This change also affects the determination of gain or loss from disposing of the building, the structural component, or the portion of the building (including its structural components) and may affect whether the taxpayer must capitalize amounts paid to restore a unit of property (as determined under § 1.263(a)–3(e) or (f)) under § 1.263(a)–3(k).

(b) *Inapplicability*. This change does not apply to the following:

(i) Any asset (as determined under § 1.168(i)–8(c)(4)) that is not depreciated under § 168 under the taxpayer's present method of accounting and, if applicable, under the taxpayer's proposed method of accounting;

(ii) Any asset subject to a general asset account election under § 168(i)(4) and the regulations thereunder (but see section 6.40 of this revenue procedure for making a change in method of accounting for dispositions of tangible depreciable assets subject to a general asset account election);

(iii) Any multiple buildings, condominium units, or cooperative units that are treated as a single building under the taxpayer's present method of accounting, or will be treated as a single building under the taxpayer's proposed method of accounting, pursuant to § 1.1250–1(a)(2)(ii);

(iv) Any disposition of a portion of an asset for which a partial disposition election under § 1.168(i)–8(d)(2) is required but for which the taxpayer did not make such election in accordance with § 1.168(i)–8(d)(2)(ii) or (iii), as applicable (but see section 6.33 of this revenue procedure for making a late partial disposition election and section 6.35 of this revenue procedure for making a partial disposition election pursuant to § 1.168(i)–8(d)(2)(iii)); or

(v) Any demolition of a structure to which § 280B and § 1.280B–1 apply.

(2) *Certain eligibility rules inapplicable*.

(a) *In general*. The eligibility rule in section 5.01(1)(d) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to a taxpayer making this change.

(b) *Special rule*.

(i) The eligibility rule in sections 5.01(1)(f) of Rev. Proc. 2015–13 does not apply to a taxpayer making this change for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2015.

(ii) If a taxpayer makes both a change under this section 6.38 and a change under section 6.01 of this revenue procedure for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2015, on a single Form 3115 for the same asset for the same year of change in accordance with section 6.38(9)(b) or (c) of this revenue procedure, the eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13 do not apply to the taxpayer for either change.

(3) *Covered changes*. This section 6.38 only applies to the following changes in methods of accounting for a building (including its structural components), condominium unit (including its structural components), cooperative unit (including its structural components), or an improvement or addition (including its structural components) thereto:

(a) For purposes of applying § 1.168(i)–8(c)(4) (determination of asset disposed of), a change to the appropriate asset as determined under § 1.168(i)–8(c)(4)(ii)(A), (B), or (D), as applicable;

(b) If the taxpayer makes the change specified in section 6.38(3)(a) of this revenue procedure, and if the taxpayer disposed of the asset as determined under section 6.38(3)(a) of this revenue procedure or disposed of a portion of such asset in a taxable year prior to the year of change but under its present method of accounting continues to deduct depreciation for such disposed asset or such disposed portion, a change from depreciating the disposed asset or disposed portion to recognizing gain or loss upon disposition;

(c) If the taxpayer's present method of accounting for its buildings (including their structural components), condominium units (including their structural components), cooperative units (including their structural components), and improvements or additions (including its structural components) thereto that are depreciated under § 168 is in accord with § 1.168(i)–8(c)(4)(ii)(A), (B), and (D), and if the taxpayer disposed of an asset as determined under § 1.168(i)–8(c)(4)(ii)(A), (B), or (D), as applicable, or disposed of a portion of such asset in a taxable year prior to the year of change but under its present method of accounting continues to deduct depreciation for such disposed asset or such disposed portion, a change from depreciating the disposed asset or disposed portion to recognizing gain or loss upon disposition;

(d) A change in the method of identifying which assets in multiple asset accounts or which portions of assets have been disposed of from a method of accounting not specified in § 1.168(i)–8(g)(1) or (2)(i), (ii), or (iii) (for example, the last-in, first-out (LIFO) method of accounting) to a method of accounting specified in § 1.168(i)–8(g)(1) or (2)(i), (ii), or (iii), as applicable;

(e) If § 1.168(i)–8(f)(2) applies (disposition of an asset in a multiple asset account) and it is practicable from the taxpayer's records to determine the unadjusted depreciable basis of the disposed asset, a change in the method of determining the unadjusted depreciable basis of the disposed asset from a method of not using the taxpayer's records to a method of using the taxpayer's records;

(f) If § 1.168(i)–8(f)(2) applies (disposition of an asset in a multiple asset account) and it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of the disposed asset, a change in the method of determining the unadjusted depreciable basis of all assets in the same multiple asset account from an unreasonable method (for example, discounting the cost of the replacement asset to its placed-in-service year cost using the Consumer Price Index) to a reasonable method;

(g) If § 1.168(i)–8(f)(3) applies (disposition of a portion of an asset) and it is practicable from the taxpayer's records to determine the unadjusted depreciable basis of the disposed portion of the asset, a change in the method of determining the unadjusted depreciable basis of the disposed portion of the asset from a method of not using the taxpayer's records to a method of using the taxpayer's records;

(h) If § 1.168(i)–8(f)(3) applies (disposition of a portion of an asset) and it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of the disposed portion of the asset, a change in the method of determining the unadjusted depreciable basis of the disposed portion of the asset from an unreasonable method (for example, discounting the cost of the replacement portion of the asset to its placed-in-service year cost using the Consumer Price Index) to a reasonable method; or

(i) A change from recognizing gain or loss under § 1.168(i)–8T upon the disposition of an asset (as determined under § 1.168(i)–8(c)(4)(ii)(A), (B), or (D), as applicable) included in a general asset account to recognizing gain or loss upon the disposition of the same asset under § 1.168(i)–8 if: (A) the taxpayer makes the change specified in section 6.34 of this revenue procedure (revocation of a general asset account election); (B) the taxpayer made a qualifying disposition election under § 1.168(i)–1T(e)(3)(iii) in a taxable year prior to the year of change for the disposition of such asset; (C) the taxpayer's present method of accounting for such asset is in accord with § 1.168(i)–8(c)(4)(ii)(A), (B), or (D), as applicable; and (D) the taxpayer recognized a gain or loss under § 1.168(i)–8T upon the disposition of such asset in a taxable year prior to the year of change.

(4) *Examples*. The following examples illustrate the covered changes specified in section 6.38(3) of this revenue procedure.

(a) *Example 1*. X, a calendar-year taxpayer, acquired and placed in service a building and its structural components in 2000. In 2005, X constructed and placed in service an addition to this building. X depreciates the building, the addition, and their structural components under § 168. A change by X to treating the original building (including its structural components) as an asset and the addition to the building (including the structural components of such addition) as a separate asset for disposition purposes is a change described in section 6.38(3)(a) of this revenue procedure solely for purposes of § 1.168(i)–8(c)(4).

(b) *Example 2*. Y, a calendar year taxpayer, acquired and placed in service a building and its structural components in 1990. Y depreciates this building and its structural components under § 168. In 2000, a tornado damaged the roof and, as a result, Y replaced the entire roof of the building. Y did not recognize a loss on the retirement of the original roof and continues to depreciate the original roof. Y also capitalized the cost of the replacement roof and has been depreciating this roof under § 168 since 2000. Because the original roof was disposed of as a result of a casualty event described in § 165, a change by Y from depreciating the original roof to recognizing a loss upon its retirement is a covered change described in section 6.38(3)(c) of this revenue procedure solely for purposes of § 1.168(i)–8.

(c) *Example 3*. The facts are the same as in *Example 2*, except a tornado did not occur, but Y still replaced the entire roof of the building in 2000. Because the original roof was not disposed of as a result of any of the events described in § 1.168(i)–8(d)(1) that require a partial disposition, a partial disposition election must be made to change from depreciating the original roof to recognizing a loss upon its retirement. Pursuant to section 6.38(1)(b)(iv) of this revenue procedure, section 6.38 does not apply to the disposition of the original roof in 2000. But see section 6.33 of this revenue procedure for making the late partial disposition election under § 1.168(i)–8(d)(2)(i) for the original roof.

(5) *Manner of making change*.

(a) A taxpayer (including a qualified small taxpayer as defined in section 6.01(4)(b) of this revenue procedure) making this change must attach to its Form 3115 a statement with the following:

(i) A description of the assets to which this change applies;

(ii) If the taxpayer is making a change specified in section 6.38(3)(a) of this revenue procedure, a description of the assets for disposition purposes under the taxpayer's present and proposed methods of accounting;

(iii) If the taxpayer is making the change specified in section 6.38(3)(d) of this revenue procedure, a description of the methods of identifying which assets have been disposed of under the taxpayer's present and proposed methods of accounting;

(iv) If the taxpayer is making the change specified in section 6.38(3)(f) or (h) of this revenue procedure, a description of the methods of determining the unadjusted depreciable basis of the disposed asset or disposed portion of the asset, as applicable, under the taxpayer's present and proposed methods of accounting; and

(v) If any asset is public utility property within the meaning of § 168(i)(10), a statement providing that the taxpayer agrees to the following additional terms and conditions:

(A) A normalization method of accounting (within the meaning of § 168(i)(9)) will be used for the public utility property subject to the application;

(B) As of the beginning of the year of change, the taxpayer will adjust its deferred tax reserve account or similar account in the taxpayer's regulatory books of account by the amount of the deferral of federal income tax liability associated with the § 481(a) adjustment applicable to the public utility property subject to the application; and

(C) Within 30 calendar days of filing the federal income tax return for the year of change, the taxpayer will provide a copy of the completed application to any regulatory body having jurisdiction over the public utility property subject to the application.

(b) A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I;

(iv) Part II, all lines except lines 11, 13, 14, 15, and 17;

(v) Part IV, lines 25 and 26; and

(vi) Schedule E, line 3.

(6) *No ruling on asset*. The consent granted under section 9 of Rev. Proc. 2015–13 for a change specified in section 6.38(3)(a) of this revenue procedure is not a determination by the Commissioner that the taxpayer is using the appropriate asset under § 1.168(i)–8(c)(4) for determining what asset is disposed of by the taxpayer and does not create any presumption that the proposed asset is permissible under § 1.168(i)–8(c)(4). The director will ascertain whether the taxpayer's determination of its asset under § 1.168(i)–8(c)(4) is permissible.

(7) *Section 481(a) adjustment*. A taxpayer changing its method of accounting under this section 6.38 may use statistical sampling in determining the § 481(a) adjustment by following the guidance provided in Rev. Proc. 2011–42, 2011–37 I.R.B. 318.

(8) *Section 481(a) adjustment period*.

(a) A taxpayer must take the entire amount of the § 481(a) adjustment into account in computing taxable income for the year of change:

(i) If the taxpayer is making the change specified in section 6.38(3)(a) of this revenue procedure and if the taxpayer recognized a gain or loss under § 1.168(i)–8T on the disposition of the asset (or if applicable, a portion thereof) in a taxable year prior to the year of change; or

(ii) If the taxpayer is making the change specified in section 6.38(3)(i) of this revenue procedure.

(b) If section 6.38(8)(a) of this revenue procedure does not apply, see section 7.03 of Rev. Proc. 2015–13 for the § 481(a) adjustment period.

(c) *Example*. (i) Y, a calendar year taxpayer, acquired and placed in service a building and its structural components in 2000. Y depreciates this building and its structural components under § 168. The roof is a structural component of the building. Y replaced the entire roof in 2010. On its federal tax return for the taxable year ended December 31, 2010, Y did not recognize a loss on the retirement of the original roof and continues to depreciate the original roof. Y also capitalized the cost of the replacement roof and has been depreciating this roof under § 168 since June 2010. The adjusted depreciable basis of the original roof at the time of its retirement in 2010 (taking into account the applicable convention) is $11,000, and Y claimed depreciation of $1,000 for such roof after its retirement (taking into account the applicable convention) and before the 2012 taxable year. Also the 12-month allowable depreciation deduction for the original roof is $500 for the 2012 taxable year and $500 for the 2013 taxable year.

(ii) In accordance with § 1.168(i)–8T(c)(4)(ii)(A) and (B) and section 6.29(3)(a) and (b) of the APPENDIX to Rev. Proc. 2011–14, as modified by Rev. Proc. 2012–20, 2012–14 I.R.B. 700, Y filed with its federal income tax return for the taxable year ended December 31, 2012, a Form 3115 to treat the building as an asset and each structural component of the building as a separate asset for disposition purposes and also to change from depreciating the original roof to recognizing a loss upon its retirement. The amount of the net negative § 481(a) adjustment on this Form 3115 is $10,000 (adjusted depreciable basis of $11,000 for the original roof at the time of its retirement (taking into account the applicable convention) less depreciation of $1,000 claimed for such roof after its retirement (taking into account the applicable convention) and before the 2012 taxable year).

(iii) Y complies with § 1.168(i)–8 beginning with its taxable year ending December 31, 2014, but decides not to make any late partial disposition election under section 6.33 of this revenue procedure. In accordance with section 6.38(3)(a) of this revenue procedure, Y files a Form 3115 with its 2014 federal income tax return to change to treating the original building (including its original roof and other original structural components) as an asset and the replacement roof as a separate asset for disposition purposes. Because Y is not making a late partial disposition election for the original roof, Y does not recognize the net loss of $10,000 upon the retirement of the original roof under § 1.168(i)–8 and Y will continue to depreciate the original roof. Thus, the net positive § 481(a) adjustment for this change is $9,000 (net loss of $10,000 claimed on the 2012 return for the retirement of the original roof less depreciation of $1,000 for the original roof for 2012 and 2013) and is included in Y's taxable income for 2014.

(9) *Concurrent automatic change*.

(a) A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets and provide a single net § 481(a) adjustment for all the changes included in that Form 3115. If one or more of the changes in that single Form 3115 generate a negative § 481(a) adjustment and other changes in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all the changes that are included in that Form 3115 generating such negative adjustment and a single positive § 481(a) adjustment for all the changes that are included in that Form 3115 generating such positive adjustment.

(b) A taxpayer making this change and any change listed in this section 6.38(9)(b)(i)–(iv) of the revenue procedure for the same year of change should file a single Form 3115 for all of such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115. The listed changes are:

(i) A change under section 6.01 of this revenue procedure;

(ii) A change under section 6.37 of this revenue procedure;

(iii) A change under section 6.39 of this revenue procedure; and

(iv) A change under section 6.40 of this revenue procedure.

(c) A taxpayer making this change and a change under section 6.34 of this revenue procedure (revocation of a general asset account election) and/or any change listed in this section 6.38(9)(c)(i)–(iii) of the revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. This section 6.38(9)(c) applies only if all of these changes are made for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2015. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115. The listed changes are:

(i) A change under section 6.01 of this revenue procedure;

(ii) A change under section 6.37(3)(a) of this revenue procedure; and

(iii) A change under section 6.39 of this revenue procedure.

(10) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change to the method of accounting under this section 6.38 is "205."

(11) *Contact information*. For further information regarding a change under this section, contact Patrick Clinton at (202) 317-7005 (not a toll-free number).

.39 *Dispositions of tangible depreciable assets (other than a building or its structural components) (§ 168; § 1.168(i)–8)*.

(1) *Description of change*.

(a) *Applicability*. This change, as described in Rev. Proc. 2014–54, 2014–41 I.R.B. 675, applies to a taxpayer that wants to make a change in method of accounting that is specified in section 6.39(3) of this revenue procedure for disposing of § 1245 property or a depreciable land improvement or disposing of a portion of § 1245 property or a depreciable land improvement to which the partial disposition rule in § 1.168(i)–8(d)(1) applies. These specified changes are consistent with §§ 1.168(i)–8(c)(4)(i), 1.168(i)–8(c)(4)(ii)(C) and (D), 1.168(i)–8(f), and 1.168(i)–8(g), as applicable. This change also affects the determination of gain or loss from disposing of the § 1245 property, the depreciable land improvement, or a portion of the § 1245 property or depreciable land improvement, and may affect whether the taxpayer must capitalize amounts paid to restore a unit of property (as determined under § 1.263(a)–3T(e) or (f) , or § 1.263(a)–3(e) or (f), as applicable) under § 1.263(a)–3T(i) or § 1.263(a)–3(k), as applicable.

(b) *Inapplicability*. This change does not apply to the following:

(i) Any asset (as determined under § 1.168(i)–8(c)(4)) that is not depreciated under § 168 under the taxpayer's present method of accounting and, if applicable, under the taxpayer's proposed method of accounting;

(ii) Any building (including its structural components), condominium unit (including its structural components), cooperative unit (including its structural components), or an improvement or addition (including its structural components) thereto (but see section 6.38 of this revenue procedure for making this change);

(iii) Any asset subject to a general asset account election under § 168(i)(4) and the regulations thereunder (but see section 6.40 of this revenue procedure for making a change for dispositions of tangible depreciable assets subject to a general asset account election); or

(iv) Any disposition of a portion of an asset for which a partial disposition election under § 1.168(i)–8(d)(2) is required but for which the taxpayer did not make such election in accordance with § 1.168(i)–8(d)(2)(ii) or (iii), as applicable (but see section 6.33 of this revenue procedure for making a late partial disposition election and section 6.35 of this revenue procedure for making a partial disposition election pursuant to § 1.168(i)–8(d)(2)(iii)).

(2) *Certain eligibility rules inapplicable*.

(a) *In general*. The eligibility rule in section 5.01(1)(d) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to a taxpayer making this change.

(b) *Special rule*.

(i) The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13 does not apply to a taxpayer making this change for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2015.

(ii) If a taxpayer makes both a change under this section 6.39 and a change under section 6.01 of this revenue procedure for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2015, on a single Form 3115 for the same asset for the same year of change in accordance with section 6.39(8)(b) or (c) of this revenue procedure, the eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13 do not apply to the taxpayer for either change.

(3) *Covered changes*. This section 6.39 only applies to the following changes in methods of accounting for a § 1245 property, a depreciable land improvement, or an improvement or addition thereto:

(a) For purposes of applying § 1.168(i)–8(c)(4) (determination of asset disposed of), a change to the appropriate asset as determined under § 1.168(i)–8(c)(4)(i), (ii)(C), or (ii)(D), as applicable;

(b) If the taxpayer makes the change specified in section 6.39(3)(a) of this revenue procedure, and if the taxpayer disposed of the asset as determined under section 6.39(3)(a) of this revenue procedure or disposed of a portion of such asset in a taxable year prior to the year of change but continues to deduct depreciation for such disposed asset or such disposed portion, as applicable, under the taxpayer's present method of accounting, a change from depreciating the disposed asset or disposed portion, as applicable, to recognizing gain or loss upon disposition;

(c) If the taxpayer's present method of accounting for the § 1245 property, the depreciable land improvement, or the improvement or addition thereto is in accord with § 1.168(i)–8(c)(4)(i) or (ii), as applicable, and if the taxpayer disposed of such asset or a portion of such asset in a taxable year prior to the year of change but under its present method of accounting continues to deduct depreciation for this disposed asset or disposed portion, as applicable, a change from depreciating the disposed asset or disposed portion, as applicable, to recognizing gain or loss upon disposition;

(d) A change in the method of identifying which assets in multiple asset accounts or which portions of assets have been disposed of from a method of accounting not specified in § 1.168(i)–8(g)(1) or (2)(i), (ii), or (iii) (for example, the last-in, first-out (LIFO) method of accounting) to a method of accounting specified in § 1.168(i)–8(g)(1) or (2)(i), (ii), or (iii), as applicable;

(e) If § 1.168(i)–8(f)(2) applies (disposition of an asset in a multiple asset account) and it is practicable from the taxpayer's records to determine the unadjusted depreciable basis of the disposed asset, a change in the method of determining the unadjusted depreciable basis of the disposed asset from a method of not using the taxpayer's records to a method of using the taxpayer's records;

(f) If § 1.168(i)–8(f)(2) applies (disposition of an asset in a multiple asset account) and it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of the disposed asset, a change in the method of determining the unadjusted depreciable basis of all assets in the same multiple asset account from an unreasonable method (for example, discounting the cost of the replacement asset to its placed-in-service year cost using the Consumer Price Index) to a reasonable method;

(g) If § 1.168(i)–8(f)(3) applies (disposition of a portion of an asset) and it is practicable from the taxpayer's records to determine the unadjusted depreciable basis of the disposed portion of the asset, a change in the method of determining the unadjusted depreciable basis of the disposed portion of the asset from a method of not using the taxpayer's records to a method of using the taxpayer's records;

(h) If § 1.168(i)–8(f)(3) applies (disposition of a portion of an asset) and it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of the disposed portion of the asset, a change in the method of determining the unadjusted depreciable basis of the disposed portion of the asset from an unreasonable method (for example, discounting the cost of the replacement portion of the asset to its placed-in-service year cost using the Consumer Price Index) to a reasonable method; or

(i) A change from recognizing gain or loss under § 1.168(i)–8T upon the disposition of a section 1245 property, depreciable land improvement, or improvement or addition thereto included in a general asset account to recognizing gain or loss upon the disposition of the same asset under § 1.168(i)–8 if: (A) the taxpayer makes the change specified in section 6.34 of this revenue procedure (revocation of a general asset account election); (B) the taxpayer made a qualifying disposition election under § 1.168(i)–1T(e)(3)(iii) in a taxable year prior to the year of change for the disposition of such asset; (C) the taxpayer's present method of accounting for such asset is in accord with § 1.168(i)–8(c)(4)(i) or (ii), as applicable; and (D) the taxpayer recognized a gain or loss under § 1.168(i)–8T on the disposition of such asset in a taxable year prior to the year of change.

(4) *Manner of making change*.

(a) A taxpayer (including a qualified small taxpayer as defined in section 6.01(4)(b) of this revenue procedure) making this change must attach to its Form 3115 a statement with the following:

(i) A description of the assets to which this change applies;

(ii) If the taxpayer is making a change specified in section 6.39(3)(a) of this revenue procedure, a description of the assets for disposition purposes under the taxpayer's present and proposed methods of accounting;

(iii) If the taxpayer is making the change specified in section 6.39(3)(d) of this revenue procedure, a description of the methods of identifying which assets have been disposed of under the taxpayer's present and proposed methods of accounting;

(iv) If the taxpayer is making the change specified in section 6.38(3)(f) or (h) of this revenue procedure, a description of the methods of determining the unadjusted depreciable basis of the disposed asset or disposed portion of the asset, as applicable, under the taxpayer's present and proposed methods of accounting; and

(v) If any asset is public utility property within the meaning of § 168(i)(10), a statement providing that the taxpayer agrees to the following additional terms and conditions:

(A) A normalization method of accounting (within the meaning of § 168(i)(9)) will be used for the public utility property subject to the application;

(B) As of the beginning of the year of change, the taxpayer will adjust its deferred tax reserve account or similar account in the taxpayer's regulatory books of account by the amount of the deferral of federal income tax liability associated with the § 481(a) adjustment applicable to the public utility property subject to the application; and

(C) Within 30 calendar days of filing the federal income tax return for the year of change, the taxpayer will provide a copy of the completed application to any regulatory body having jurisdiction over the public utility property subject to the application.

(b) A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I;

(iv) Part II, all lines except lines 11, 13, 14, 15, and 17;

(v) Part IV, lines 25 and 26; and

(vi) Schedule E, line 3.

(5) *No ruling on asset*. The consent granted under section 9 of Rev. Proc. 2015–13 for a change specified in section 6.39(3)(a) of this revenue procedure is not a determination by the Commissioner that the taxpayer is using the appropriate asset under § 1.168(i)–8(c)(4) for determining what asset is disposed of by the taxpayer and does not create any presumption that the proposed asset is permissible under § 1.168(i)–8(c)(4). The director will ascertain whether the taxpayer's determination of its asset under § 1.168(i)–8(c)(4) is permissible.

(6) *Section 481(a) adjustment*. A taxpayer changing its method of accounting

under section 6.39 of the revenue procedure may use statistical sampling in determining the § 481(a) adjustment by following the guidance provided in Rev. Proc. 2011–42, 2011–37 I.R.B. 318.

(7) *Section 481(a) adjustment period*.

(a) A taxpayer must take the entire amount of the § 481(a) adjustment into account in computing taxable income for the year of change:

(i) If the taxpayer is making the change specified in section 6.39(3)(a) of this revenue procedure and if the taxpayer recognized a gain or loss under § 1.168(i)–8T on the disposition of the § 1245 property, depreciable land improvement, or improvement or addition thereto (or if applicable, a portion of such asset) in a taxable year prior to the year of change; or

(ii) If the taxpayer is making the change specified in section 6.39(3)(i) of this revenue procedure.

(b) If section 6.39(7)(a) of this revenue procedure does not apply, see section 7.03 of Rev. Proc. 2015–13 for the § 481(a) adjustment period.

(8) *Concurrent automatic change*.

(a) A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets and provide a single net § 481(a) adjustment for all the changes included in that Form 3115. If one or more of the changes in that single Form 3115 generate a negative § 481(a) adjustment and other changes in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all the changes that are included in that Form 3115 generating such negative adjustment and a single positive § 481(a) adjustment for all the changes that are included in that Form 3115 generating such positive adjustment.

(b) A taxpayer making this change and any change listed in this section 6.39(8)(b)(i)–(iv) of the revenue procedure for the same year of change should file a single Form 3115 for all of such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115. The listed changes are:

(i) A change under section 6.01 of this revenue procedure;

(ii) A change under section 6.37 of this revenue procedure;

(iii) A change under section 6.38 of this revenue procedure; and

(iv) A change under section 6.40 of this revenue procedure.

(c) A taxpayer making this change and a change under section 6.34 of this revenue procedure (revocation of a general asset account election) and/or any change listed in this section 6.39(8)(c)(i)–(iii) of the revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. This section 6.39(8)(c) applies only if all of these changes are made for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2015. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115. The listed changes are:

(i) A change under section 6.01 of this revenue procedure;

(ii) A change under section 6.37(3)(a) of this revenue procedure; and

(iii) A change under section 6.38 of this revenue procedure.

(9) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change to the method of accounting under this section 6.39 is "206."

(10) *Contact information*. For further information regarding a change under this section, contact Patrick Clinton at (202) 317-7005 (not a toll-free number).

.40 *Dispositions of tangible depreciable assets in a general asset account (§ 168(i)(4); § 1.168(i)–1)*.

(1) *Description of change*.

(a) *Applicability*. This change, as described in Rev. Proc. 2014–54, 2014–41 I.R.B. 675, applies to a taxpayer that wants to make a change in method of accounting that is specified in section 6.40(3) of this revenue procedure for disposing of an asset subject to a general asset account election under § 168(i)(4) and the regulations thereunder. These specified changes are consistent with §§ 1.168(i)–1(e)(1), 1.168(i)–1(e)(2)(viii), and 1.168(i)–1(j), as applicable. This change also may affect the determination of gain or loss from disposing of the asset and may affect whether the taxpayer must capitalize amounts paid to restore a unit of property (as determined under § 1.263(a)–3T(e) or (f), or § 1.263(a)–3(e) or (f), as applicable) under § 1.263(a)–3T(i) or § 1.263(a)–3(k), as applicable.

(b) *Inapplicability*. This change does not apply to the following:

(i) Any asset (as determined under § 1.168(i)–1(e)(2)(viii)) that is not depreciated under § 168 under the taxpayer's present method of accounting and, if applicable, proposed method of accounting; or

(ii) Any asset not subject to a general asset account election under § 168(i)(4) and the regulations thereunder (but see sections 6.38 and 6.39 of this revenue procedure for making a change for dispositions of tangible depreciable assets not subject to a general asset account election).

(2) *Certain eligibility rules inapplicable*.

(a) *In general*. The eligibility rule in section 5.01(1)(d) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to a taxpayer making this change.

(b) *Special rule*.

(i) The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13 does not apply to a taxpayer making this change for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2015.

(ii) If a taxpayer makes both a change under this section 6.40 and a change under section 6.01 of this revenue procedure for any taxable year beginning on or after

January 1, 2012, and beginning before January 1, 2015, on a single Form 3115 for the same asset for the same year of change in accordance with section 6.40(7)(b) of this revenue procedure, the eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13 do not apply to the taxpayer for either change. If a taxpayer makes both a change under this section of the revenue procedure and a change under section 6.01 of this revenue procedure for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014, on a single Form 3115 for the same asset for the same year of change in accordance with section 6.40(7)(c) of this revenue procedure, the eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13 do not apply to the taxpayer for either change.

(3) *Covered changes*. This section 6.40 only applies to the following changes in methods of accounting for an asset subject to a general asset account election under § 168(i)(4) and the regulations thereunder:

(a) For purposes of applying § 1.168(i)–1(e)(2)(viii) (determination of asset disposed of), a change to the appropriate asset as determined under § 1.168(i)–1(e)(2)(viii)(A) or (B), as applicable;

(b) A change in the method of identifying which assets or which portions of assets have been disposed of from a method of accounting not specified in § 1.168(i)–1(j)(2)(i)(A), (B), (C), or (D) (for example, the last-in, first-out (LIFO) method of accounting) to a method of accounting specified in § 1.168(i)–1(j)(2)(i)(A), (B), (C), or (D), as applicable;

(c) If § 1.168(i)–1(j)(3) applies (basis of disposed asset or disposed portion of an asset) and it is practicable from the taxpayer's records to determine the unadjusted depreciable basis of the disposed asset or the disposed portion of an asset, as applicable, a change in the method of determining the unadjusted depreciable basis of the disposed asset or the disposed portion of an asset, as applicable, from a method of not using the taxpayer's records to a method of using the taxpayer's records; or

(d) If § 1.168(i)–1(j)(3) applies (basis of disposed asset or disposed portion of an asset) and it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of the disposed asset or the disposed portion of an asset, as applicable, a change in the method of determining the unadjusted depreciable basis of all assets in the same general asset account from an unreasonable method (for example, discounting the cost of the replacement asset to its placed-in-service year cost using the Consumer Price Index) to a reasonable method.

(4) *Manner of making change*.

(a) A taxpayer (including a qualified small taxpayer as defined in section 6.01(4)(b) of this revenue procedure) making this change must attach to its Form 3115 a statement with the following:

(i) A description of the assets to which this change applies;

(ii) If the taxpayer is making the change specified in section 6.40(3)(a) of this revenue procedure, a description of the assets for disposition purposes under the taxpayer's present and proposed methods of accounting;

(iii) If the taxpayer is making the change specified in section 6.40(3)(b) of this revenue procedure, a description of the methods of identifying which assets have been disposed of under the taxpayer's present and proposed methods of accounting;

(iv) If the taxpayer is making the change specified in section 6.40(3)(d) of this revenue procedure, a description of the methods of determining the unadjusted depreciable basis of the disposed asset or disposed portion of the asset, as applicable, under the taxpayer's present and proposed methods of accounting; and

(v) If any asset is public utility property within the meaning of § 168(i)(10), a statement providing that the taxpayer agrees to the following additional terms and conditions:

(A) A normalization method of accounting (within the meaning of § 168(i)(9)) will be used for the public utility property subject to the application;

(B) As of the beginning of the year of change, the taxpayer will adjust its deferred tax reserve account or similar account in the taxpayer's regulatory books of account by the amount of the deferral of federal income tax liability associated with the § 481(a) adjustment applicable to the public utility property subject to the application; and

(C) Within 30 calendar days of filing the federal income tax return for the year of change, the taxpayer will provide a copy of the completed application to any regulatory body having jurisdiction over the public utility property subject to the application.

(b) A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 to make this change:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I;

(iv) Part II, all lines except lines 11, 13, 14, 15, and 17;

(v) Part IV, lines 25 and 26; and

(vi) Schedule E, line 3.

(5) *No ruling on asset*. The consent granted under section 9 of Rev. Proc. 2015–13 for a change specified in section 6.40(3)(a) of this revenue procedure is not a determination by the Commissioner that the taxpayer is using the appropriate asset under § 1.168(i)–1(e)(2)(viii) for determining what asset is disposed of by the taxpayer and does not create any presumption that the proposed asset is permissible under § 1.168(i)–1(e)(2)(viii). The director will ascertain whether the taxpayer's determination of its asset under § 1.168(i)–1(e)(2)(viii) is permissible.

(6) *Section 481(a) adjustment period*.

(a) If a taxpayer makes the change specified in section 6.40(3)(a) of this revenue procedure and if the taxpayer recognized a gain or loss under § 1.168(i)–1T or § 1.168(i)–8T, as applicable, on the disposition of a portion of the asset in a taxable year prior to the year of change, the taxpayer must take the entire amount of the § 481(a) adjustment into account in computing taxable income for the year of change.

(b) If section 6.40(6)(a) of this revenue procedure does not apply, see section 7.03 of Rev. Proc. 2015–13 for the § 481(a) adjustment period.

(c) *Example*. (i) X, a calendar year taxpayer, acquired and placed in service a building and its structural components in 2000. X depreciates this building and its structural components under § 168. The roof is a structural component of the building. X replaced the entire roof in 2010. On its federal tax return for the taxable year ended December 31, 2010, X did not recognize a loss on the retirement of the original roof and continues to depreciate the original roof. X also capitalized the cost of the replacement roof and has been depreciating this roof under § 168 since June 2010. The adjusted depreciable basis of the original roof at the time of its retirement in 2010 (taking into account the applicable convention) is $11,000, and X claimed depreciation of $1,000 for such roof after its retirement (taking into account the applicable convention) and before the 2012 taxable year. Also the 12-month allowable depreciation deduction for the original roof is $500 for the 2012 taxable year and $500 for the 2013 taxable year.

(ii) In accordance with § 1.168(i)–1T and section 6.32(1)(a) of the APPENDIX to Rev. Proc. 2011–14, as modified by Rev. Proc. 2012–20, 2012–14 I.R.B. 700, X filed with its federal tax return for the taxable year ended December 31, 2012, a Form 3115 to: (1) make a late general asset account election to include the building (including its structural components) placed in service in 2000 in one general asset account and the replacement roof in a separate general asset account; and (2) make a late qualifying disposition election for the retirement of the original roof in 2010. As a result, X removed the original roof from the general asset account and reported a net negative § 481(a) adjustment on this Form 3115 of $10,000 (adjusted depreciable basis of $11,000 for the original roof at the time of its retirement (taking into account the applicable convention) less depreciation of $1,000 claimed for such roof after its retirement (taking into account the applicable convention) and before the 2012 taxable year).

(iii) X complies with § 1.168(i)–1 beginning with its taxable year ending December 31, 2014. In accordance with section 6.40(3)(a) of this revenue procedure, X files a Form 3115 with its 2014 federal income tax return to change to treating the building (including its original roof and other original structural components) placed in service in 2000 as an asset and the replacement roof as a separate asset for disposition purposes. As a result, X must include the original roof that X retired in 2010 in the general asset account. Thus, the net positive § 481(a) adjustment for this change is $9,000 (net loss of $10,000 claimed on the 2012 return for the retirement of the original roof less depreciation of $1,000 for the original roof for 2012 and 2013) and is included in X's taxable income for 2014.

(7) *Concurrent automatic change*.

(a) A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets and provide a single net § 481(a) adjustment for all the changes included in that Form 3115. If one or more of the changes in that single Form 3115 generate a negative § 481(a) adjustment and other changes in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all the changes that are included in that Form 3115 generating such negative adjustment and a single positive § 481(a) adjustment for all the changes that are included in that Form 3115 generating such positive adjustment.

(b) A taxpayer making this change and any change listed in this section 6.40(7)(b)(i)–(iv) of the revenue procedure for the same year of change should file a single Form 3115 for all of such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115. The listed changes are:

(i) A change under section 6.01 of this revenue procedure;

(ii) A change under section 6.37 of this revenue procedure;

(iii) A change under section 6.38 of this revenue procedure; and

(iv) A change under section 6.39 of this revenue procedure.

(c) A taxpayer making this change and any change under section 6.32(1)(a)(ii), (iii), (iv), or (v) of this revenue procedure (certain late general asset account elections) and/or any change listed in this section 6.40(7)(c)(i)–(ii) of the revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. This section 6.40(7)(c) of the revenue procedure applies only if all of these changes are made for any taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115. The listed changes are:

(i) A change under section 6.01 of this revenue procedure; and

(ii) A change under section 6.37(3)(b) of this revenue procedure.

(8) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change to the method of accounting under this section 6.40 is "207."

(9) *Contact information*. For further information regarding a change under this section, contact Patrick Clinton at (202) 317-7005 (not a toll-free number).

.41 SUMMARY OF CERTAIN CHANGES IN METHODS OF ACCOUNTING RELATED TO DISPOSITIONS OF MACRS PROPERTY

(1) *Final regulations*. The following chart summarizes the changes in methods of accounting under § 1.167(a)–4, § 1.168(i)–1, § 1.168(i)–7, and § 1.168(i)–8 that a taxpayer may make under Rev. Proc. 2015–14.

FINAL REGULATION SECTION	SECTION # in in REV. PROC. 2015–14	DESIGNATED CHANGE NUMBER (DCN)
§ 1.167(a)–4, Depreciation of leasehold improvements	6.36	199
General Asset Accounts:		
a. § 1.168(i)–1(c), Change in grouping assets	6.37	200
b. § 1.168(i)–1(e)(2)(viii), Change in determining asset disposed of	6.40	207

FINAL REGULATION SECTION	SECTION # in in REV. PROC. 2015–14	DESIGNATED CHANGE NUMBER (DCN)
c. § 1.168(i)–1(j)(2), Change in method of identifying which assets or portions of assets have been disposed of from one method to another method specified in § 1.168(i)–1(j)(2)	6.37	200
d. § 1.168(i)–1(j)(2), Change in method of identifying which assets or portions of assets have been disposed of from a method not specified in § 1.168(i)–1(j)(2) to a method specified in § 1.168(i)–1(j)(2)	6.40	207
e. § 1.168(i)–1(j)(3), Change in determining unadjusted depreciable basis of disposed asset or disposed portion of an asset from one reasonable method to another reasonable method when it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of disposed asset or disposed portion of asset	6.37	200
f. § 1.168(i)–1(j)(3), Change in determining unadjusted depreciable basis of disposed asset or disposed portion of an asset from not using to using the taxpayer's records when it is practicable from the taxpayer's records to determine the unadjusted depreciable basis of disposed asset or disposed portion of asset	6.40	207
g. § 1.168(i)–1(j)(3), Change in determining unadjusted depreciable basis of disposed asset or disposed portion of an asset from an unreasonable method to a reasonable method when it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of disposed asset or disposed portion of asset	6.40	207
Single Asset Accounts or Multiple Asset Accounts for MACRS Property:		
a. § 1.168(i)–7, Change from single asset accounts to multiple asset accounts, or *vice versa*	6.37	200
b. § 1.168(i)–7(c), Change in grouping assets in multiple asset accounts	6.37	200
Dispositions of MACRS Property (not in a general asset account):		
a. § 1.168(i)–8(c)(4), Change in determining asset disposed of	6.38 (Building or structural component) 6.39 (Property other than a building or structural component)	205 206
b. § 1.168(i)–8(f)(2) or (3), Change in determining unadjusted depreciable basis of disposed asset in a multiple asset account or disposed portion of an asset from one reasonable method to another reasonable method when it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of disposed asset or disposed portion of asset	6.37	200
c. § 1.168(i)–8(f)(2) or (3), Change in determining unadjusted depreciable basis of disposed asset in a multiple asset account or disposed portion of an asset from not using to using the taxpayer's records when it is practicable from the taxpayer's records to determine the unadjusted depreciable basis of disposed asset or disposed portion of asset	6.38 (Building or structural component) 6.39 (Property other than a building or structural component)	205 206
d. § 1.168(i)–8(f)(2) or (3), Change in determining unadjusted depreciable basis of disposed asset in a multiple asset account or disposed portion of an asset from an unreasonable method to a reasonable method when it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of disposed asset or disposed portion of asset	6.38 (Building or structural component) 6.39 (Property other than a building or structural component)	205 206
e. § 1.168(i)–8(g), Change in method of identifying which assets in a multiple asset account or portions of assets have been disposed of from one method to another method specified in § 1.168(i)–8(g)(1) or (2)	6.37	200

FINAL REGULATION SECTION	SECTION # in in REV. PROC. 2015–14	DESIGNATED CHANGE NUMBER (DCN)
f. § 1.168(i)–8(g), Change in method of identifying which assets in a multiple asset account or portions of assets have been disposed of from a method not specified in § 1.168(i)–8(g)(1) or (2) to a method specified in § 1.168(i)–8(g)(1) or (2)	6.38 (Building or structural component) 6.39 (Property other than a building or structural component)	205 206
g. § 1.168(i)–8(h)(1), Change from depreciating a disposed asset or disposed portion of an asset to recognizing gain or loss upon disposition when a taxpayer continues to depreciate the asset or portion that the taxpayer disposed of prior to the year of change	6.38 (Building or structural component) 6.39 (Property other than a building or structural component)	205 206
h. § 1.168(i)–8(d)(2)(iii), Partial disposition election for the disposition of a portion of an asset to which the IRS's adjustment pertains	6.35	198

(2) *Late elections or revocation of a general asset account election*. The following chart summarizes the late elections under § 1.168(i)–1, § 1.168(i)–8, Prop. Reg. § 1.168(i)–1, Prop. Reg. § 1.168(i)–8, or § 1.168(1)–1T that are treated as a change in method of accounting for a limited period of time. The chart includes the revocation of a general asset account election that also is treated as a change in method of accounting for a limited period of time.

ELECTION OR REVOCATION	TIME PERIOD FOR TREATING ELECTION OR REVOCATION AS A METHOD CHANGE	SECTION # IN REV. PROC. 2015–14, AND DCN
General Asset Accounts:		
a. Late general asset account election under § 1.168(i)–1, Prop. Reg. § 1.168(i)–1, or § 1.168(1)–1T	Taxable year beginning on or after 1/1/2012 and beginning before 1/1/2014	6.32 DCN 180
b. Late election to recognize gain or loss upon disposition of all assets, the last asset, or the remaining portion of the last asset under § 1.168(i)–1(e)(3)(ii) or Prop. Reg. § 1.168(i)–1(e)(3)(ii)	Taxable year beginning on or after 1/1/2012 and beginning before 1/1/2014	6.32 DCN 180
c. Late election to recognize gain or loss upon disposition of all assets or the last asset under § 1.168(1)–1T(e)(3)(ii)	Taxable year beginning on or after 1/1/2012 and beginning before 1/1/2014	6.32 DCN 180
d. Late election to recognize gain or loss upon disposition of an asset in a qualifying disposition under § 1.168(i)–1(e)(3)(iii), Prop. Reg. § 1.168(i)–1(e)(3)(iii), or § 1.168(1)–1T(e)(3)(iii)	Taxable year beginning on or after 1/1/2012 and beginning before 1/1/2014	6.32 DCN 180
e. Revocation of a general asset account election made under § 1.168(i)–1, Prop. Reg. § 1.168(i)–1, or § 1.168(1)–1T, or made under section 6.32 in Rev. Proc. 2011–14 or Rev. Proc. 2015–14, as applicable	Taxable year beginning on or after 1/1/2012 and beginning before 1/1/2015	6.34 DCN 197
Late Partial Disposition Election for MACRS Property (not in a general asset account):		
a. Late partial disposition election made under § 1.168(i)–8(d)(2)(iv)(B)	First or second taxable succeeding the applicable taxable year as defined in § 1.168(i)–8(d)(2)(iv)	6.33 DCN 196

ELECTION OR REVOCATION	TIME PERIOD FOR TREATING ELECTION OR REVOCATION AS A METHOD CHANGE	SECTION # IN REV. PROC. 2015–14, AND DCN
b. Other late partial disposition elections made under § 1.168(i)–8(d)(2)(i)	Taxable year beginning on or after 1/1/2012 and beginning before 1/1/2015	6.33 DCN 196
c. Late partial disposition election made under Prop. Reg. § 1.168(i)–8(d)(2)(iv)(B)	First or second taxable succeeding the applicable taxable year as defined in Prop. Reg. § 1.168(i)–8(d)(2)(iv)	6.33 DCN 196
d. Other late partial disposition elections made under Prop. Reg. § 1.168(i)–8(d)(2)(i)	Taxable year beginning on or after 1/1/2012 and beginning before 1/1/2014	6.33 DCN 196

(3) *Temporary and proposed regulations*. If a taxpayer applies § 1.167(a)–4T, § 1.168(i)–1T, § 1.168(i)–7T, § 1.168(i)–8T, Prop. Reg. § 1.168(i)–1, Prop. Reg. § 1.168(i)–7, or Prop. Reg. § 1.168(i)–8 for a taxable year beginning on or after January 1, 2012, and beginning before January 1, 2014, the following chart summarizes the changes in methods of accounting under those regulation sections that the taxpayer may make under Rev. Proc. 2015–14.

TEMPORARY OR PROPOSED REGULATION SECTION	SECTION # in REV. PROC. 2015–14	DCN
§ 1.167(a)–4T, Depreciation of leasehold improvements	6.27	175
General Asset Accounts:		
a. § 1.168(i)–1T(c) or Prop. Reg. § 1.168(i)–1(c), Change in grouping assets	6.28	176
b. § 1.168(i)–1T(e)(2)(viii) or Prop. Reg. § 1.168(i)–1(e)(2)(viii), Change in determining asset disposed of	6.31	179
c. § 1.168(i)–1T(j)(2) or Prop. Reg. § 1.168(i)–1(j)(2), Change in method of identifying which assets have been disposed of from one method to another method specified in § 1.168(i)–1T(j)(2), or from one method to another method specified in Prop. Reg. § 1.168(i)–1(j)(2)	6.28	176
d. § 1.168(i)–1T(j)(2) or Prop. Reg. § 1.168(i)–1(j)(2), Change in method of identifying which assets have been disposed of from a method not specified in § 1.168(i)–1T(j)(2) to a method specified in § 1.168(i)–1T(j)(2), or from a method not specified in Prop. Reg. § 1.168(i)–1(j)(2) to a method specified in Prop. Reg. § 1.168(i)–1(j)(2)	6.31	179
e. § 1.168(i)–1T(j)(3), Change in determining unadjusted depreciable basis of disposed asset from one reasonable method to another reasonable method	6.28	176
f. Prop. Reg. § 1.168(i)–1(j)(3), Change in determining unadjusted depreciable basis of disposed asset or disposed portion of an asset from one reasonable method to another reasonable method	6.28	176
Single Asset Accounts or Multiple Asset Accounts for MACRS Property:		
a. § 1.168(i)–7T or Prop. Reg. § 1.168(i)–7, Change from single asset accounts to multiple asset accounts, or *vice versa*	6.28	176
b. § 1.168(i)–7T(c), Change in grouping assets in multiple asset accounts	6.28	176
Dispositions of MACRS Property (not in a general asset account):		

TEMPORARY OR PROPOSED REGULATION SECTION	SECTION # in REV. PROC. 2015–14	DCN
a. § 1.168(i)–8T(c)(4) or Prop. Reg. § 1.168(i)–8(c)(4), Change in determining asset disposed of	6.29 (Building or structural component) 6.30 (Property other than a building or structural component)	177 178
b. § 1.168(i)–8T(e)(2) or Prop. Reg. § 1.168(i)–8(f)(2), Change in determining unadjusted depreciable basis of disposed asset in a multiple asset account from one reasonable method to another reasonable method when it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of disposed asset	6.28	176
c. Prop. Reg. § 1.168(i)–8(f)(3), Change in determining unadjusted depreciable basis of disposed portion of an asset from one reasonable method to another reasonable method	6.28	176
d. § 1.168(i)–8T(f) or Prop. Reg. § 1.168(i)–8(g), Change in method of identifying which assets in a multiple asset account have been disposed of from one method to another method specified in § 1.168(i)–8T(f)(1) or (2), or from one method to another method specified in Prop. Reg. § 1.168(i)–8(g)(1) or (2)	6.28	176
e. § 1.168(i)–8T(f) or Prop. Reg. § 1.168(i)–8(g), Change in method of identifying which assets in a multiple asset account have been disposed of from a method not specified in § 1.168(i)–8T(f)(1) or (2) to a method specified in § 1.168(i)–8T(f)(1) or (2), or from a method not specified in Prop. Reg. § 1.168(i)–8(g)(1) or (2) to a method specified in Prop. Reg. § 1.168(i)–8(g)(1) or (2)	6.29 (Building or structural component) 6.30 (Property other than a building or structural component)	177 178
f. § 1.168(i)–8T(g)(1) or Prop. Reg. § 1.168(i)–8(h)(1), Change from depreciating a disposed asset or disposed portion of an asset to recognizing gain or loss upon disposition when a taxpayer continues to depreciate the asset or portion that the taxpayer disposed of prior to the year of change	6.29 (Building or structural component) 6.30 (Property other than a building or structural component)	177 178
g. Prop. Reg. § 1.168(i)–8(d)(2)(iii), Partial disposition election for the disposition of a portion of an asset to which the IRS's adjustment pertains	6.35	198

.42 *Depreciation of fiber optic transfer node and fiber optic cable used by a cable system operator (§§ 167 and 168).*

(1) *Description of change.*

(a) *Applicability.* This change applies to a cable system operator that is within the scope of Rev. Proc. 2015–12, 2015–2 I.R.B. 266, and wants to change to the safe harbor method of accounting provided in section 8.03 of Rev. Proc. 2015–12 for determining depreciation under §§ 167 and 168 of a fiber optic transfer node and trunk line consisting of fiber optic cable used in a cable distribution network providing one-way and two-way communication services. The safe harbor method provided by section 8.03 of Rev. Proc. 2015–12 determines the asset for purposes of §§ 167 and 168.

(b) *Inapplicability.* This change does not apply to the following:

(i) any property that is not depreciated under § 168 under the taxpayer's present and proposed methods of accounting; or

(ii) any property that is not owned by the taxpayer at the beginning of the year of change.

(2) *Certain eligibility rules inapplicable.*

(a) The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to a taxpayer that makes this change for its first or second taxable year ending after December 31, 2013.

(b) The eligibility rule in section 5.01(d) of Rev. Proc. 2015–13 does not apply to a taxpayer that makes this change.

(3) *Concurrent automatic change.*

(a) A taxpayer that wants to make this change for more than one asset for the same year of change should file a single Form 3115 for all such assets and provide a single net § 481(a) adjustment for all the changes included in that Form 3115. If one or more of the changes in that single Form 3115 generate a negative § 481(a) adjustment and other changes in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment and a single positive § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment.

(b) A taxpayer that wants to make both this change and a change to a UNICAP method under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure, as applicable, for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change to the method of accounting under this section 6.42 is "210."

(5) *Contact information*. For further information regarding a change under this section, contact Charles Magee at (202) 317-7005 (not a toll-free number).

SECTION 7. RESEARCH AND EXPERIMENTAL EXPENDITURES (§ 174)

.01 *Changes to a different method or different amortization period*.

(1) *Description of change*.

(a) This change applies to a taxpayer that wants to change the treatment of expenditures that qualify as research and experimental expenditures under § 174.

(b) Section 174 and the regulations thereunder provide the specific rules for changing a method of accounting under § 174 for research and experimental expenditures. Under § 174, a taxpayer may treat research and experimental expenditures that are paid or incurred by the taxpayer during the taxable year in connection with the taxpayer's trade or business as expenses under § 174(a) or as deferred expenses amortizable ratably over a period of not less than 60 months under § 174(b). Pursuant to § 1.174–1, research and experimental expenditures that are not treated as expenses or deferred expenses under § 174 must be treated as a charge to capital account. Further, § 1.174–1 provides that the expenditures to which § 174 applies may relate either to a general research program or to a particular project. Finally, §§ 1.174–3(a) and 1.174–4(a)(5) provide that in no event will a taxpayer be permitted to apply one method as to part of the expenditures relative to a particular project and apply a different method to the balance of the expenditures relating to the same project for the same taxable year.

(c) If a taxpayer has not treated research and experimental expenditures as expenses under § 174(a), § 174(a)(2)(B) and § 1.174–3(b)(2) provide that the taxpayer may, with consent, adopt the expense method at any time.

(d) If a taxpayer has treated research and experimental expenditures as expenses under § 174(a), § 174(a)(3) and § 1.174–3(b)(3) provide that the taxpayer may, with consent, change to a different method of treating research and experimental expenditures.

(e) If a taxpayer has treated research and experimental expenditures as deferred expenses under § 174(b), § 174(b)(2) and § 1.174–4(b)(2) provide that the taxpayer may, with consent, change to a different method of treating research or experimental expenditures or to a different period of amortization for deferred expenses.

(2) *Applicability*.

(a) *In general*. This change applies to any taxpayer that is changing:

(i) from treating research and experimental expenditures for a particular project or projects as expenses under § 174(a) to treating such expenditures as deferred expenses under § 174(b), or *vice versa*;

(ii) to a different period of amortization for research and experimental expenditures for a particular project or projects that are being treated as deferred expenses under § 174(b);

(iii) from treating research and experimental expenditures for a particular project or projects as expenses under § 174(a) or deferred expenses under § 174(b) to treating such expenditures as a charge to capital account, or vice versa; or

(iv) from treating research and experimental expenditures under any provision of the Code other than § 174 to treating such expenditures under § 174 and the regulations thereunder.

(b) *Inapplicability*. This change does not apply to:

(i) a change in the treatment of computer software costs under Rev. Proc. 2000–50, 2000–1 C.B. 601, as modified by Rev. Proc. 2007–16, 2007–1 C.B. 358 (but see section 9 of this revenue procedure for making that change); or

(ii) a change in the treatment of Year 2000 costs under Rev. Proc. 97–50, 1997–2 C.B. 525.

(3) *Certain eligibility rule inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, is not applicable to this change.

(4) *Manner of making change*.

(a) This change is made on a cut-off basis and applies to all research and experimental expenditures paid or incurred for a particular project or projects on or after the beginning of the year of change. See § 174(b)(2), and §§ 1.174–3(a), 1.174–3(b)(2), and 1.174–4(a)(5) for more information regarding a cut-off basis. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(b) The requirement under §§ 1.174–3(b)(2), 1.174–3(b)(3), and 1.174–4(b)(2) to file an application (that is, a Form 3115) no later than the end of the first taxable year in which the different method or different amortization period is to be used is waived for this change. However, see section 6.03 of Rev. Proc. 2015–13 for filing requirements applicable to a change under this section 7.01.

(c) The consent granted under section 9 of Rev. Proc. 2015–13 satisfies the consent required under §§ 174(a)(2)(B), 174(a)(3), and 174(b)(2), and §§ 1.174–3(b)(2), 1.174–3(b)(3), and 1.174–4(b)(2).

(5) *Additional requirement*. A taxpayer must attach to its Form 3115 a written statement providing:

(a) the information required in § 1.174–3(b)(2) if the taxpayer is changing to treating research and experimental expenditures as expenses under § 174(a);

(b) the information required in § 1.174–3(b)(3) if the taxpayer is changing from treating research and experimental expenditures as expenses under § 174(a); or

(c) the information required in § 1.174–4(b)(2) if the taxpayer is changing from treating research and experimental expenditures as deferred expenses under § 174(b) or is changing to a different period of amortization for research and experimental expenditures being treated as deferred expenses under § 174(b).

(6) *No audit protection*. A taxpayer does not receive audit protection under

section 8.01 of Rev. Proc. 2015–13 in connection with this change. *See* section 8.02(2) of Rev. Proc. 2015–13.

(7) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 7.01 is "17."

(8) *Contact information*. For further information regarding a change under this section, contact Grant D. Anderson at (202) 317-7005 (not a toll-free number).

.02 *Reserved*.

SECTION 8. ELECTIVE EXPENSING PROVISIONS (§ 179D)

.01 *Reserved*.

.02 *Reserved*.

.03 *Reserved*.

.04 *Deduction for Energy Efficient Commercial Buildings (§ 179D)*.

(1) *Description of change*. This change, as described in Rev. Proc. 2012–39, 2012–41 I.R.B. 470, applies to a taxpayer that wants to change its method of accounting to deduct under § 179D amounts paid or incurred for the installation of energy efficient commercial building property, as defined in § 179D(c)(1). The deduction for energy efficient commercial building property is subject to the limits of § 179D(b) and must be claimed in the taxable year in which the property is placed in service. The basis of the energy efficient commercial building property is reduced by the amount of the § 179D deduction taken and the remaining basis of the energy efficient commercial building property is depreciated over its recovery period.

(2) *Applicability*. This change applies to a taxpayer that places in service property for which a deduction is allowed under § 179D(a).

(3) *Inapplicability*. This change does not apply to a designer to whom the owner of a government building allocates the § 179D deduction.

(4) *Manner of making change*. A taxpayer making this change must attach to its Form 3115 (the original, the copy filed at Ogden, and any additional copies) a statement with a detailed description of the tax treatment of the property under the taxpayer's present and proposed methods of accounting.

(5) *Certification requirement*. In addition to the statement required by section 8.04(4) of this revenue procedure, a taxpayer making this change must attach to its Form 3115 a certification as required by section 4 of Notice 2006–52, 2006–1 C.B. 1175, or section 5 of Notice 2008–40, 2008–1 C.B. 725, to demonstrate that the energy efficient commercial building property has achieved the reduction in energy and power costs or in lighting power density necessary to qualify for the § 179D deduction.

(6) *No ruling on qualification*. The consent granted under section 9 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for a change provided in this section 8.04 is not a determination by the Commissioner that the taxpayer qualifies for a deduction under section 179D. The director will ascertain whether the taxpayer qualifies for a deduction under section 179D (including a review of the required certifications). See section 12 of Rev. Proc. 2015–13.

(7) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 8.04 is "152."

(8) *Contact information*. For further information regarding a change under this section, contact Jennifer Bernardini at (202) 317-6853 (not a toll-free number).

SECTION 9. COMPUTER SOFTWARE EXPENDITURES (§§ 162, 167, and 197)

.01 *Computer software expenditures*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method of accounting for the costs of computer software to a method described in Rev. Proc. 2000–50, 2000–1 C.B. 601, as modified by Rev. Proc. 2007–16, 2007–1 C.B. 358. Section 5 of Rev. Proc. 2000–50 describes the methods applicable to the costs of developing computer software. Section 6 of Rev. Proc. 2000–50 describes the method applicable to the costs of acquired computer software. Section 7 of Rev. Proc. 2000–50 describes the method applicable to leased or licensed computer software.

(2) *Scope*. This change applies to all costs of computer software as defined in section 2 of Rev. Proc. 2000–50. However, this change does not apply to any computer software that is subject to amortization as an "amortizable section 197 intangible" as defined in § 197(c) and the regulations thereunder, or to costs that a taxpayer has treated as research and experimentation expenditures under § 174.

(3) *Statement required*. If a taxpayer is changing to the method described in section 5.01(2) of Rev. Proc. 2000–50, the taxpayer must attach to its Form 3115 a statement providing the information required in section 8.02(2) of Rev. Proc. 2000–50.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 9.01 is "18."

(5) *Contact information*. For further information regarding a change under this section, contact Charles Magee at (202) 317-7005 (not a toll-free number).

.02 *Reserved.*

SECTION 10. CAPITAL EXPENDITURES (§ 263)

.01 *Package design costs*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer that wants to change its method of accounting for package design costs that are within the scope of Rev. Proc. 97–35, 1997–2 C.B. 448, as modified by Rev. Proc. 98–39, 1998–1 C.B. 1320, to one of the three alternative methods of accounting for package design costs described in section 5 of Rev. Proc. 97–35, which are: (i) the capitalization method, (ii) the design-by-design capitalization and 60–month amortization method, and (iii) the pool-of-cost capitalization and 48-month amortization method.

(b) *Inapplicability*. This change does not apply to a taxpayer that wants to change to the capitalization method for costs of developing or modifying any package design that has an ascertainable useful life.

(2) *Additional requirements*. If a taxpayer is changing its method of accounting for package design costs to the capitalization method or the design-by-design capitalization and 60-month amortization method, the taxpayer must attach a statement to its timely filed Form 3115. The statement must provide a description of

each package design, the date on which each was placed in service, and the cost basis of each (as determined under sections 5.01(2) or 5.02(2) of Rev. Proc. 97–35).

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 10.01 is "19."

(4) *Contact information*. For further information regarding a change under this section, contact Deena Devereux at (202) 317-7003 (not a toll-free number).

.02 *Line pack gas or cushion gas*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method of accounting for line pack gas or cushion gas to a method consistent with the holding in Rev. Rul. 97–54, 1997–2 C.B. 23. Rev. Rul. 97–54 holds that the cost of line pack gas or cushion gas is a capital expenditure under § 263, the cost of recoverable line pack gas or recoverable cushion gas is not depreciable, and the cost of unrecoverable line pack gas or unrecoverable cushion gas is depreciable under §§ 167 and 168.

(2) *Additional requirements*. A taxpayer that changes its method of accounting for unrecoverable line pack gas or unrecoverable cushion gas under this section 10.02 must change to a permissible method of accounting for depreciation for the cost of that gas as part of this change.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 10.02 is "20."

(4) *Contact information*. For further information regarding a change under this section, contact Deena Devereux at (202) 317-7003 (not a toll-free number).

.03 *Removal costs*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer that wants to change its method of accounting for certain costs in the retirement and removal of a depreciable asset to conform with Rev. Rul. 2000–7, 2000–1 C.B. 712, or for removal costs in disposal of a depreciable asset, including a partial disposition, as described under § 1.263(a)–3(g)(2)(i).

(b) *Inapplicability*. This change does not apply to a taxpayer that wants to change its method of accounting for removal costs in the disposal of a component of a unit of property where the disposal of the component is not a disposition for federal tax purposes. To make that change, see section 10.11 of this revenue procedure.

(c) *Manner of making change*. A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I, line 1(a);

(iv) Part II, all lines except lines 11, 13, 14, 15, and 17;

(v) Part II, line 13, if the change is to depreciating property;

(vi) Part IV, lines 25 and 26; and

(vii) Schedule E, if applicable.

(2) *Additional requirements*.

(a) Except for assets for which depreciation is determined in accordance with § 1.167(a)–11 (ADR), the taxpayer's proposed method of treating removal costs for assets accounted for in a multiple asset account must be consistent with the taxpayer's method of treating salvage proceeds. *See* Rev. Rul. 74–455, 1974–2 C.B. 63. (See section 6.02 of this revenue procedure for changing a taxpayer's present method of treating salvage proceeds.)

(b) If this change involves assets that are public utility property within the meaning of § 168(i)(10) or former § 167(l)(3)(A), the taxpayer must comply with the terms and conditions in section 6.01(3)(b)(v) of this revenue procedure.

(3) *Certain eligibility rule inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to this change.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 10.03 is "21."

(5) *Contact information*. For further information regarding a change under this section, contact Deena Devereux at (202) 317-7003 (not a toll-free number).

.04 *Distributor commissions*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer that wants to change from currently deducting distributor commissions (as defined by section 2 of Rev. Proc. 2000–38, 2002–2 C.B. 310, as modified by Rev. Proc. 2007–16, 2007–1 C.B. 358) to a method of capitalizing and amortizing distributor commissions using the distribution fee period method, the 5-year method, or the useful life method (all described in Rev. Proc. 2000–38).

(b) *Inapplicability*. This change does not apply to an amortizable section 197 intangible (including any property for which a timely election under § 13261(g)(2) of the Revenue Reconciliation Act of 1993, 1993–3 C.B. 1, 128, was made).

(2) *Manner of making change*. This change is made on a cut-off basis and applies only to distributor commissions paid or incurred on or after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 10.04 is "47."

(4) *Contact information*. For further information regarding a change under this section, contact Deena Devereux at (202) 317-7003 (not a toll-free number).

.05 *Intangibles*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its treatment of an item to a method of accounting permitted by §§ 1.263(a)–4, 1.263(a)–5, and 1.167(a)–3(b). See Rev. Proc. 2006–12, 2006–1 C.B. 310, as modified by Rev. Proc. 2006–37, 2006–2 C.B. 499, for the specific requirements, information, and documentation required for this change.

(2) *Section 481(a) adjustment*. In computing the § 481(a) adjustment for this change, the taxpayer takes into account only amounts paid or incurred in taxable years ending on or after January 24, 2002. See section 5 of Rev. Proc. 2006–12 for detailed rules for computing the § 481(a) adjustment and reporting it on Form 3115.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 10.05 is "78."

(4) *Contact information*. For further information regarding a change under this section, contact Deena Devereux at (202) 317-7003 (not a toll-free number).

.06 *Rotable spare parts safe harbor method*.

(1) *Description of change*. This change applies to a taxpayer that maintains a pool or pools of rotable spare parts that are primarily used to repair customer-owned (or customer-leased) equipment under warranty or maintenance agreements, and wants to change its method of accounting for the rotable spare parts to the safe harbor method of accounting provided in Rev. Proc. 2007–48, 2007–2 C.B. 110. The taxpayer must meet the requirements in section 4.01 of Rev. Proc. 2007–48 to use this safe harbor method of accounting.

(2) *Change from safe harbor method*. A taxpayer that is required to change its method of accounting from the safe harbor method under section 5.06 of Rev. Proc. 2007–48, must make the change under section 21.09 of this revenue procedure.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 10.06 is "109."

(4) *Contact information*. For further information regarding a change under this section, contact Deena Devereux at (202) 317-7003 (not a toll-free number).

.07 *Repairable and reusable spare parts.*

(1) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer that wants to change its method of accounting to treat repairable and reusable spare parts as depreciable property to conform with the holdings in Rev. Rul. 69–200, 1969–1 C.B. 60, and Rev. Rul. 69–201, 1969–1 C.B. 60. This change applies to repairable and reusable spare parts that: are owned by the taxpayer at the beginning of the year of change; are used to repair equipment owned by the taxpayer; are acquired by the taxpayer for a specific type of equipment at the time that the related equipment is acquired; usually have the same useful life as the related equipment; and have been placed in service by the taxpayer after 1986. A taxpayer making a change in method of accounting under this section 10.07 may treat its repairable and reusable spare parts as tangible property for which depreciation is allowable at the time that the related equipment is placed in service by the taxpayer. The method of computing depreciation for the repairable and reusable spare parts is the same method of computing depreciation for the related equipment.

(b) *Inapplicability*. This change does not apply to:

(i) A taxpayer that is currently capitalizing and depreciating the cost of its repairable and reusable spare parts, or that is currently capitalizing the cost of its repairable and reusable spare parts and treating these parts as nondepreciable property (but see section 6.01 of this revenue procedure for making a change from an impermissible to a permissible method of accounting for depreciation);

(ii) A taxpayer that is using an impermissible method of accounting for depreciation for the related equipment for which the repairable and reusable spare parts are acquired, unless the taxpayer concurrently changes its method to use a permissible method of accounting for depreciation under section 6 of this revenue procedure;

(iii) A repairable and reusable spare part that meets the definition of rotable spare parts, temporary spare parts, or standby emergency spare parts in § 1.162–3(c)(2) or (3), for which the cost was paid or incurred by the taxpayer in a taxable year beginning on or after January 1, 2014 (or in a taxable year beginning on or after January 1, 2012, if the taxpayer chooses to apply § 1.162–3 to amounts paid or incurred in those taxable years), and for which the taxpayer did not make the election under § 1.162–3(d) to capitalize and depreciate such repairable and reusable spare part; or

(iv) a taxpayer that chooses to apply § 1.162–3T to a repairable and reusable spare part that meets the definition of rotable spare parts or temporary spare parts in § 1.162–3T(c)(2), for which the cost was paid or incurred by the taxpayer in a taxable year beginning on or after January 1, 2012, and before January 1, 2014, and for which the taxpayer did not make the election under § 1.162–3T(d) to capitalize and depreciate such repairable and reusable spare part.

(2) *Additional requirements*.

(a) To change a method of accounting under this section 10.07, a taxpayer (including a qualified small taxpayer as defined in section 6.01(4)(b) of this revenue procedure) must complete Schedule E of Form 3115 for the repairable and reusable spare parts and also attach the following information to the completed Form 3115:

(i) A description of the repairable and reusable spare parts;

(ii) A list of related equipment for which the repairable and reusable spare parts are acquired; and

(iii) A complete description of the method of computing depreciation (for example, depreciation method, recovery period, convention, and applicable asset class under Rev. Proc. 87–56, 1987–2 C.B. 674, as clarified and modified by Rev. Proc. 88–22, 1988–1 C.B. 785) that the taxpayer uses for the related equipment for which the repairable and reusable spare parts are acquired.

(b) *Reduced filing requirement for qualified small taxpayers*. A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I;

(iv) Part II, all lines except lines 11, 13, 14, 15, and 17; and

(v) Part IV, all lines except line 24.

(3) *Concurrent automatic change*.

(a) A taxpayer making both this change and a change to a UNICAP method under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable) for the same year of change should file a single Form 3115 for both changes, in which case the taxpayer must enter the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for information on making concurrent changes. For example, a qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, must include on the single Form 3115 the information required by section 10.07(2)(b) of this revenue procedure and the information required by the lines on Form 3115, applicable to the UNICAP method change, including Part II line 12 and 13, Part IV, and Schedule D, and must include a separate response to each line on Form 3115 that is applicable to both changes (such as Part II lines 4b, 5c, 12, and, as applicable for this change, Part IV) for which the taxpayer's response is different for this change and the change to a UNICAP method.

(b) A taxpayer making both this change and a change to a permissible method of accounting for depreciation for repairable and reusable spare parts, or for the related equipment for which the repairable and reusable spare parts are acquired, under section 6 of this revenue procedure (as applicable) for the same year of change should file a single Form 3115 for both changes, in which case the taxpayer must enter the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(c) A taxpayer making this change also may establish pools for the repairable and reusable spare parts or may identify disposed repairable and reusable spare parts in accordance with section 6.37 of this revenue procedure. A taxpayer making both this change and the change under section 6.37 of this revenue procedure for the same year of change should file a single Form 3115 for both changes, in which case the taxpayer must enter the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer must include on the single Form 3115 the information required to be completed on Form 3115 by a qualified small taxpayer under this revenue procedure for each change in method of accounting included on that Form 3115.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 10.07 is "121".

(5) *Contact information*. For further information regarding a change under this section, contact Deena Devereux at (202) 317-7003 (not a toll-free number).

.08 *Reserved*.

.09 *Reserved*.

.10 *Reserved*.

.11 *Tangible property*.

(1) *Description of change*.

(a) *Applicability*. This change, as described in Rev. Proc. 2014–16, 2014–9 I.R.B. 606, applies to a taxpayer that wants to make a change to a method of accounting specified in section 10.11(3) of this revenue procedure and permitted under:

(i) Section 1.162–3, § 1.162–4, § 1.263(a)–1, § 1.263(a)–2, or § 1.263(a)–3 (the final tangible property regulations) for taxable years beginning on or after January 1, 2012;

(ii) Section 1.162–3T, § 1.162–4T, § 1.263(a)–2T, or § 1.263(a)–3T of the temporary Income Tax Regulations (T.D. 9564, 76 Fed. Reg. 81060, as contained in 26 CFR part 1 edition revised as of Apr. 1, 2013) (the temporary tangible property regulations) for a taxable year beginning on or after January 1, 2012, and before January 1, 2014; or

(iii) Section 1.446–1(e)(2)(ii)(*d*)(2) if the property for which the taxpayer is otherwise changing its method of accounting under this section is depreciable under either the present or the proposed method of accounting.

(b) *Inapplicability*. This change does not apply to:

(i) A taxpayer that wants to change its method of accounting for dispositions of depreciable property, including a change in the asset disposed of (but see sections 6.29, 6.30, 6.31, 6.33, 6.34, and 6.35 of this revenue procedure);

(ii) Amounts paid or incurred for certain materials and supplies that the taxpayer has elected to capitalize and depreciate under § 1.162–3(d);

(iii) Amounts paid or incurred to which the taxpayer has elected to apply the de minimis safe harbor under § 1.263(a)–1(f);

(iv) Amounts paid or incurred for employee compensation or overhead that the taxpayer has elected to capitalize under § 1.263(a)–2(f)(2)(iv)(B);

(v) Amounts paid or incurred to which the taxpayer has elected to apply the safe harbor for small taxpayers under § 1.263(a)–3(h);

(vi) Amounts paid or incurred for repair and maintenance costs that the taxpayer has elected to capitalize under § 1.263(a)–3(n); or

(vii) Amounts paid or incurred to facilitate the acquisition or disposition of assets that constitute a trade or business (but see section 10.05 of this revenue procedure).

(2) *Certain eligibility rules temporarily inapplicable*.

(a) *In general*. The eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, do not apply to a taxpayer that makes one or more changes in method of accounting under this section for any taxable year beginning before January 1, 2015.

(b) *Concurrent automatic change*. If the taxpayer makes both a change under this section 10.11 and a change to a UNICAP method under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable) for any taxable year beginning before January 1, 2015, on a single Form 3115 for the same year of change in accordance with section 10.11(5) of this revenue procedure, the eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13 do not apply to the taxpayer for either change. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes.

(3) *Covered changes*. This section 10.11 only applies to the following changes in methods of accounting:

(a) *Changes under the final tangible property regulations*.

(i) A change to deducting amounts paid or incurred to acquire or produce nonincidental materials and supplies in the taxable year in which they are first used in the taxpayer's operations or consumed in the taxpayer's operations in accordance with §§ 1.162–3(a)(1) and 1.162–3(c)(1);

(ii) A change to deducting amounts to acquire or produce incidental materials and supplies in the taxable year in which paid or incurred in accordance with §§ 1.162–3(a)(2) and 1.162–3(c)(1);

(iii) A change to deducting amounts paid or incurred to acquire or produce non-incidental rotable and temporary spare parts in the taxable year which the taxpayer disposes of the parts in accordance with §§ 1.162–3(a)(3) and 1.162–3(c)(2);

(iv) A change to the optional method of accounting for rotable and temporary spare parts in accordance with § 1.162–3(e);

(v) A change to deducting amounts paid or incurred for repair and maintenance in accordance with § 1.162–4, including a change, if any, in identifying the unit of property under § 1.263(a)–3(e) or, in the case of a building, identifying the building structure or building systems under § 1.263(a)–3(e)(2) for purposes of making the change to deducting the amounts;

(vi) A change to capitalizing amounts paid or incurred for improvements to tangible property in accordance with § 1.263(a)–3 and, if depreciable, to depreciating such property under § 167 or § 168, including a change, if any, in identifying the unit of property under § 1.263(a)–3(e) or, in the case of a building, identifying the building structure or building systems under § 1.263(a)–3(e)(2) for purposes of making the change to capitalizing the amounts;

(vii) A change by a dealer in property to deduct amounts paid or incurred for commissions and other costs that facilitate the sale of property in accordance with § 1.263(a)–1(e)(2);

(viii) A change by a non-dealer in property to capitalizing amounts paid or incurred for commissions and other costs that facilitate the sale of property in accordance with § 1.263(a)–1(e);

(ix) A change to capitalizing amounts paid or incurred to acquire or produce property in accordance with § 1.263(a)–2, and if depreciable, to depreciating such property under § 167 or § 168;

(x) A change to deducting amounts paid or incurred in the process of investigating or otherwise pursuing the acquisition of real property if the amounts meet the requirements of § 1.263(a)–2(f)(2)(iii); and

(xi) A change to the optional regulatory accounting method in accordance with § 1.263(a)–3(m) to determine whether amounts paid or incurred to repair, maintain, or improve tangible property are treated as deductible expenses or capital expenditures.

(b) *Changes under the temporary tangible property regulations.*

(i) A change to deducting amounts paid or incurred to acquire or produce non-incidental materials and supplies in the taxable year in which they are used or consumed in the taxpayer's operations in accordance with §§ 1.162–3T(a)(1) and 1.162–3T(c)(1);

(ii) A change to deducting amounts to acquire or produce incidental materials and supplies in the taxable year in which they are paid or incurred in accordance with §§ 1.162–3T(a)(2) and 1.162–3T(c)(1);

(iii) A change to deducting the amounts paid or incurred to acquire or produce non-incidental rotable and temporary spare parts in the taxable year which the taxpayer disposes of the parts in accordance with §§ 1.162–3T(a)(3) and 1.162–3T(c)(2);

(iv) A change to the optional method of accounting for rotable and temporary spare parts in accordance with § 1.162–3T(e);

(v) A change to deducting amounts paid or incurred for repair and maintenance in accordance with § 1.162–4T, including a change, if any, in identifying the unit of property under § 1.263(a)–3T(e) or, in the case of a building, identifying the building structure or building systems under § 1.263(a)–3T(e)(2) for purposes of making the change to deducting the amounts;

(vi) A change to capitalizing amounts paid or incurred for improvements to tangible property in accordance with § 1.263(a)–3T and, if depreciable, to depreciating such property under § 167 or § 168, including a change, if any, in identifying the unit of property under § 1.263(a)–3T(e) or, in the case of a building, identifying the building structure or building systems under § 1.263(a)–3T(e)(2) for purposes of making the change to capitalizing the amounts;

(vii) A change by a dealer in property to deduct amounts paid or incurred for commissions and other costs that facilitate the sale of property in accordance with § 1.263(a)–1T(d);

(viii) A change by a non-dealer in property to capitalizing amounts paid or incurred for commissions and other costs that facilitate the sale of property in accordance with § 1.263(a)–1T(e);

(ix) A change to capitalizing amounts paid or incurred to acquire or produce property in accordance with § 1.263(a)–2T, and if depreciable, to depreciating such property under § 167 or § 168;

(x) A change to deducting amounts paid or incurred in the process of investigating or otherwise pursuing the acquisition of real property if the amounts meet the requirements of § 1.263(a)–2T(f)(2)(iii);

(xi) A change to apply the *de minimis* rule under § 1.263(a)–2T(g) to amounts paid or incurred to acquire or produce a unit of property; and

(xii) A change to the optional regulatory accounting method in accordance with § 1.263(a)–3T(k) to determine whether amounts paid or incurred to repair, maintain, or improve tangible property are treated as deductible expenses or capital expenditures.

(4) *Manner of making change*.

(a) *Form 3115*. In addition to the other information required on line 12 of Form 3115, the taxpayer must include the following:

(i) The citation to the paragraph of the final tangible property regulations or temporary tangible property regulations that provides for the proposed method, or methods, of accounting to which the taxpayer is changing (for example, § 1.162–3(a), § 1.263(a)–3(i), § 1.263(a)–3(k)); and

(ii) If the taxpayer is changing any unit(s) of property under § 1.263(a)–3(e) (or § 1.263(a)–3T(e)) or, in the case of a building, is changing the identification of any building structure(s) or building system(s) under § 1.263–3(e)(2) (or § 1.263–3T(e)(2)) for purposes of determining whether amounts are deducted as repair and maintenance costs under section § 1.162–4 (or § 1.162–4T) or capitalized as improvement costs under § 1.263(a)–3 (or § 1.263(a)–3T), the taxpayer must include a detailed description of the unit(s) of property, building structure(s), or buildings system(s) used under its present method of accounting and a detailed description of the unit(s) of property, building structure(s), and building system(s) under its proposed method of accounting, together with a citation to the paragraph of the final regulation or temporary regulation under which the unit of property is permitted.

(iii) A taxpayer changing its method of accounting under this section 10.11 to capitalizing amounts paid or incurred and to depreciating such property under § 167 or § 168, as applicable, must complete Schedule E of Form 3115.

(b) *Reduced filing requirement for qualified small taxpayers*. A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115:

(i) The identification section of page 1 (above Part I);

(ii) The signature section at the bottom of page 1;

(iii) Part I, line 1(a);

(iv) Part II, all lines except lines 11, 13, 14, 15, and 17;

(v) Part II, line 13, if the change is to depreciating property;

(vi) Part IV, lines 25 and 26; and

(vii) Schedule E, if applicable.

(5) *Concurrent automatic change*.

(a) A taxpayer making two or more changes in method of accounting pursuant to this section 10.11 should file a single Form 3115 for all of these changes and must enter the designated automatic accounting method change numbers for all of these changes on the appropriate line on the Form 3115.

(b) A taxpayer making both one or more changes in method of accounting pursuant to this section 10.11 and a change to a UNICAP method under section 11 of this revenue procedure (as applicable) for the same year of change should file a single Form 3115 that includes all of these changes and must enter the designated automatic accounting method change numbers for all of these changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes. For example, a qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, must include on the single Form 3115 the information required by section 10.11(4)(b) of this revenue procedure for this change and the information required by the lines on Form 3115, applicable to the UNICAP method change, including Part II lines 12 and 13, Part IV, and Schedule D, and must include a separate response to each line on Form 3115 that is applicable to both changes (such as Part II lines 4b, 5c, 12, and, as applicable for this change, Part IV) for which the taxpayer's response is different for this change and the change to a UNICAP method.

(6) *Section 481(a) adjustment*.

(a) *In general*. Except as provided in section 10.11(6)(b) of this revenue procedure, a taxpayer changing to a method of accounting provided in this section 10.11 must apply § 481(a) and take into account any applicable § 481(a) adjustment in the manner provided in section 7.03 of Rev. Proc. 2015–13.

(b) *Limited adjustment for certain changes*.

(i) *Final tangible property regulations*. A taxpayer changing to a method of accounting under § 1.162–3 (except § 1.162–3(e)), § 1.263(a)–2(f)(2)(iii), § 1.263(a)–2(f)(3)(ii), § 1.263(a)–3(m), § 1.263A–1(e)(2)(i)(A), and § 1.263A–1(e)(3)(ii)(E) is required to calculate a § 481(a) adjustment as of the first day of the taxpayer's taxable year of change that takes into account only amounts paid or incurred in taxable years beginning on or after January 1, 2014. Optionally, a taxpayer may take into account amounts paid or incurred in taxable years beginning on or after January 1, 2012.

(ii) *Temporary tangible property regulations*. A taxpayer changing to a method of accounting under § 1.162–3T (except § 1.162–1T(e)), § 1.263(a)–2T(f)(2)(iii), § 1.263(a)–2T(f)(3)(ii), § 1.263(a)–2T(g), § 1.263(a)–3T(k), § 1.263A–1T(e)(2)(i)(A), and § 1.263A–1T(e)(3)(ii)(E) is required to calculate a section § 481(a) adjustment as of the first day of the year of change that takes into account only amounts paid or incurred in taxable years beginning on or after January 1, 2012, for a year of change beginning on or after January 1, 2012, and ending before January 1, 2014. For guidance on computing a § 481(a) adjustment see sections 11.03 and 11.04 of Rev. Proc. 2015–13.

(c) *Itemized listing on Form 3115*. A taxpayer changing to a method of accounting provided in this section 10.11 must include on Form 3115, Part IV, line 25, the total § 481(a) adjustment for each change in method of accounting being made. If the taxpayer is making more than one change in method of accounting under the final tangible property regulations, the taxpayer (including a qualified small taxpayer) must include on an attachment to Form 3115:

(i) The information required by Part IV, line 25 for each change in method of accounting (including the amount of the § 481(a) adjustment for each change in method of accounting, which includes the portion of the § 481(a) adjustment attributable to UNICAP);

(ii) The information required by Part II, line 12 of Form 3115 for each change; and

(iii) The citation to the paragraph of the final tangible property regulations or temporary tangible property regulations that provides for each proposed method of accounting.

(d) *Repair allowance property*. A taxpayer changing to a method of accounting provided by § 1.263(a)–3 of the final tangible property regulations or § 1.263(a)–3T of the temporary tangible property regulations under this section 10.11 must not include in the § 481(a) adjustment any amount attributable to property for which the taxpayer elected to apply the repair allowance under § 1.167(a)–11(d)(2) for any taxable year in which the repair allowance election was made.

(e) *Statistical Sampling*. Except for any change in accounting method for which a taxpayer is required to compute a § 481(a) adjustment under section 10.11(6)(b) of this revenue procedure, a taxpayer changing its method of accounting under this section 10.11 may use statistical sampling in determining the § 481(a) adjustment by following the guidance provided in Rev. Proc. 2011–42, 2011–37 I.R.B. 318.

(7) *Designated automatic accounting method change number*. See the following table for the designated automatic accounting method change numbers (DCN) for the changes in method of accounting under this section 10.11.

(a) *Changes under the final tangible property regulations.*

Description of Change	*DCN*	*Citation*
A change to deducting amounts paid or incurred for repair and maintenance or a change to capitalizing amounts paid or incurred for improvements to tangible property and, if depreciable, to depreciating such property under § 167 or § 168. Includes a change, if any, in the method of identifying the unit of property, or in the case of a building, identifying the building structure or building systems for the purpose of making this change.	184	§§ 1.162–4, 1.263(a)–3
Change to the regulatory accounting method.	185	§ 1.263(a)–3(m)
Change to deducting non-incidental materials and supplies when used or consumed.	186	§§ 1.162–3(a)(1), (c)(1)
Change to deducting incidental materials and supplies when paid or incurred.	187	§§ 1.162–3(a)(2), (c)(1)
Change to deducting non-incidental rotable and temporary spare parts when disposed of.	188	§ 1.162–3(a)(3), (c)(2)
Change to the optional method for rotable and temporary spare parts.	189	§ 1.162–3(e)
Change by a dealer in property to deduct commissions and other costs that facilitate the sale of property.	190	§ 1.263(a)–1(e)(2)
Change by a non-dealer in property to capitalizing commissions and other costs that facilitate the sale of property.	191	§ 1.263(a)–1(e)(1)
Change to capitalizing acquisition or production costs and, if depreciable, to depreciating such property under § 167 or § 168.	192	§ 1.263(a)–2
Change to deducting certain costs for investigating or pursuing the acquisition of real property (whether and which).	193	§ 1.263(a)–2(f)(2)(iii)

(b) *Changes under the temporary tangible property regulations.*

Description of Change	*DCN*	*Citation*
A change to deducting amounts paid or incurred for repair and maintenance or a change to capitalizing amounts paid or incurred for improvements to tangible property and, if depreciable, to depreciating such property under § 167 or § 168. Includes a change, if any, in the method of identifying the unit of property, or in the case of a building, identifying the building structure or building systems for the purpose of making this change.	162	§§ 1.162–4T, 1.263(a)–3T
Change to the regulatory accounting method.	163	§ 1.263(a)–3T(k)(2)
Change to deducting non-incidental materials and supplies when used or consumed.	164	§§ 1.162–3T(a)(1), (c)(1)
Change to deducting incidental materials and supplies when paid or incurred.	165	§§ 1.162–3T(a)(2), (c)(1)
Change to deducting non-incidental rotable and temporary spare parts when disposed of.	166	§ 1.162–3T(a)(3), (c)(2)
Change to the optional method for rotable and temporary spare parts.	167	§ 1.162–3T(e)
Change by a dealer in property to deduct commissions and other costs that facilitate sales.	168	§ 1.263(a)–1T(d)(1)
Change to applying the *de minimis* rule	169	§§ 1.263(a)–2T(g), 1.263A–1T(b)(14)
Change to deducting certain costs for investigating or pursuing the acquisition of real property.	170	§ 1.263(a)–2T(f)(2)(iii)
Change by non-dealer in property to capitalizing commissions and other costs that facilitate sales.	172	§ 1.263(a)–1T(d)(1)
Change to capitalizing acquisition or production costs and, if depreciable, to depreciating such property under § 167 or § 168.	173	§1.263(a)–2T

(8) *Contact information*. For further information regarding a change under this section, contact Lewis Saideman at (202) 317-5100 (not a toll-free number*)*.

.12 *Railroad track structure expenditures*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method of accounting for railroad track structures to:

(a) the safe harbor method provided in Rev. Proc. 2002–65, 2002–2 C.B. 700; or

(b) the safe harbor method provided in Rev. Proc. 2001–46, 2001–2 C.B. 263.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 10.12 is "213."

(3) *Contact information*. For further information regarding a change under this section contact Gwen Turner at (202) 317-7003 (not a toll-free number).

SECTION 11. UNIFORM CAPITALIZATION (UNICAP) METHODS (§ 263A)

.01 *Certain uniform capitalization (UNICAP) methods used by resellers and reseller-producers*.

(1) *Description of change*.

(a) *Applicability*. This change applies to:

(i) a small reseller of personal property that wants to change from a permissible UNICAP method to a permissible non-UNICAP inventory capitalization method in any taxable year that it qualifies as a small reseller;

(ii) a formerly small reseller that wants to change from a permissible non-UNICAP inventory capitalization method to a permissible UNICAP method in the first taxable year that it does not qualify as a small reseller;

(iii) a reseller-producer that wants to change from a permissible UNICAP method for both its production and resale activities to a permissible simplified resale method described in § 1.263A–3(d)(3) in any taxable year that it qualifies to use a simplified resale method for both its production and resale activities under § 1.263A–3(a)(4) (resellers with *de minimis* production activities);

(iv) a reseller-producer that wants to change from a permissible simplified resale method described in § 1.263A–3(d)(3) for both its production and resale activities to a permissible UNICAP method for both its production and resale activities in the first taxable year that it does not qualify to use a simplified resale method for both its production and resale activities under § 1.263A–3(a)(4);

(v) a reseller that wants to change its permissible UNICAP method to include a special reseller cost allocation rule;

(vi) a reseller or reseller-producer that wants to change to a UNICAP method (or methods) specifically described in the regulations and includes any necessary changes in the identification of costs subject to § 263A that will be accounted for using the proposed method in any taxable year, other than the first taxable year, that it does not qualify as a small reseller; or

(vii) a reseller or reseller-producer that wants to change from not capitalizing a cost subject to § 263A to capitalizing that cost under a UNICAP method (or methods) specifically described in the regulations that the reseller or reseller-producer is already using.

(b) *Inapplicability*.

(i) *Self-constructed assets*. This change does not apply to a taxpayer that wants to use either the simplified service cost method or the simplified production method for self-constructed assets under §§ 1.263A–1(h)(2)(i)(D) and 1.263A–2(b)(2)(i)(D).

(ii) *Historic absorption ratio*. This change does not apply to a taxpayer that wants to make an historic absorption ratio election under §§ 1.263A–2(b)(4) or 1.263A–3(d)(4), or to a taxpayer that wants to revoke an election to use the historic absorption ratio with the simplified resale method (*see* § 1.263A–3(d)(4)(iii)(B)), including a taxpayer using the simplified resale method with an historic absorption ratio that wants to change to a UNICAP method specifically described in the regulations that does not include the historic absorption ratio. However, this change applies to a small reseller that wants to change from the historic absorption ratio with the simplified resale method to a permissible non-UNICAP inventory capitalization method under section 11.01(1)(a)(i) of this revenue procedure.

(iii) *Interest capitalization*. This change does not apply to a taxpayer that wants to change its method of accounting for interest capitalization.

(iv) *Recharacterizing costs under the simplified resale method*. This change does not include a change for purposes of recharacterizing "section 471 costs" as "additional § 263A costs" (or vice versa) under the simplified resale method.

(2) *Certain eligibility rule inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to the changes described in §§ 11.01(1)(a)(i) and (ii) of this revenue procedure.

(3) *Definitions*.

(a) "Reseller" means a taxpayer that acquires real or personal property described in § 1221(a)(1) for resale.

(b) "Small reseller" means a reseller whose average annual gross receipts for the three immediately preceding taxable years (or fewer, if the taxpayer has not been in existence for the three preceding taxable years) do not exceed $10,000,000. *See* § 263A(b)(2)(B).

(c) "Formerly small reseller" means a reseller that no longer qualifies as a small reseller.

(d) "Producer" means a taxpayer that produces real or tangible personal property.

(e) "Reseller-producer" means a taxpayer that is both a producer and a reseller.

(f) "Permissible UNICAP method" means a method of capitalizing costs that is permissible under § 263A.

(g) "A UNICAP method specifically described in the regulations" includes the 90–10 *de minimis* rule to allocate a mixed service department's costs to resale activities (§ 1.263A–1(g)(4)(ii)), the 1/3–2/3 rule to allocate labor costs of personnel to purchasing activities (§ 1.263A–3(c)(3)(ii)(A)), the 90–10 *de minimis* rule to allocate a dual-function storage facility's costs to property acquired for resale (§ 1.263A–3(c)(5)(iii)(C)), the specific identification method (§ 1.263A–1(f)(2)), the burden rate method (§ 1.263A–1(f)(3)), the standard cost method (§ 1.263A–1(f)(3)), the direct reallocation method (§ 1.263A–1(g)(4)(iii)(A)), the step-allocation method (§ 1.263A–1(g)(4)(iii)(B)), the simplified service cost method (§ 1.263A–1(h)) (with a labor-based allocation ratio), and the simplified resale method without the historic absorption ratio election (§ 1.263A–3(d)), but does not include any other reasonable allocation method within the meaning of § 1.263A–1(f)(4).

(h) "Special reseller cost allocation rule" means the 90–10 *de minimis* rule to allocate a mixed service department's costs to property acquired for resale (§ 1.263A–1(g)(4)(ii)), the 1/3 – 2/3 rule to allocate labor costs of personnel to purchasing activities (§ 1.263A–3(c)(3)(ii)(A)), and the 90–10 *de minimis* rule to allocate a dual-function storage facility's costs to property acquired for resale (§ 1.263A–3(c)(5)(iii)(C)).

(i) "Permissible non-UNICAP inventory capitalization method" means a method of capitalizing inventory costs that is permissible under § 471.

(4) *Section 481(a) adjustment period*. Beginning with the year of change, a taxpayer changing its method of accounting for costs pursuant to sections 11.01(1)(a)(i), 11.01(1)(a)(iii), or 11.01(1)(a)(iv) of this revenue procedure generally must take any applicable net positive § 481(a) adjustment for such change into account ratably over the same number of taxable years, not to exceed four, that the taxpayer used its former method of accounting. A taxpayer changing its method of accounting for costs pursuant to sections 11.01(1)(a)(ii), 11.01(1)(a)(v), or 11.01(1)(a)(vi) of this revenue procedure must take any applicable net positive § 481(a) adjustment for such change into account as provided in section 7.03 of Rev. Proc. 2015–13.

(5) *Multiple changes*. A taxpayer making both this change and another change in method of accounting for the same year of change must comply with the ordering rules of § 1.263A–7(b)(2).

(6) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 11.01 is "22."

(7) *Example*. The following example illustrates the principles of this section 11.01 for small resellers and formerly small resellers.

Assume *X*, a corporate reseller of personal property, incorporated January 2, 2005, adopted a taxable year ending December 31. In determining whether *X* is a small reseller, as provided in section 11.01(3)(b) of this revenue procedure, *X* calculates its average annual gross receipts for the three taxable years (or fewer, if applicable) immediately preceding the taxable year being analyzed. For each of the taxable years 2005 through 2014, *X* calculates the corresponding average annual gross receipts for the three immediately preceding taxable years (or fewer, if applicable). The results are shown in the table below:

Current Taxable Year	Average Annual Gross Receipts for the Three Taxable Years Immediately Preceding the Current Taxable Year
2005	$ 0
2006	5,000,000
2007	6,000,000
2008	7,000,000
2009	11,000,000
2010	11,000,000
2011	9,000,000
2012	8,000,000
2013	11,000,000
2014	12,000,000

Furthermore, *X* which adopted the dollar-value LIFO inventory method, has the following LIFO inventory balances determined without considering the effects of the UNICAP method:

	Beginning	Ending
2009	$1,000,000	$1,100,000
2010	1,100,000	1,200,000
2011	1,200,000	1,300,000
2012	1,300,000	1,400,000
2013	1,400,000	1,500,000
2014	1,500,000	1,600,000

X was required by § 263A to change to the UNICAP method for 2009 because its average annual gross receipts for the three taxable years immediately preceding 2009 were $11,000,000, which exceeded the $10,000,000 ceiling permitted by the small reseller exception. Assume that *X* was required to capitalize $80,000 of "additional § 263A costs" to the cost of its 2009 beginning inventory because of this change in inventory method. In addition, *X* was required to include one-fourth of the § 481(a) adjustment when computing taxable income for each of the four taxable years beginning with 2009. Thus, *X* was required to include a $20,000 positive § 481(a) adjustment in its 2009 taxable income.

X elected to use the simplified resale method without an historic absorption ratio election under § 1.263A–3(d)(3) for determining the amount of additional § 263A costs to be capitalized to each LIFO layer. Assume that *X* was required to add $10,000 of additional § 263A costs to the cost of its 2009 ending inventory because of the $100,000 increment for 2009.

X's 2009 Ending Inventory:

Beginning Inventory (Without UNICAP costs)	$1,000,000
2009 Increment	100,000
Additional § 263A Costs in Beginning Inventory	80,000
Additional § 263A Costs in 2009 Increment	10,000
Total 2009 Ending Inventory	$1,190,000

X's Unamortized 2009 § 481(a) Adjustment:

2009 § 481(a) Adjustment	$80,000
Amount included in 2009 Taxable Income	<20,000>
Unamortized 2009 § 481(a) Adjustment—12/31/09	$60,000

Because *X* failed to satisfy the small reseller exception for 2010, *X* was required to continue using the UNICAP method for its inventory costs. Furthermore, *X* was required to include $20,000 of the unamortized 2009 positive § 481(a) adjustment in 2010 taxable income. Assume that *X* was required to add $10,000 of additional § 263A costs to the cost of its 2010 ending inventory because of the $100,000 increment for 2010.

X's 2010 Ending Inventory:

Beginning Inventory (With UNICAP costs)	$1,190,000
2010 Increment	100,000
Additional § 263A Costs in 2010 Increment	10,000
Total 2010 Ending Inventory	$1,300,000

X's Unamortized 2009 § 481(a) Adjustment:

Unamortized 2009 § 481(a) Adjustment—12/31/09	$60,000
Amount Included in 2010 Taxable Income	<20,000>
Unamortized 2009 § 481(a) Adjustment—12/31/10	$40,000

Because *X* satisfied the small reseller exception for 2011, *X* may change voluntarily from the UNICAP method to a permissible non-UNICAP inventory capitalization method (such a change for a current taxable year is provided in section 11.01 of this revenue procedure). To reflect the removal of the additional § 263A costs from the cost of its 2011 beginning inventory, *X* must compute a corresponding § 481(a) adjustment, which is a negative $100,000 ($1,200,000–$1,300,000). The entire amount of this negative § 481(a) adjustment is included in the computation of *X*'s taxable income for 2011. In addition, *X* must include $20,000 of the unamortized 2009 § 481(a) adjustment in 2011 taxable income.

X's 2011 Ending Inventory:

Beginning Inventory (With UNICAP costs)	$1,300,000
2011 Increment	100,000
2011 § 481(a) Adjustment <Negative>	<100,000>
Total 2011 Ending Inventory	$1,300,000

X's Unamortized 2009 § 481(a) Adjustment:

Unamortized 2009 § 481(a) Adjustment—12/31/10	$40,000
Amount included in 2011 Taxable Income	<20,000>
Unamortized 2009 § 481(a) Adjustment—12/31/11	$20,000

X's Unamortized 2011 § 481(a) Adjustment:

2011 § 481(a) Adjustment <Negative>	$<100,000>
Amount included in 2011 Taxable Income	100,000
Unamortized 2011 § 481(a) Adjustment—12/31/11	$ 0

X also satisfies the small reseller exception for 2012 and, therefore, is not required to return to the UNICAP method for 2012. *X*, however, must include $20,000 of the unamortized 2009 positive § 481(a) adjustment in its 2012 taxable income.

X's 2012 Ending Inventory:

Beginning Inventory (Without UNICAP costs)	$1,300,000
2012 Increment	100,000
Total 2012 Ending Inventory	$1,400,000

X's Unamortized 2009 § 481(a) Adjustment:

Unamortized 2009 § 481(a) Adjustment—12/31/11	$20,000
Amount in 2012 Taxable Income	<20,000>
Unamortized 2009 § 481(a) Adjustment—12/31/12	$ 0

In 2013, *X* fails to satisfy the small reseller exception and, therefore, must return to the UNICAP method (such a change for a current taxable year is provided in section 11.01 of this revenue procedure). *X* changes to the simplified resale method without a historic absorption ratio election under § 1.263A–3(d)(3). Assume that *X* must capitalize $120,000 of additional § 263A costs to the cost of its 2013 beginning inventory because of this change in inventory method. Because *X* used a non-UNICAP method for two taxable years prior to 2013, the § 481 spread period for the positive §481(a) adjustment is two years. Therefore, *X* must include one-half of the § 481(a) adjustment ($60,000) when computing taxable income for 2013 and 2014. Assume that *X* must add $10,000 of additional § 263A costs to the cost of its 2013 ending inventory because of the $100,000 increment for 2013.

X's 2013 Ending Inventory:

Beginning Inventory (Without UNICAP costs)	$1,400,000
2013 Increment	100,000
Additional § 263A costs in Beginning Inventory	120,000
Additional § 263A costs in 2013 Increment	10,000
Total 2013 Ending Inventory	$1,630,000

X's Unamortized 2013 § 481(a) Adjustment:

2013 § 481 Adjustment	$ 120,000
Amount included in 2013 Taxable Income	<60,000>
Unamortized 2013 § 481(a) Adjustment—12/31/13	$ 60,000

Because *X* fails to satisfy the small reseller exception for 2014, *X* must continue using the UNICAP method for its inventory costs. Furthermore, *X* is required to include $60,000 of the unamortized 2013 positive § 481(a) adjustment in 2014 taxable income. Assume that *X* is required to add $10,000 of additional § 263A costs to the cost of its 2014 ending inventory because of the $100,000 increment for 2014.

X's 2014 Ending Inventory:	
Beginning Inventory (With UNICAP costs)	$1,630,000
2014 Increment	100,000
Additional § 263A Costs in 2014 Increment	10,000
Total 2014 Ending Inventory	$1,740,000

X's unamortized 2013 § 481(a) adjustment:	
Unamortized 2013 § 481(a) Adjustment—12/31/13	$ 60,000
Amount included in 2014 Taxable Income	<60,000>
Unamortized 2013 § 481(a) Adjustment—12/31/14	$ 0

(8) *Contact information*. For further information regarding a change under this section, contact Christopher W. Call, at (202) 317-7007 (not a toll-free number).

.02 *Certain uniform capitalization (UNICAP) methods used by producers and reseller-producers*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a producer (as defined in section 11.01(3)(d) of this revenue procedure) or a reseller-producer (as defined in section 11.01(3)(e) of this revenue procedure) that wants to change to a UNICAP method (or methods) specifically described in the regulations, including any necessary changes in the identification of costs subject to § 263A that will be accounted for using the proposed method. This change also includes a change from not capitalizing a cost subject to § 263A to capitalizing that cost for a producer or a reseller-producer under a UNICAP method (or methods) specifically described in the regulations that the producer or reseller-producer is already using.

(b) *Inapplicability*.

(i) *Self-constructed assets*. This change does not apply to a taxpayer that wants to use either the simplified service cost method or the simplified production method for self-constructed assets under §§ 1.263A–1(h)(2)(i)(D) and 1.263A–2(b)(2)(i)(D).

(ii) *Historic absorption ratio*. This change does not apply to a taxpayer that wants to make an historic absorption ratio election under §§ 1.263A–2(b)(4) or 1.263A–3(d)(4), or to a taxpayer that wants to revoke an election to use the historic absorption ratio with the simplified production method (*see* § 1.263A–2(b)(4)(iii)(B)), including a taxpayer using the simplified production method with an historic absorption ratio changing to a UNICAP method specifically described in the regulations that does not include the historic absorption ratio.

(iii) *Interest capitalization*. This change does not apply to a taxpayer that wants to change its method of accounting for interest capitalization.

(iv) *Recharacterizing costs under the simplified production method*. This change does not include a change for purposes of recharacterizing "section 471 costs" as "additional § 263A costs" (or *vice versa*) under the simplified production method.

(2) *Definition*. A "UNICAP method specifically described in the regulations" includes the 90–10 *de minimis* rule to allocate a mixed service department's costs to production or resale activities (§ 1.263A–1(g)(4)(ii)), the 1/3 – 2/3 rule to allocate labor costs of personnel to purchasing activities (§ 1.263A–3(c)(3)(ii)(A)), the 90–10 *de minimis* rule to allocate a dual-function storage facility's costs to property acquired for resale (§ 1.263A–3(c)(5)(iii)(C)), the specific identification method (§ 1.263A–1(f)(2)), the burden rate method (§ 1.263A–1(f)(3)), the standard cost method (§ 1.263A–1(f)(3)), the direct reallocation method (§ 1.263A–1(g)(4)(iii)(A)), the step-allocation method (§ 1.263A–1(g)(4)(iii)(B)), the simplified service cost method (§ 1.263–1(h)) (with either a labor-based allocation ratio or a production cost allocation ratio), and the simplified production method without the historic absorption ratio election (§ 1.263A–2(b)), but does not include any other reasonable allocation method within the meaning of § 1.263A–1(f)(4).

(3) *Multiple changes*. A taxpayer making both this change and another change in method of accounting in the same year of change must comply with the ordering rules of § 1.263A–7(b)(2).

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 11.02 is "23."

(5) *Contact information*. For further information regarding a change under this section, contact Neville R. Jiang, at (202) 317-7007 (not a toll-free number).

.03 *Reserved*.

.04 *Impact fees*.

(1) *Description of change*. This change applies to a taxpayer that incurs impact fees as defined in Rev. Rul. 2002–9, 2002–1 C.B. 614, in connection with the construction of a new residential rental building that wants to capitalize the costs to the building under §§ 263(a) and 263A. See Rev. Rul. 2002–9 for further information.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 11.04 is "25."

(3) *Contact information*. For further information regarding a change under this section, contact Neville R. Jiang at (202) 317-7007 (not a toll-free number).

.05 *Change to capitalizing environmental remediation costs under § 263A*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method of accounting for environmental remediation costs from a method that does not comply with the holding in Rev. Rul. 2004–18, 2004–1 C.B. 509, to capitalizing them to inventory under § 263A.

(2) *Concurrent automatic changes*. A taxpayer making both this change and another automatic change under § 263A for the same year of change may file a single Form 3115 for both changes, provided the taxpayer enters the designated automatic change numbers for both changes on the appropriate line on that Form 3115, and complies with the ordering rules of § 1.263A–7(b)(2). See section 6.03(1)(b) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for information on making concurrent changes.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 11.05 is "77."

(4) *Contact information*. For further information regarding a change under this

section, contact John Roman Faron at (202) 317-7005 (not a toll-free number).

.06 *Change in allocating environmental remediation costs under § 263A.*

(1) *Description of change*. This change applies to a taxpayer that capitalizes environmental remediation costs to inventory under § 263A, but allocates these costs to inventory using a method of accounting that does not comply with the holding in Rev. Rul. 2005–42, 2005–2 C.B. 67, and wants to change to allocating these costs to inventory produced during the taxable year in which the costs are incurred under § 263A. See Rev. Rul. 2005–42 for further information.

(2) *Concurrent automatic changes*. A taxpayer making both this change and another automatic change under § 263A for the same year of change may file a single Form 3115 for both changes, provided the taxpayer enters the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115, and complies with the ordering rules of § 1.263A–7(b)(2). See section 6.03(1)(b) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for information on making concurrent changes.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 11.06 is "92."

(4) *Contact information*. For further information regarding a change under this section, contact John Roman Faron at (202) 317-7005 (not a toll-free number).

.07 *Safe harbor methods under § 263A for certain dealerships of motor vehicles*.

(1) *Description of change*. This change applies to a motor vehicle dealership, as defined in section 4 of Rev. Proc. 2010–44, 2010–49 I.R.B. 811, that is within the scope of section 3 of Rev. Proc. 2010–44 and wants to change its method of accounting to (1) treat its sales facility as a retail sales facility or (2) be treated as a reseller without production activities, as described in section 5 of Rev. Proc. 2010–44. A motor vehicle dealership that wants to make an automatic change in method of accounting to use one or both safe harbor methods described in section 5 of Rev. Proc. 2010–44 may make any corresponding changes in the identification of costs subject to § 263A that will be accounted for using the proposed method (for example, to remove internal profit from inventory costs) or to no longer include negative amounts as additional § 263A costs in the numerator of the simplified resale method formula or the simplified production method formula. However, except as provided in the preceding sentence, a change under this section does not include a change for purposes of recharacterizing "§ 471 costs" as "additional § 263A costs" (or *vice versa*) under the simplified resale method or the simplified production method.

(2) *Concurrent automatic changes*. A motor vehicle dealership making an automatic change to one or both safe harbor methods described in section 5 of Rev. Proc. 2010–44 and another automatic change under § 263A for the same taxable year may file one Form 3115 to make both changes, provided the dealership enters the designated automatic change numbers for all such changes in Part I on that Form 3115, and complies with the ordering rules of § 1.263A–7(b)(2). See section 6.03(1)(b) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for information on making concurrent changes.

(3) *Multiple adjustments*. In the event that a motor vehicle dealership is taking into account a § 481(a) adjustment from another accounting method change in addition to the § 481(a) adjustment required by a change to a safe harbor method described in section 5 of Rev. Proc. 2010–44, the § 481(a) adjustments must be taken into account separately. For example, a motor vehicle dealership that changed to comply with § 263A in 2009 and was required to take its § 481(a) adjustment into account over four years must continue to take into account that adjustment over the remainder of that four year § 481(a) adjustment period even though the dealership changed to a safe harbor method described in section 5 of Rev. Proc. 2010–44 in 2010 and has an additional § 481(a) adjustment required by that change.

(4) *Designated automatic accounting method change numbers*. The designated automatic accounting method change number for a change to treat certain sales facilities as retail sales facilities as described in section 5.01 of Rev. Proc. 2010–44 is "150." The designated automatic accounting method change number for a change to be treated as a reseller without production activities as described in section 5.02 of Rev. Proc. 2010–44 is "151."

(5) *Contact information*. For further information regarding a change under this section, contact Neville R. Jiang at (202) 317-7007 (not a toll-free number).

.08 *Change to not apply § 263A to one or more plants removed from the list of plants that have a preproductive period in excess of 2 years*.

(1) *Description of change*. This change, as described in Rev. Proc. 2013–20, 2013–14 I.R.B. 744, applies to a taxpayer that is not a corporation, partnership, or tax shelter required to use an accrual method of accounting under § 447 or § 448(a)(3), and either (a) wants to not apply § 263A, pursuant to § 263A(d)(1) and § 1.263A–4(a)(2), to the production of one or more plants that the IRS and the Treasury Department have removed from the list of plants that have a nationwide weighted average preproductive period in excess of 2 years, or (b) properly elected, pursuant to § 263A(d)(3) and § 1.263A–4(d), to not apply § 263A to the production of a plant or plants that have been removed from the list of plants that have a nationwide weighted average preproductive period in excess of 2 years, and wishes to revoke its § 263A(d)(3) election with respect to those plants. *See* Notice 2013–18, 2013–14 I.R.B. 742, or its successor.

(2) *Certain eligibility rule temporarily inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to a taxpayer that wants to make the change for its first or second taxable year ending after February 15, 2013.

(3) *Audit protection*. If a taxpayer currently does not apply § 263A to its blackberry, raspberry, or papaya plants in a manner that complies with the requirements of § 263A(d)(1) and § 1.263A–4(a)(2), the IRS will not raise such method of accounting for a taxable year that ends on or before February 15, 2013. Also, if the use of such a method of accounting by a taxpayer is an issue under consideration (within the meaning of section 3.08 of Rev. Proc. 2015–13) for taxable years in examination, before an Appeals office, or

before the U.S. Tax Court in a taxable year that ends on or before February 15, 2013, the IRS will not further pursue that issue.

(4) *Manner of making change*. A change under this section 11.08 is made with any necessary adjustments under § 481(a). For example, the revocation of an election under § 263A(d)(3) results in a § 481(a) adjustment that must take into account the change in depreciation from the alternative depreciation system to the general depreciation system included within such revocation.

(5) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 11.08 is "181."

(6) *Contact information*. For further information regarding a change under this section, contact Patrick M. Clinton at (202) 317-7005 (not a toll-free number).

.09 *Change to a reasonable allocation method described in § 1.263A–1(f)(4) for self-constructed assets*.

(1) *Description of change*.

(a) *Applicability*. This change, as described in Rev. Proc. 2014–16, 2014–9 I.R.B. 606, applies to a producer (as defined in section 11.01(3)(d) of this revenue procedure) or a reseller-producer (as defined in section 11.01(3)(e) of this revenue procedure) that wants to change to a reasonable allocation method within the meaning of § 1.263A–1(f)(4), other than the methods specifically described in § 1.263A–1(f)(2) or (3), for self-constructed assets produced during the taxable year, including any necessary changes in the identification of costs subject to § 263A that will be accounted for using the proposed method. This section 11.09 also includes a change from not capitalizing a cost subject to § 263A to capitalizing that cost for a producer or reseller-producer under a reasonable allocation method within the meaning of § 1.263A–1(f)(4) that the producer or reseller-producer is already using for self-constructed assets, other than the methods specifically described in § 1.263A–1(f)(2) or (3). See section 11.02 of this revenue procedure for a producer or reseller-producer that wants to change to a method described in § 1.263A–1(f)(2) or (3).

(b) *Inapplicability*. This change does not apply to an allocation method based on the number of units produced or an allocation method that does not allocate costs to the units of property produced. This change does not apply to a change described in another section of this revenue procedure or in other guidance published in the Internal Revenue Bulletin. For example, this change does not apply to a change described in section 11.01 or 11.02 of this revenue procedure.

(2) *No ruling on reasonableness of method*. The consent granted in section 9 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for this change is not a determination by the Commissioner that the taxpayer is using a reasonable allocation method for costs subject to § 263A and does not create any presumption that the proposed allocation method is permissible. The director will ascertain whether the taxpayer's allocation method is reasonable within the meaning of § 1.263A–1(f)(4).

(3) *Multiple changes*. A taxpayer making both this change and another change in method of accounting under section 10.11 of this revenue procedure for the same year of change must comply with the ordering rules of § 1.263A–7(b)(2).

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 11.09 is "194."

(5) *Contact information*. For further information regarding a change under this section, contact Christopher W. Call at (202) 317-7007 (not a toll-free number).

.10 *Real property acquired through foreclosure*.

(1) *Applicability*. This change, as described in Rev. Proc. 2014–16, 2014–9 I.R.B. 606, applies to a taxpayer that capitalizes costs under § 263A(b)(2) and § 1.263A–3(a)(1) to real property acquired through foreclosure, or similar transaction, where the taxpayer wants to change its method of accounting to an otherwise permissible method of accounting under which the acquisition and holding costs for real property acquired through foreclosure, or similar transaction, are not capitalized under § 263A(b)(2) and § 1.263A–3(a)(1). To qualify for this change in method of accounting, a taxpayer must:

(a) originate, or acquire and hold for investment, loans that are secured by real property; and

(b) acquire the real property that secures the loans at a foreclosure sale, by deed in lieu of foreclosure, or in another similar transaction.

(2) *Inapplicability*. This change does not apply to costs capitalized under § 263A(b)(1) and § 1.263A–2(a)(1) by the taxpayer to the acquired real property as a result of production activities.

(3) *Certain eligibility rule temporarily inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to a taxpayer that makes this change for its first or second taxable year ending after December 31, 2012.

(4) *Designated automatic accounting method change numbers*. The designated automatic accounting method change number for a change under this section 11.10 is "195."

(5) *Contact information*. For further information regarding a change under this section, contact Roy Hirschhorn at (202) 317-7007 (not a toll-free number).

.11 *Sales-Based Royalties.*

(1) *Description of change.* This change, as described in Rev. Proc. 2014–33, 2014–22 I.R.B. 1060, applies to a taxpayer that wants to change its method of accounting for sales-based royalties (as described in § 1.263A–1(e)(3)(ii)(U)(*2*)) that are properly allocable to inventory property:

(a) From not capitalizing sales-based royalties to capitalizing these costs and allocating them entirely to cost of goods sold under a taxpayer's method of accounting;

(b) From not capitalizing sales-based royalties to capitalizing these costs and allocating them to inventory property under a taxpayer's method of accounting;

(c) From capitalizing sales-based royalties and allocating these costs to inventory property to allocating them entirely to cost of goods sold; or

(d) From capitalizing sales-based royalties and allocating these costs entirely to cost of goods sold to allocating them to inventory property.

(2) *Limitations.*

(a) A taxpayer may not make a change in method of accounting under this section 11.11 if the taxpayer wants to change to capitalizing sales-based royalties and allocating them to inventory property using an other reasonable allocation method within the meaning of § 1.263A–1(f)(4).

(b) A taxpayer making the changes described in section 11.11(1)(a) or 11.11(1)(c) of this revenue procedure that uses a simplified method to determine the additional § 263A costs allocable to inventory property on hand at year end must remove sales-based royalties allocated to cost of goods sold from the formulas used to allocate additional § 263A costs to ending inventory in the same manner that the taxpayer included these amounts in the formulas.

(c) A taxpayer making a change in method of accounting under this section 11.11 that uses a simplified method with an historic absorption ratio election (see §§ 1.263A–2(b)(4) and 1.263A–3(d)(4)) and currently includes, or is changing its method to include, sales-based royalties in any part of its historic absorption ratio must revise its previous and current historic absorption ratios. To revise its historic absorption ratios, the taxpayer must apply its proposed method of accounting during the test period, during all recomputation years, and during all updated test periods to determine the § 471 costs and additional § 263A costs that were incurred. The revised historic absorption ratios must be used to revalue beginning inventory and must be accounted for in the taxpayer's § 481(a) adjustment. The taxpayer must use a method described in § 1.263A–7(c) to revalue beginning inventory.

(3) *Certain eligibility rule temporarily inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to this change for a taxpayer's first and second taxable years ending on or after January 13, 2014.

(4) *Concurrent automatic changes*. A taxpayer making a change under this section 11.11 and one or more automatic changes in method of accounting under § 263A for the same year of change may file a single Form 3115 for all changes, provided the taxpayer enters the designated automatic change numbers for all changes on the appropriate line on the Form 3115 and complies with the ordering rules of § 1.263A–7(b)(2). See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes.

(5) *Designated automatic accounting method change number*. The designated automatic accounting method change number for changes in method of accounting under this section 11.11 is "201."

(6) *Contact information*. For further information regarding a change under this section, contact John Roman Faron at (202) 317-7005 (not a toll-free number).

.12 *Treatment of Sales-Based Vendor Chargebacks under a Simplified Method*.

(1) *Description of change.* This change, as described in Rev. Proc. 2014–33, 2014–22 I.R.B. 1060, applies to a taxpayer that wants to change its method of accounting to no longer include cost adjustments for sales-based vendor chargebacks described in § 1.471–3(e)(1) in the formulas used to allocate additional § 263A costs to ending inventory under a simplified method.

(2) *Limitations*.

(a) A taxpayer making this change that uses a simplified method to determine the additional § 263A costs allocable to inventory property on hand at year end must remove sales-based vendor chargebacks from the formulas used to allocate additional § 263A costs to ending inventory in the same manner that the taxpayer included these amounts in the formulas.

(b) A taxpayer making a change in method of accounting under this section 11.12 that uses a simplified method with an historic absorption ratio election (see §§ 1.263A–2(b)(4) and 1.263A–3(d)(4)) and currently includes sales-based vendor chargebacks in any part of its historic absorption ratio must revise its previous and current historic absorption ratio(s). To revise its historic absorption ratios, the taxpayer must apply its proposed method of accounting during the test period, during all recomputation years, and during all updated test periods to determine the § 471 costs and additional § 263A costs that were incurred. The revised historic absorption ratios must be used to revalue beginning inventory and must be accounted for in the taxpayer's § 481(a) adjustment. The taxpayer must use a method described in § 1.263A–7(c) to revalue beginning inventory.

(3) *Certain eligibility rule temporarily inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to this change for a taxpayer's first and second taxable years ending on or after January 13, 2014.

(4) *Concurrent automatic changes*. A taxpayer making both this change and one or more automatic changes under § 263A, or both this change and the change described in section 21.15 of this revenue procedure for the same taxable year of change may file a single Form 3115 for both changes, provided the taxpayer enters the designated automatic change numbers for all changes on the appropriate line on the Form 3115 and complies with the ordering rules of § 1.263A–7(b)(2). See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes.

(5) *Designated automatic accounting method change number*. The designated automatic accounting method change number for changes in method of accounting under this section 11.12 is "202".

(6) *Contact information*. For further information regarding a change under this section, contact John Roman Faron at (202) 317-7005 (not a toll-free number).

.13 *U.S. ratio method*.

(1) *Change to the U.S. ratio method*.

(a) *Description of change*. This change applies to a foreign person, as defined in Notice 88–104, 1988–2 C.B. 443, as modified by Notice 89–67, 1989–1 C.B. 723, that is required to capitalize costs under § 263A and wants to change its method of accounting to the U.S. ratio method, as described in Notice 88–104.

(b) *Manner of making change*. A taxpayer requesting a change on behalf of a foreign person under section 11.13(1) of this revenue procedure must attach a statement to the Form 3115 providing the following information:

(i) *Foreign person requirement*. A representation that the foreign person is a qualified business unit (QBU), as defined in § 1.989(a)–1(b), of a foreign person, or the foreign branch of a U.S. person that constitutes a separate QBU, within the meaning of Notice 88–104. If the taxpayer is requesting a change in method of accounting on behalf of multiple foreign persons, please provide a representation that each foreign person is a QBU, as defined in § 1.989(a)–1(b), of a foreign person or the foreign branch of a U.S. person that constitutes a separate QBU, within the meaning of Notice 88–104;

(ii) *Description of trade or business*. The name and employer identification number (if applicable) for each foreign person and an explanation of each trade or business, as defined in § 1.446–1(d), for which a request to change to the U.S. ratio method is being made under this section 11.13(1);

(iii) *Applicable U.S. trade or business requirement*. The identity of the "applicable U.S. trade or business," as defined in Notice 88–104, that the foreign person wishes to use and an explanation of how this U.S. trade or business is "the same as, or most similar to" the trade or business conducted by the foreign person. If the taxpayer is requesting a change in method of accounting for multiple foreign persons, the taxpayer must identify the "applicable U.S. trade or business" for each foreign person, and explain how the respective U.S. trade or business is "the same as, or most similar to" the trade or business conducted by the foreign person; and

(iv) *Relationship requirement*. An explanation of how the "applicable U.S. trade or business" identified in section 11.13(1)(b)(iii) of this revenue procedure is a trade or business conducted in the United States by a "related person," as defined in Notice 88–104, with respect to the foreign person requesting a change under this section. If the taxpayer is requesting a change in method of accounting for multiple foreign persons, the taxpayer must explain how the "applicable U.S. trade or business" identified in section 11.13(1)(b)(iii) of this revenue procedure is a trade or business conducted in the United States by "related person" for purposes of Notice 88–104 for each foreign person requesting a change in method of accounting. Use §§ 267(b) or 707(b), as applicable, to explain the relationship.

(c) *Additional requirements*.

(i) A foreign person must continue to use the U.S. ratio of the applicable U.S. trade or business identified in section 11.13(1)(b)(iii) of this revenue procedure unless consent of the Commissioner is obtained to use the U.S. ratio of a different applicable U.S. trade or business under § 446(e) (see section 11.13(2) of this revenue procedure);

(ii) In the case of a controlled foreign corporation, the controlling U.S. shareholder, or in the case of a foreign branch of a U.S. person, the U.S. person, must maintain records of the U.S. ratio used by each foreign person to calculate the additional § 263A costs capitalized to property produced and property acquired for resale for the year of change and for subsequent taxable years for each foreign person requesting a change in method of accounting under this section 11.13. In the case of a controlled foreign partnership, the U.S. partner must maintain records of the U.S. ratio used by each foreign person to calculate the additional § 263A costs capitalized to property produced and property acquired for resale for the year of change and for subsequent taxable years for each foreign person requesting a change in method of accounting under this section 11.13.

(iii) The § 481(a) adjustment is computed in the manner provided in Notice 88–104;

(iv) The U.S. ratio is determined, and the ratio is applied to the costs of property produced or property acquired for resale incurred by the foreign person, in accordance with Notice 88–104; and

(v) If any foreign person is unable to obtain a U.S. ratio from the applicable U.S. trade or business identified in section 11.13(2)(b)(iii) of this revenue procedure, or is otherwise no longer eligible to use the U.S. ratio method, the foreign person is no longer permitted to use the U.S. ratio method. However, the foreign person is not ineligible to use the U.S. ratio method if the foreign person is able to obtain a U.S. ratio from a different applicable U.S. trade or business, and changes the applicable U.S. trade or business pursuant to section 11.13(2) of this revenue procedure or under the non-automatic change procedures of this revenue procedure, as applicable. If a foreign person is no longer eligible to use the U.S. ratio method, it is required to change its method of accounting to a method that complies with §§ 263A and 471 using either the automatic change procedures of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, and sections 11.01, 11.02, or 11.09, as applicable, of this revenue procedure or the non-automatic change procedures of Rev. Proc. 2015–13.

(2) *Change within U.S. ratio method*. This change applies to a foreign person currently using the U.S. ratio method that wants to use the U.S. ratio of a different applicable U.S. trade or business for purposes of applying the U.S. ratio method as described in section 11.13(2)(a) or 11.13(2)(b) of this revenue procedure.

(a) *Required change in the applicable U.S. trade or business*.

(i) *In general*. A foreign person is permitted to change its method of accounting under this section 11.13(2)(a) to use the U.S. ratio of a different applicable U.S. trade or business, as defined in Notice 88–104, if the foreign person is no longer able to obtain the U.S. ratio from the applicable U.S. trade or business previously identified and if: (A) the U.S. person or related person in which the applicable U.S. trade or business is conducted terminates its existence; (B) the foreign person is no longer related, within the meaning of § 267(b) or § 707(b), to the U.S. person or related person in which the applicable U.S. trade or business is conducted; or (C) the U.S. person or related person ceases to conduct the applicable U.S. trade or business.

(ii) *Certain eligibility rule inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13 does not apply to the change described in section 11.13(2)(a) of this revenue procedure.

(iii) *Manner of making change*. A foreign person making a change in method of accounting under this section 11.13(2)(a) must make the change in accordance with the requirement set forth in section 11.13(2)(c) of this revenue procedure.

(b) *Other changes in the applicable U.S. trade or business*.

(i) *In general*. If the foreign person cannot make the change in method of accounting described in section 11.13(2)(a) of this revenue procedure, or there is more than one U.S. trade or business that can reasonably be considered the "same as, or most similar to" the foreign person's trade or business, the foreign person is permitted to change its method of accounting under this section 11.13(2)(b) to use the U.S. ratio of a different applicable U.S. trade or business.

(ii) *Manner of making change*. A foreign person making a change in method of accounting under this section 11.13(2)(b) must make the change in accordance with the requirement set forth in section 11.13(2)(c) of this revenue procedure.

(c) *Short Form 3115 in lieu of a Form 3115*. In accordance with § 1.446–1(e)(3)(ii), the requirement of § 1.446–1(e)(3)(i) to file a Form 3115 is waived and pursuant to section 6.02(2) of Rev. Proc. 2015–13, a short Form 3115 is authorized for a change described in section 11.13(2)(a) or 11.13(2)(b) of this revenue procedure. The short Form 3115 must include the following information:

(i) the identification section of page 1 (above Part I);

(ii) the signature section at the bottom of page 1;

(iii) Part I, line 1(a);

(iv) the information required under section 11.13(1)(b) of this revenue procedure; and

(v) a statement that the change in method of accounting is made under section 11.13(2)(a) or 11.13(2)(b) of Rev. Proc. 2015–14, as applicable.

(3) *Designated automatic accounting method change numbers*. The designated automatic accounting method change number for a change under this section 11.13 is "214."

(4) *Contact information*. For further information regarding a change under this section, contact Karla M. Meola, at (202) 317-7005 (not a toll-free number).

.14 *Depletion*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method of accounting for depletion to treat these amounts as an indirect cost that is only properly allocable to property that has been sold (that is, for purposes of determining gain or loss on the sale of the property) under § 1.263A–1(e)(3)(ii)(J).

(2) *Limitation.*

(a) A taxpayer making this change in method of accounting that uses a simplified method to determine the additional § 263A costs allocable to inventory property on hand at year end must remove depletion allocated to cost of goods sold from the formulas used to allocate additional § 263A costs to ending inventory in the same manner that the taxpayer included these amounts in the formulas.

(b) A taxpayer making this change in method of accounting that uses a simplified method with an historic absorption ratio election (see §§ 1.263A–2(b)(4) and 1.263A–3(d)(4)) and currently includes depletion in any part of its historic absorption ratio must revise its previous and current historic absorption ratios. To revise its historic absorption ratios, the taxpayer must apply its proposed method of accounting during the test period, during all recomputation years, and during all updated test periods to determine the § 471 costs and additional § 263A costs that were incurred. The revised historic absorption ratios must be used to revalue beginning inventory and must be accounted for in the taxpayer's § 481(a) adjustment. The taxpayer must use a method described in § 1.263A–7(c) to revalue beginning inventory

(3) *Certain eligibility rule inapplicable.* The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to this change.

(4) *Concurrent automatic changes*. A taxpayer making both this change and another automatic change under § 263A for the same year of change may file a single Form 3115 for both changes, provided the taxpayer enters the designated automatic change numbers for both changes on the appropriate line on that Form 3115 and complies with the ordering rules of § 1.263A–7(b)(2). See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes.

(5) *Designated automatic accounting method change number.* The designated automatic accounting method change number for a change in method of accounting under this section 11.14 is "215."

(6) *Contact information.* For further information regarding a change under this section, contact John Roman Faron at (202) 317-7005 (not a toll-free number).

SECTION 12. LOSSES, EXPENSES AND INTEREST WITH RESPECT TO TRANSACTIONS BETWEEN RELATED TAXPAYERS (§ 267)

.01 *Change to comply with § 267.*

(1) *Description of change*. This change applies to a taxpayer that wants to change its method or methods of accounting to comply with the requirements of § 267, which disallows or defers certain deductions attributable to transactions between related taxpayers. However, this change does not apply to a change for original issue discount (OID), including stated interest that is OID because it is not qualified stated interest (as defined in § 1.1273–1(c)). See section 5.02 of this revenue procedure for a change to comply with § 163(e)(3) for OID on an obligation held by a related foreign person.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 12.01 is "26."

(3) *Contact information*. For further information regarding a change under this section, contact Steven Gee at (202) 317-7007 (not a toll-free number). For further information regarding a change to comply with § 267(a)(3), contact Joseph Vetting at (202) 317-4960 (not a toll-free number).

.02 *Reserved*.

SECTION 13. DEFERRED COMPENSATION (§ 404)

.01 *Reserved*.

.02 *Deferred compensation*.

(1) *Description of change*. This change applies to a taxpayer using an overall accrual method of accounting that wants to change its method of accounting to treat bonuses or vacation pay as follows (*see* § 404(a)(5) and § 1.404(b)–1T, Q&A 2):

(a) *Applicability*.

(i) *Bonuses*.

(A) *Bonuses not subject to capitalization under § 263A*. If by the end of the taxable year all the events have occurred that establish the fact of the liability to pay a bonus and the amount of the liability can be determined with reasonable accuracy (*see* § 1.446–1(c)(1)(ii)), and the bonus is otherwise deductible, but the bonus is received by the employee after the 15th day of the 3rd calendar month after the end of that taxable year, to treat the bonus as deductible in the taxable year of the employer in which or with which ends the taxable year of the employee in which the bonus is includible in the gross income of the employee; or

(B) *Bonuses that are subject to capitalization under § 263A*. If by the end of the taxable year all the events have occurred that establish the fact of the liability to pay a bonus and the amount of the liability can be determined with reasonable accuracy (*see* § 1.446–1(c)(1)(ii)), and the bonus is otherwise deductible (without regard to § 263A), but the bonus is received by the employee after the 15th day of the 3rd calendar month after the end of that taxable year, to treat the bonus as capitalizable (within the meaning of § 1.263A–1(c)(3)) in the taxable year of the employer in which or with which ends the taxable year of the employee in which the bonus is includible in the gross income of the employee.

(ii) *Vacation pay*.

(A) *Vacation pay not subject to capitalization under § 263A*. If by the end of the taxable year all the events have occurred that establish the fact of the liability to pay vacation pay and the amount of the liability can be determined with reasonable accuracy (*see* § 1.446–1(c)(1)(ii)), and the vacation pay is otherwise deductible but the vacation pay is received by the employee after the 15th day of the 3rd calendar month after the end of that taxable year, to treat the vacation pay as deductible in the taxable year of the employer in which the vacation pay is paid to the employee; or

(B) *Vacation pay that is subject to capitalization under § 263A*. If by the end of the taxable year all the events have occurred that establish the fact of the liability to pay vacation pay and the amount of the liability can be determined with reasonable accuracy (*see* § 1.446–1(c)(1)(ii)), and the vacation pay is otherwise deductible (without regard to § 263A), but the vacation pay is received by the employee after the 15th day of the 3rd calendar month after the end of that taxable year, to treat the vacation pay as capitalizable (within the meaning of § 1.263A–1(c)(3)) in the taxable year of the employer in which the vacation pay is paid to the employee.

(b) *Inapplicability*. This change does not apply to a taxpayer that is required under § 263A and the regulations thereunder to capitalize the costs with respect to which the taxpayer wants to change its method of accounting under this section 13.02 if the taxpayer is not capitalizing these costs, unless the taxpayer concurrently changes its method to capitalize these costs in conjunction with a change to a UNICAP method under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable).

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 13.02 is "28."

(3) *Contact information*. For further information regarding a change under this section, contact Maryellen Furr at (202) 317-5600 (not a toll-free number).

.03 *Grace period contributions*.

(1) *Description of change*. This change applies to a taxpayer that wants to cease deducting contributions made during the § 404(a)(6) grace period to a qualified cash or deferred arrangement within the meaning of § 401(k) or to a defined contribution plan as matching contributions with the meaning of § 401(m) when the contributions are attributable to compensation earned by plan participants after the end of a taxable year as required by Rev. Rul. 2002–46, 2002–2 C.B. 117, as modified by Rev. Rul. 2002–73, 2002–2 C.B. 805.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 13.03 is "29."

(3) *Contact information*. For further information regarding a change under this section, contact David Ziegler at (202) 317-8629 or Carlton Watkins at (202) 317-8631 (not toll-free calls).

SECTION 14. METHODS OF ACCOUNTING (§ 446)

.01 *Change in overall method from the cash method to an accrual method*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer that wants to change its overall method of accounting from the cash receipts and disbursements method (cash method) (as defined in section 14.01(2)(a) of this revenue procedure) to an accrual method (as defined in section 14.01(2)(b) of this revenue procedure). A change under this section 14.01 applies to (1) a taxpayer required to make this change by § 448, any other section of the Code or regulations, or in other guidance published in the Internal Revenue Bulletin (IRB), as well as (2) a taxpayer that wants to make this change but is not required to do so by § 448, any other section of the Code or regulations, or in other guidance published in the IRB. A taxpayer changing to an overall accrual method because it is prohibited from using the overall cash method under § 448 may use this section 14.01 regardless of whether the year of change is the first taxable year that the taxpayer is required by § 448 to change from the cash method ("the first § 448 year"), or is a taxable year other than the taxpayer's first § 448 year.

Additionally, a taxpayer qualifies to change its overall method of accounting from the cash method to an accrual method using this section 14.01 even if the taxpayer is also making one or more of the following changes in method of accounting for the same year of change:

(i) adopting the recurring item exception (as defined in section 14.01(2)(c) of this revenue procedure) for one or more types of recurring items (*see* § 1.461–5(d));

(ii) adopting or changing to a permissible inventory method of accounting and is either adopting this inventory method or qualifies to change to this inventory method using the automatic change procedures of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, and a section of this revenue procedure, or the change can be made automatically under any section of the Code or regulations, or other guidance published in the IRB (see Rev. Rul. 90–38, 1990–1 C.B. 57 (regarding when a taxpayer may adopt a method of accounting));

(iii) adopting or changing to a permissible § 263A method of accounting and is either adopting this § 263A method or qualifies to change to this § 263A method using the automatic change procedures of Rev. Proc. 2015–13 and a section of this revenue procedure, or the change can be made automatically under any section of the Code or regulations, or other guidance published in the IRB (see Rev. Rul. 90–38 (regarding when a taxpayer may adopt a method of accounting)); or

(iv) adopting or changing to any other special method of accounting (as defined in section 14.01(2)(d) of this revenue procedure) and is either adopting this special method or qualifies to change to this special method using the automatic change procedures of Rev. Proc. 2015–13 and a section of this revenue procedure, or the change can be made automatically under any section of the Code or regulations, or other guidance published in the IRB (see Rev. Rul. 90–38 (regarding when a taxpayer may adopt a method of accounting));

Also, a taxpayer qualifies to use this section 14.01 when that taxpayer, in the taxable year immediately preceding the year of change, has used a permissible inventory method for that year, and, if that taxpayer was subject to § 263A for that year, has also used a permissible § 263A method for that year, and the method(s) continue to be used for the year of change.

(b) *Inapplicability*. This change does not apply to:

(i) a taxpayer that is making a change from a hybrid method of accounting (as defined in section 14.01(2)(e) of this revenue procedure);

(ii) a taxpayer that is changing its method of accounting for one or more items of income or expense, but not its overall method of accounting. See section 14.09 of this revenue procedure for a description of accounting method changes from the cash method to an accrual method for specific items that are to be made using the automatic change procedures of Rev. Proc. 2015–13 and that section 14.09;

(iii) a taxpayer that is required by the Code, regulations, or other guidance published in the IRB to use a special method (for example, an inventory method, a § 263A method, or a long-term contract method) in the year of change and fails to adopt or change to that method;

(iv) a taxpayer that is engaged in two or more trades or businesses, unless that taxpayer makes this change for each trade or business so that the identical accrual method is used for each trade or business beginning with the year of change;

(v) a taxpayer that is required by § 447 to change to an accrual method when the year of change is the first taxable year that taxpayer is required by § 447 to change to that method;

(vi) a cooperative organization described in §§ 501(c)(12), 521, or 1381; or

(vii) an individual taxpayer, except for activities conducted as a sole proprietorship.

(2) *Definitions*.

(a) *Cash method of accounting* is the method identified by § 446(c)(1) and §§ 1.446–1(c)(1)(i), 1.451–1(a), and 1.461–1(a)(1). For purposes of this section 14.01, the cash method also includes the overall cash method with inventoriable items treated as either inventory or as non-incidental materials and supplies under § 1.162–3 as permitted by Rev. Proc. 2001–10, 2001–1 C.B. 272, as modified by Rev. Proc. 2011–14, 2011–4 I.R.B. 330, or Rev. Proc. 2002–28, 2002–1 C.B. 815, as modified by Rev. Proc. 2011–14.

(b) *Accrual method of accounting* is a method identified by § 446(c)(2) and §§ 1.446–1(c)(1)(ii), 1.451–1(a), and 1.461–1(a)(2).

(c) *Recurring item exception* is the method described in § 461(h)(3) and § 1.461–5.

(d) *Special method of accounting* within the meaning of this section 14.01 is a method of accounting, other than the cash method, expressly permitted or required by the Code, regulations, or in other guidance published in the IRB that deviates from the tax accrual accounting rules of §§ 446, 451 and 461 and the regulations thereunder. For example, the installment method of accounting under § 453, the mark-to-market method under § 475, a long-term contract method such as the percentage of completion method under § 460, and the deferral method of Rev. Proc. 2004–34, 2004–1 C.B. 991, as clarified and modified by Rev. Proc. 2011–18, 2011–5 I.R.B. 443, and Rev. Proc. 2013–29, 2013–33 I.R.B. 141, and as modified by Rev. Proc. 2011–14, are special methods of accounting. In contrast, application of the all-events test under a specific set of facts is not a special method of accounting. See, for example, Rev. Rul. 69–314, 1969–1 C.B. 139 (concerning the treatment of retainages).

(e) *Hybrid method of accounting* is a combination of the cash and accrual methods under which one or more items of income or expense are reported on the cash method and one or more items of income or expense are reported on an accrual method. For purposes of this section 14.01, a hybrid method of accounting includes, for example, a taxpayer that uses an accrual method with respect to purchases and sales of inventories and uses the cash method in computing all other items of income and expense.

(3) *Manner of making change*.

(a) *Section 481(a) adjustment*. A taxpayer changing its method of accounting under this section 14.01 must compute a § 481(a) adjustment. This adjustment must reflect the account receivables, account payables, inventory, and any other item determined to be necessary in order to prevent items from being duplicated or omitted. However, the adjustment does not include any item of income accrued but not received that was worthless or partially worthless (within the meaning of § 166(a)) on the last day of the year immediately prior to the year of change.

(b) *Prior change eligibility rule inapplicable*. Any prior change to the overall cash method that the taxpayer implemented using the provisions of Rev. Proc. 2001–10, as modified by Rev. Proc. 2011–14, or Rev. Proc. 2002–28, as modified by Rev. Proc. 2011–14, is disregarded for purposes of section 5.01(1)(e) of Rev. Proc. 2015–13.

(c) *Adoption of recurring item exception*. The taxpayer must attach to its Form 3115 a statement describing the types of liabilities for which the recurring item exception will be used.

(d) *Concurrent automatic change to a special method*.

(i) *Generally only one Form 3115 required*. Except as provided in section 14.01(3)(d)(ii) of this revenue procedure, a taxpayer that is changing from the overall cash method to an overall accrual method under this section 14.01 and changing to a special method, as permitted under section 14.01(1)(a)(ii), (iii), or (iv), must timely file a single Form 3115 for both changes and must enter the designated automatic accounting method change numbers for both changes on the appropriate line of that Form 3115. For example, a taxpayer making both a change from the overall cash method to an overall accrual method under this section 14.01 and an automatic change to the deferral method for advance payments under Rev. Proc. 2004–34 (*see* section 15.07 of this revenue procedure) must timely file a single Form 3115 for both changes and enter the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes.

(ii) *Two Forms 3115 required when a concurrent change is being implemented under section 33.01 of this revenue procedure for short-term obligations*. When a taxpayer subject to § 1281 is changing its method of accounting for interest income on short-term obligations as part of the change to an overall accrual method under this section 14.01, that taxpayer must request the change for the interest income under section 33.01 of this revenue procedure. The taxpayer must timely file individual Forms 3115 for each change requested. This section 14.01 will govern the change to an overall accrual method.

(e) *Concurrent change in accounting method not permitted to be implemented using the automatic change procedures of Rev. Proc. 2015–13 and a section of this revenue procedure, any section of the Code or regulations, or other guidance published in the IRB.* A taxpayer that does not qualify to change from the overall cash method to an overall accrual method under this section 14.01 because that taxpayer is concurrently changing to a method of accounting that may not be implemented using the automatic change procedures of Rev. Proc. 2015–13 and a section of this revenue procedure, any section of the Code or regulations, or other guidance published in the IRB, must timely request both changes using the non-automatic change procedures in Rev. Proc. 2015–13. See Rev. Proc. 2015–1, 2015–1 I.R.B. 1 (or successor), for more information on whether one Form 3115 is required to implement the changes, and for information on the appropriate user fee.

(4) *Change made in the first § 448 year*.

(a) *In general*. If the year of change is the first § 448 year for a taxpayer and that taxpayer qualifies to make the change from the cash method under the provisions of §§ 1.448–1(g) and (h) as well as this section 14.01, that taxpayer may choose to make the change using this section 14.01. However, that taxpayer must still comply with the requirements and provisions of §§ 1.448–1(g) and (h) in addition to the requirements and provisions of this section 14.01. For example, if the taxpayer is a hospital, defined in § 1.448–1(g)(2)(ii)(B), and that taxpayer chooses to make its change from the cash method for the first § 448 year using this section 14.01, the applicable § 481(a) adjustment period is provided by § 1.448–1(g)(2)(ii). If a taxpayer chooses not to implement its change from the cash method using this section 14.01, that taxpayer must make the change under the provisions of §§ 1.448–1(g) and (h).

(b) *Prior change eligibility rule inapplicable*. For a taxpayer making a change from the cash method in the first § 448 year, any prior change to the overall cash method is disregarded for purposes of section 5.01(1)(e) of Rev. Proc. 2015–13.

(5) *Designated automatic accounting method change number*.

(a) *Change made in the first § 448 year*. The designated automatic accounting method change number for a change from the cash method in the first § 448 year is "123." Entering designated automatic accounting method change number "123" on the appropriate line on the Form 3115 fulfills the requirement of § 1.448–1(h)(2)(i) to type or print "Automatic Change to Accrual Method – Section 448" at the top of page 1 of the Form 3115.

(b) *All other changes from the cash method to an overall accrual method*. The designated automatic accounting method change number for all other changes from the cash method under this section 14.01 is "122."

(6) *Contact information*. For further information regarding a change under this section, contact Cheryl Oseekey, at (202) 317-7007 (not a toll-free number).

.02 *Multi-year insurance policies for multi-year service warranty contracts*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a manufacturer, wholesaler, or retailer of motor vehicles or other durable consumer goods that wants to change its method of accounting for insurance costs paid or incurred to insure its risks under multi-year service warranty contracts to the method described in section 14.02(2) of this revenue procedure. Multi-year service warranty contracts to which this change applies include only those separately priced contracts sold by a manufacturer, wholesaler, or retailer also selling the motor vehicles or other durable consumer goods underlying the contracts (to the ultimate customer or to an intermediary). The classification of goods as "durable consumer goods" for purposes of this change depends on the common usage of the goods, rather than the purchaser's actual intended use of the goods.

(b) *Inapplicability*. This change does not apply to a taxpayer that covers its risks under its multi-year service warranty contracts through arrangements not constituting insurance.

(2) *Description of method*. If a taxpayer purchases a multi-year service warranty insurance policy (in connection with its sale of multi-year service warranty contracts to customers) by paying a lump-sum premium in advance, the taxpayer must capitalize the amount paid or incurred and may only obtain deductions for that amount by prorating (or amortizing) it over the life of the insurance policy (whether the cash method or an accrual method of accounting is used to account for service warranty transactions).

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 14.02 is "31."

(4) *Contact information*. For further information regarding a change under this section, contact Erika Reigle, at (202) 317-5100 (not a toll-free number).

.03 *Taxpayers changing to overall cash method*.

(1) *Description of change*. This change applies to either:

(a) a "qualifying taxpayer" that qualifies to make the change to the overall cash receipts and disbursements (cash) method under Rev. Proc. 2001–10, 2001–1 C.B. 272, (other than a taxpayer described in § 448(a)(3) or a bank described in section 14.12(2)(a) of this revenue procedure) with "average annual gross receipts" (as defined in section 5.01 of Rev. Proc. 2001–10) of $1,000,000 or less that wants to change to the overall cash method of accounting as provided in Rev. Proc. 2001–10, as modified by Announcement 2004–16, 2004–1 C.B. 668 (regarding placement of § 481(a) adjustment on the Form 3115), and Rev. Proc. 2011–14, 2011–4 I.R.B. 330 (removing § 6.02(1)(a) of Rev. Proc. 2001–10); or

(b) a "qualifying small business taxpayer" that qualifies to make a change to the overall cash receipts and disbursements (cash) method under Rev. Proc. 2002–28, 2002–1 C.B. 815, (other than a taxpayer prohibited from using the cash method under § 448 or a bank described in section 14.12(2)(a) of this revenue procedure) with "average annual gross receipts" (as defined in section 5.02 of Rev. Proc. 2002–28) of $10,000,000 or less that wants to change the overall method of accounting for an "eligible trade or business" (as defined in section 4.01 of Rev. Proc. 2002–28) to the overall cash method of accounting as provided in Rev. Proc. 2002–28, as modified by Announcement 2004–16 (regarding placement of § 481(a) adjustment on the Form 3115), and Rev. Proc. 2011–14 (removing § 7.02(1)(a) of Rev. Proc. 2002–28).

(2) *Manner of making change*. See either Rev. Proc. 2001–10 or Rev. Proc. 2002–28 for additional guidance on the computation of the § 481(a) adjustment and the completion of the Form 3115.

(3) *Concurrent automatic change to treat inventoriable items as nonincidental materials and supplies under Rev. Proc. 2001–10 or Rev. Proc. 2002–28*. A taxpayer making both a change to the overall cash method under this section 14.03 and a change to treat inventoriable items as materials and supplies that are not incidental pursuant to § 1.162–3 under section 21.03 of this revenue procedure for the same year of change may file a single Form 3115 for both changes, provided the taxpayer enters the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for information on making concurrent changes.

(4) *Banks changing to overall cash/hybrid method*. This change does not apply to a bank described in section 14.12(2)(a) of this revenue procedure. However, such a bank may be eligible to change to the overall cash/hybrid method under section 14.12 of this revenue procedure if it meets the requirements of that section.

(5) *Farming businesses changing to overall cash method*. A farming business may be eligible to make this change under section 14.03(1)(a) of this revenue procedure. However, a farming business is not eligible to make this change under section 14.03(1)(b) of this revenue procedure. A farming business that is not eligible under this section 14.03 may still be eligible to change to the overall cash method under section 14.13 of this revenue procedure if it meets the requirements of that section.

(6) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under section 14.03(1)(a) of this revenue procedure is "32." The designated automatic accounting method change number for a change under section 14.03(1)(b) of this revenue procedure is "33."

(7) *Contact information*. For further information regarding a change under this section, contact Neville R. Jiang at (202) 317-7007 (not a toll-free number).

.04 *Nonaccrual-experience method*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer that wants to make one or more of the changes in method of accounting to, from, or within a nonaccrual-experience (NAE) method of accounting that are described in sections 3.01(1) through (5) of Rev. Proc. 2006–56, 2006–2 C.B. 1169, as modified by Rev. Proc. 2011–14, 2011–4 I.R.B. 330, and as modified and amplified by Rev. Proc. 2011–46, 2011–42 I.R.B. 518.

(b) *Inapplicability*. This change does not apply to a taxpayer within the scope of section 3.01(6) through 3.01(8) of Rev. Proc. 2006–56, as modified and amplified by Rev. Proc. 2011–46.

(2) *Manner of making the change*.

(a) *Changes made with a § 481(a) adjustment*. A change in method of accounting described in section 3.01(1), (2), (3), or (5) of Rev. Proc. 2006–56, as modified and amplified by Rev. Proc. 2011–46, is made with a § 481(a) adjustment.

(b) *Changes made on a cut-off basis*.

(i) *In general*. A change described in section 3.01(4) of Rev. Proc. 2006–56 is made on a cut-off basis and the new applicable period applies only to the taxpayer's NAE calculation of its uncollectible amount for the year of change and for subsequent years. Moreover, a change described in sections 5.02 and 5.03 of Rev. Proc. 2011–46 is made on a cut-off basis and the proposed method applies only to accounts receivable earned on or after the first day of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required for a change described in section 3.01(4) of Rev. Proc. 2006–56 or in section 5.02 or 5.03 of Rev. Proc. 2011–46.

(ii) *Special filing rules for changes made under section 5.02 and 5.03 of Rev. Proc. 2011–46, as modified by this revenue procedure*.

(A) *Certain eligibility rule inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to a change in method of accounting made under section 5.02 or 5.03 of Rev. Proc. 2011–46, as modified by this revenue procedure.

(B) *Filing rules*. In accordance with § 1.446–1(e)(3)(ii), the requirement of § 1.446–1(e)(3)(i) to file a Form 3115 is waived and a statement in lieu of a Form 3115 is authorized for this change. Notwithstanding the definition of Form 3115 in section 3.07 of Rev. Proc. 2015–13, the statement in lieu of a Form 3115 that is permitted under section 5.02 or 5.03 of Rev. Proc. 2011–46 and this section 14.04 is considered a Form 3115 for purposes of the automatic consent procedures of Rev. Proc. 2015–13. However, the requirement to file the Ogden copy, under section 6.03(1)(a) of Rev. Proc. 2015–13, is waived. See section 5.02 or 5.03 of Rev. Proc. 2011–46, as applicable, for what information is required to be provided on the statement.

(3) *Concurrent change to overall accrual method and a NAE method of accounting*. A taxpayer making both an automatic change to, from, or within a NAE method of accounting under this section 14.04 and an automatic change to an overall accrual method under section 14.01 of this revenue procedure (whether or not it is the taxpayer's first § 448 year), must file a single Form 3115 for both changes. The taxpayer must complete all applicable sections of Form 3115, including sections that apply to the change to an overall accrual method and to the change to a NAE method, and must enter the automatic accounting method change numbers

for both changes on Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes.

A taxpayer making both an automatic change to, from, or within a NAE method of accounting under this section 14.04 and a required change to an overall accrual method under § 448 (the taxpayer's first § 448 year), and is either not eligible to make the change to an overall accrual method under section 14.01 of this revenue procedure or chooses to make the change to an overall accrual method using the procedures of § 1.448–1(h)(2), must make both changes (change to, from, or within a NAE method and change to an overall accrual method) on a single Form 3115. The taxpayer must follow the automatic change procedures of Rev. Proc. 2015–13 and this section 14.04 for the NAE change, and the procedures of § 1.448–1(h)(2) for the change to an overall accrual method (except that entering the designated automatic accounting method change number "34" on the Form 3115 fulfills the requirement of § 1.448–1(h)(2) to type or print "Automatic Change to Accrual – Section 448" at the top of page 1 of the Form 3115). The taxpayer must complete all applicable sections of Form 3115, including sections that apply to the change to an overall accrual method and to the change to the NAE method and must enter the designated automatic accounting method change numbers for both changes on Form 3115.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change to, from, or within a NAE method of accounting under this section 14.04 is "35."

(5) *Contact information*. For further information regarding a change under this section, contact Karla M. Meola, at (202) 317-7005 (not a toll-free number).

.05 *Interest accruals on short-term consumer loans—Rule of 78's method*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method of accounting from the Rule of 78's method to the constant yield method for stated interest (including stated interest that is original issue discount) on short-term consumer loans described in Rev. Proc. 83–40, 1983–1 C.B. 774, which was obsoleted by Rev. Proc. 97–37, 1997–2 C.B. 455.

(2) *Background*.

(a) A short-term consumer loan is described in Rev. Proc. 83–40, provided:

(i) the loan is a self-amortizing loan that requires level payments, at regular intervals at least annually, over a period not in excess of five years (with no balloon payment at the end of the loan term); and

(ii) the loan agreement between the borrower and the lender provides that interest is earned, or upon the prepayment of the loan interest is treated as earned, in accordance with the Rule of 78's method.

(b) In general, the Rule of 78's method allocates interest over the term of a loan based, in part, on the sum of the periods' digits for the term of the loan. See Rev. Rul. 83–84, 1983–1 C.B. 97, for a description of the Rule of 78's method.

(c) In general, the constant yield method allocates interest and original issue discount over the term of a loan based on a constant yield. See § 1.1272–1(b) for a description of the constant yield method. The Rule of 78's method generally front-loads interest as compared to the constant yield method.

(d) Rev. Proc. 83–40 was obsoleted because, under §§ 1.446–2 and 1.1272–1 (which were effective for debt instruments issued on or after April 4, 1994), taxpayers generally must account for stated interest and original issue discount on a debt instrument (loan) by using a constant yield method. As a result, the Rule of 78's method is no longer an acceptable method of accounting for federal income tax purposes.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 14.05 is "71."

(4) *Contact information*. For further information regarding a change under this section, contact William E. Blanchard at (202) 317-3900 (not a toll-free number).

.06 *Film producer's treatment of certain creative property costs*.

(1) *Description of change*. This change applies to a taxpayer that wants to change the method of accounting for creative property costs to the safe harbor method provided by section 5 of Rev. Proc. 2004–36, 2004–1 C.B. 1063. This safe harbor method of accounting applies to a taxpayer engaged in the trade of business of film production and to creative property costs (as defined in section 2.01 of Rev. Proc. 2004–36) properly written off by the taxpayer under The American Institute of Certified Public Accountants Statement of Position (SOP) 00–2, "Accounting for Producers or Distributors of Film."

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 14.06 is "85."

(3) *Contact information*. For further information regarding a change under this section, contact Bernard Harvey at (202) 317-7005 (not a toll-free number).

.07 *Deduction of incentive payments to health care providers*.

(1) *Description of change*. This change applies to a taxpayer that wants to change to the method of accounting for provider incentive payments under which those payments are included in discounted unpaid losses without regard to § 404, as provided in Rev. Proc. 2004–41, 2004–2 C.B. 90. A payment by a taxpayer to a health care provider is a "provider incentive payment," and thus eligible for this treatment, if (a) the taxpayer is taxable as an insurance company under Part II of subchapter L; (b) the payment is made pursuant to a written agreement the purpose of which is to encourage participating health care providers to provide quality health care to the taxpayer's subscribers in a cost-efficient manner; (c) the taxpayer's liability for the payment is dependent on the attainment of one or more preestablished goals during a performance period consisting of not more than 12 consecutive months; (d) the terms of the arrangement pursuant to which the payment is made are established unilaterally by the taxpayer, and are not negotiated with the health care providers; (e) the taxpayer normally makes payments to health care providers under the arrangement within 12 months after the close of the performance period; (f) deferring the receipt of income by the health care provider or otherwise providing a tax benefit to the provider is not a principal purpose of the arrangement; (g) the taxpayer records a liability for the payment on its

annual statement filed for state regulatory purposes, and includes this liability in the determination of discounted unpaid losses under § 846; and (h) the health care provider is not an employee, and is not providing health care as an agent, of the taxpayer. *See* Rev. Proc. 2004–41.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 14.07 is "90."

(2) *Contact information*. For further information regarding a change under this section, contact David Remus, at (202) 317-6995 (not a toll-free number).

.08 *Change by bank for uncollected interest*.

(1) *Description of change*. This change applies to a "bank" as defined in § 1.166–2(d)(4)(i) that: (a) uses an overall accrual method of accounting to determine its taxable income for federal income tax purposes; (b) is subject to supervision by Federal authorities, or by state authorities maintaining substantially equivalent standards; (c) has uncollected interest other than interest described in § 1.446–2(a)(2); and (d) has six or more years of collection experience. Under the safe harbor method of accounting provided by section 4 of Rev. Proc. 2007–33, 2007–1 C.B. 1289, a bank determines for each taxable year the amount of uncollected interest (other than interest described in § 1.446–2(a)(2)) for which it is considered to have a reasonable expectancy of payment by multiplying: (a) the total accrued (determined under § 1.446–2) but uncollected interest for the year, by (b) the bank's "recovery percentage" (determined under section 4.02 of Rev. Proc. 2007–33) for that year. Solely for purposes of this safe harbor, the bank is not considered to have a reasonable expectancy of payment for the excess, if any, of the accrued but uncollected interest over the expected collection amount determined using the bank's recovery percentage. The bank includes in gross income the portion of accrued but uncollected interest for which it has a reasonable expectancy of payment. The bank excludes from income the portion of accrued but uncollected interest for which it has no reasonable expectancy of payment.

(2) *Recovery percentage*. Subject to the limitations and conditions in Rev. Proc. 2007–33, sections 4.02(2), (3), and (4), a bank determines its recovery percentage for each taxable year by dividing: (a) total payments that the bank received on loans (including principal and interest) during the 5 taxable years immediately preceding the taxable year, by (b) total amounts that were due and payable to the bank on loans during the same 5 taxable years. The recovery percentage cannot exceed 100 percent and must be calculated to at least four decimal places. The data used in the recovery percentage must take into account acquisitions and dispositions. If a bank acquires the major portion of a trade or business of another person (predecessor) or the major portion of a separate unit of a trade or business of a predecessor, then in applying Rev. Proc. 2007–33 for any taxable year ending on or after the acquisition, the data from preceding taxable years of the predecessor attributable to the portion of the trade or business acquired, if available, must be used in determining the bank's recovery percentage. If a bank disposes of a major portion of a trade or business or the major portion of a separate unit of a trade or business, and the bank furnished the acquiring person the information necessary for the computations required by Rev. Proc. 2007–33, then in applying the revenue procedure for any taxable year ending on or after the disposition, the data from preceding taxable years attributable to the disposed portion of the trade or business may not be used in determining the bank's recovery percentage.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 14.08 is "108."

(4) *Contact information*. For further information regarding a change under this section, contact Timothy Sebastian at (202) 317-6945 (not a toll-free number).

.09 *Change from the cash method to an accrual method for specific items*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer that uses an overall accrual method of accounting but has identified a specific item or items of income or expense (or both) that are being accounted for on the cash method of accounting. This change does not apply to a taxpayer that is changing its overall method of accounting from cash to accrual. Such a taxpayer may be eligible to change to an overall accrual method using section 14.01 of this revenue procedure.

(b) *Inapplicability*. This change does not apply to:

(i) a taxpayer that will not have all items of income and expense on an accrual method subsequent to the change under this section 14.09;

(ii) a cooperative organization described in § 501(c)(12), 521, or 1381;

(iii) an individual taxpayer, except for activities conducted as a sole proprietorship;

(iv) a taxpayer engaged in two or more trades or businesses, unless the taxpayer makes this change so that the identical accrual method is used for each such trade or business beginning with the year of change;

(v) a change in method of accounting for any payment liability described in § 1.461–4(g);

(vi) a change in the method of accounting for interest that is not taken into account under § 1.446–2; and

(vii) any change that is specifically provided in another section of this revenue procedure.

(2) *Definitions*.

(a) "Cash method of accounting" is the method identified by § 446(c)(1) and §§ 1.446–1(c)(1)(i), 1.451–1(a), and 1.461–1(a)(1).

(b) "Accrual method of accounting" is the method identified by § 446(c)(2) and §§ 1.446–1(c)(1)(ii), 1.451–1(a), and 1.461–1(a)(2).

(3) *Additional requirements*. To change a method of accounting under this section 14.09, a taxpayer must attach to its completed Form 3115 a full and complete description of each specific item for which the change in method of accounting is being made and how the accrual method of accounting applies to each item, and list the § 481(a) adjustment, if any, for each item associated with the change. The change is fully and completely described if each income and expense item is described with specificity and how the all-events test (and the economic performance requirement, if applicable) applies to each item is described under the facts and circumstances of the taxpayer's trade

or business. For example, a taxpayer that merely states that it is changing its accounting method for advertising expenses from the cash method to an accrual method, recites the regulations under § 1.461–1(a)(2), and enters the associated § 481(a) adjustment has failed to describe fully and completely the specific item for which the change in method of accounting is being made. In contrast, a taxpayer that states that it is changing its method of accounting for print advertising expenses from the cash method of accounting to an accrual method of accounting, describes all of the relevant facts related to the print advertising expenses, and explains how the all-events test applies to those facts and when economic performance occurs has fully and completely described the item and the change. See section 6.03 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for additional filing requirements.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 14.09 is "124."

(5) *Contact information*. For further information regarding a change under this section, contact Charles Gorham at (202) 317-7003 (not a toll-free number).

.10 *Multi-year service warranty contracts*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a manufacturer, wholesaler, or retailer of motor vehicles or other durable consumer goods that uses an overall accrual method of accounting, and wants to change to the service warranty income method described in section 5 of Rev. Proc. 97–38, 1997–2 C.B. 479. Under the service warranty income method, a qualifying taxpayer may, in certain specified and limited circumstances, include a portion of an advance payment related to the sale of a multi-year service warranty contract in gross income generally over the life of the service warranty obligation.

(b) *Inapplicability*. This change does not apply to a taxpayer not within the scope of Rev. Proc. 97–38.

(2) *Manner of making change and designated automatic accounting method change number*.

(a) This change is made on a cut-off basis and applies only to qualified advance payments for multi-year service warranty contracts on or after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(b) In accordance with § 1.446–1(e)(3)(ii), the requirement of § 1.446–1(e)(3)(i) to file a Form 3115 is waived and pursuant to section 6.02(2) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, a short Form 3115 is authorized for this change. The short Form must include the following information:

(i) the identification section of page 1 (above Part I);

(ii) the signature section at the bottom of page 1;

(iii) Part I, line 1(a); and

(iv) the information required under section 6.03 of Rev. Proc. 97–38, except that the statement under section 6.03(2) (that the taxpayer agrees to all of the terms and conditions of the revenue procedure) also should refer to Rev. Proc. 2015–13.

(3) *Additional requirement*. A taxpayer changing to the service warranty income method of accounting under this section 14.10 must satisfy the annual reporting requirement set forth in section 6.04 of Rev. Proc. 97–38.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 14.10 is "125."

(5) *Contact information*. For further information regarding a change under this section, contact Erika Reigle at (202) 317-5100 (not a toll-free number).

.11 *Overall cash method for specified transportation industry taxpayers*.

(1) *Description of change*. This change applies to a "specified transportation industry taxpayer" with "average annual gross receipts" of more than $10,000,000 and not in excess of $50,000,000 that wants to change to the overall cash receipts and disbursement (cash) method.

(2) *Definitions*. For purposes of this section 14.11 the following definitions apply:

(a) *Specified transportation industry taxpayer*. A specified transportation industry taxpayer is a taxpayer that satisfies the following criteria for the year of change:

(i) The taxpayer reasonably identifies its "business" (as defined in section 14.11(2)(b) below) as being described in one of the following NAICS subsector codes (first three digits of the six-digit NAICS codes):

(A) Air Transportation, Rail Transportation, Water Transportation, Truck Transportation, Transit and Ground Passenger Transportation, or Scenic and Sightseeing Transportation, within the meaning of NAICS subsector codes 481–485 and 487; or

(B) Support Activities for Transportation within the meaning of NAICS subsector code 488.

(ii) The taxpayer is not prohibited from using the overall cash method under § 448.

(b) *Business*. A taxpayer may use any reasonable method of applying the relevant facts and circumstances to determine its business. A business may consist of several activities, which may or may not be related. For example, a taxpayer engaged in transportation activities may provide various services such as transporting air cargo and then subsequently trucking the cargo throughout a metropolitan area to warehouses and wholesale/retail stores. However, each activity within a taxpayer's business must individually satisfy the description of a NAICS subsector code in section 14.11(2)(a)(i)(A) or (B) of this revenue procedure. For example, a sightseeing bus operator that sells box lunches in connection with its tours is not a "specified transportation industry taxpayer" because one of the two activities of its business (food sales) does not satisfy the description of a NAICS subsector code in section 14.11(2)(a)(i)(A) or (B) of this revenue procedure. While the sightseeing transportation activity satisfies the description of the NAICS subsector code in section 14.11(2)(a)(i)(A) of this revenue procedure, the food sales activity does not satisfy the description of any NAICS subsector code in section 14.11(2)(a)(i)(A) or (B) of this revenue procedure, and thus, the taxpayer's business fails to meet the criteria of section 14.11(2)(a)(i). Similarly, a train operator who operates a dining car where meals are served is not a "specified transportation industry taxpayer" because one of the two activities of its business (food service) does not satisfy the description of a NAICS subsector code in section 14.11(2)(a)(i)(A) or (B) of this revenue procedure. While the rail transportation activity satisfies the description of a NAICS subsector code in section 14.11(2)(a)(i)(A) of this revenue procedure, the food service activity does not satisfy the description of any NAICS subsector code in section 14.11(2)(a)(i)(A) or (B) of this revenue procedure, and thus, the taxpayer's business fails to meet the criteria of section 14.11(2)(a)(i).

(c) *Average annual gross receipts*. A taxpayer has average annual gross receipts of more than $10,000,000 and not in excess of $50,000,000 if, for each prior taxable year ending on or after December 31, 2006, the taxpayer's average annual gross receipts for the three prior taxable-year period ending with the applicable prior taxable year are more than $10,000,000 and do not exceed $50,000,000. If a taxpayer has not been in existence for three prior taxable years, the taxpayer must determine its average annual gross receipts for the number of years (including short taxable years) that the taxpayer has been in existence. *See* § 448(c)(3)(A).

(d) *Gross receipts*. Gross receipts is defined consistent with § 1.448–1T(f)(2)(iv). Thus, gross receipts for a taxable year equal all receipts that must be recognized under the method of accounting actually used by the taxpayer for that taxable year for federal income tax purposes. *See* also § 448(c)(3)(C).

(e) *Aggregation of gross receipts*. For purposes of computing gross receipts under section 14.11(2)(d) of this revenue procedure, all taxpayers treated as a single employer under § 52(a) or (b) or § 414(m) or (o) (or that would be treated as a single employer under these sections if the taxpayers had employees) will be treated as a single taxpayer. However, when transactions occur between taxpayers that are treated as a single taxpayer by the previous sentence, gross receipts arising from these transactions will not be treated as gross receipts for purposes of the average annual gross receipts limitation. *See* § 448(c)(2) and § 1.448–1T(f)(2)(ii).

(f) *Treatment of short taxable year*. In the case of a short taxable year, a taxpayer's gross receipts must be annualized by multiplying the gross receipts for the short taxable year by 12 and then dividing the result by the number of months in the short taxable year. *See* § 448(c)(3)(B) and § 1.448–1T(f)(2)(iii).

(g) *Treatment of predecessors*. Any reference to a taxpayer in this section 14.11 includes a reference to any predecessor of that taxpayer. *See* § 448(c)(3)(D).

(h) *Cash method*. The "cash method" is the method identified by § 446(c)(1) and §§ 1.446–1(c)(1)(i), 1.451–1(a), and 1.461–1(a)(1).

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 14.11 is "126."

(4) *Example*. Taxpayer *X* is an LLC and taxed for federal income tax purposes as a partnership. Taxpayer *X* does not have any C corporations as partners and Taxpayer *X* is not a tax shelter within the meaning of § 448(d)(3). Taxpayer *X*'s business consists of short-haul trucking among various cities within State *Y*, which satisfies the description of the NAICS subsector code 484. Taxpayer *X* determines that its 3-year average annual gross receipts for each prior taxable year ending on or after December 31, 2006, have been more than $10,000,000 and not in excess of $50,000,000. Taxpayer *X* qualifies to change to the overall cash method using this section 14.11.

(5) *Contact information*. For further information regarding a change under this section, contact Megan M. Kirmil at (202) 317-7007 (not a toll-free number).

.12 *Change to overall cash/hybrid method for certain banks*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a bank described in section 14.12(2)(a) of this revenue procedure that wants to change to an overall cash/hybrid method described in section 14.12(2)(b) of this revenue procedure.

(b) *Inapplicability*. A bank's change to an overall cash/hybrid method under this section 14.12 does not include any change in the accounting treatment of an item for which the bank uses a special method (as described in section 14.12(2)(b) of this revenue procedure) before the change, or is required to use a special method, or will use a special method after the change. A bank may not change the accounting treatment of such an item under this section 14.12. Any change in the accounting treatment of such an item must be made under an applicable section of this revenue procedure, under the non-automatic change procedures of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, or under another guidance published in the Internal Revenue Bulletin, as appropriate.

(2) *Definitions*. The following definitions apply for purposes of this section 14.12.

(a) *Bank*. A bank is described in this section 14.12(2)(a) if the bank:

(i) is a bank as defined in § 581;

(ii) is an S corporation as defined in § 1361(a)(1), or a qualified subchapter S subsidiary as defined in § 1361(b)(3)(B); and

(iii) has average annual gross receipts (computed as described in section 14.12(5) of this revenue procedure) not in excess of $50,000,000.

(b) *Overall cash/hybrid method*. An overall cash/hybrid method is the use of a combination of accounting methods under which some items of income or expense are reported on the cash receipts and disbursements method (cash method) and other items of income or expense are reported on methods permitted or required for the accounting treatment of special items (special methods).

(i) *Cash method*. The cash method is the method identified by § 446(c)(1) and §§ 1.446–1(c)(1)(i), 1.451–1(a), and 1.461–1(a)(1).

(ii) *Special methods*. A few of the special methods typically used by banks include those provided for the accounting treatment of the following items: securities held by a dealer in securities as defined in § 475(c)(1) (the mark-to-market method of § 475); securities held by a dealer in securities as defined in § 1.471–5 (inventories maintained under § 471 and § 1.446–1(c)(2)(i)); hedging transactions (§ 1.446–4); contracts to which § 1256 applies (§ 1256); original issue discount on debt instruments (§§ 163(e) and 1271–1275); interest income (including acquisition discount and original issue discount) on short-term obligations (§§ 1281–1283); and stripped debt instruments (§ 1286). For example, a bank that regularly purchases or originates mortgages in the ordinary course of its business and engages in more than negligible sales of those mortgages generally is a dealer in securities under § 475(c)(1) and § 1.475(c)–1(c) and thus must use the mark-to-market method of § 475 for mortgages and any other securities (as defined in § 475(c)(2)) held by the bank.

(3) *Additional condition of change*. To change to an overall cash/hybrid method under this section 14.12, a bank must comply with the following additional condition. In addition to complying with the terms and conditions set forth in section 7 of Rev. Proc. 2015–13, the bank must keep its books and records for the year of change and for subsequent taxable years on an overall cash/hybrid method allowed by this section 14.12. This condition is considered satisfied if the bank reconciles the results obtained under the method used in keeping its books and records and those obtained under the method used for federal income tax purposes pursuant to this section 14.12 and the bank maintains sufficient records to support such reconciliation. *See also* § 1.446–1(a)(4).

(4) *Additional filing requirement*. To change to an overall cash/hybrid method under this section 14.12, a bank must include with its completed Form 3115 a description of each specific item of the bank's income or expense that is affected by the change under this section 14.12 and, for each such item, identify the following: the method of accounting under which the bank reports that item for federal income tax purposes immediately before the change; and the amount of the § 481(a) adjustment associated with changing that item to the cash method under this section 14.12.

(5) *Computation of average annual gross receipts*. For purposes of section 14.12(2)(a)(iii) of this revenue procedure, a bank's average annual gross receipts are computed as described in this section 14.12(5).

(a) *Average annual gross receipts*. A bank has average annual gross receipts not in excess of $50,000,000 if, for each prior taxable year ending on or after December 31, 2006, the bank's average annual gross receipts for the three prior taxable-year period ending with the applicable prior taxable year do not exceed $50,000,000. If a bank has not been in existence for three prior taxable years, the bank must determine its average annual gross receipts for the number of years (including short taxable years) that the bank has been in existence. *See* § 448(c)(3)(A).

(b) *Gross receipts*. Gross receipts is defined consistent with § 1.448–1T(f)(2)(iv). Thus, gross receipts for a taxable year equal all receipts that must be recognized under the method of accounting actually used by the bank for that taxable year for federal income tax purposes. *See also* § 448(c)(3)(C).

(c) *Aggregation of gross receipts*. For purposes of computing gross receipts under section 14.12(5)(b) of this revenue procedure, all taxpayers treated as a single employer under § 52(a) or (b) or § 414(m) or (o) (or that would be treated as a single employer under these sections if the taxpayers had employees) will be treated as a single taxpayer (that is, a single bank). However, when transactions occur between taxpayers that are treated as a single taxpayer by the previous sentence, gross receipts arising from these transactions will not be treated as gross receipts for purposes of the average annual gross receipts limitation. *See* § 448(c)(2) and § 1.448–1T(f)(2)(ii).

(d) *Treatment of short taxable year*. In the case of a short taxable year, a bank's gross receipts must be annualized by multiplying the gross receipts for the short taxable year by 12 and then dividing the result by the number of months in the short taxable year. *See* § 448(c)(3)(B) and § 1.448–1T(f)(2)(iii).

(e) *Treatment of predecessors*. Any reference to a bank or taxpayer in section 14.12(5) of this revenue procedure includes a reference to any predecessor of that bank or taxpayer. *See* § 448(c)(3)(D).

(6) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 14.12 is "127."

(7) *Contact information*. For further information regarding a change under this section, contact K. Scott Brown at (202) 317-6945 (not a toll-free number).

.13 *Change to overall cash method for farmers*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer engaged in the trade or business of farming that wants to change to the overall cash receipts and disbursement (cash) method. If a taxpayer is engaged in more than one trade or business, this change applies only to the taxpayer's trade or business of farming.

(b) *Inapplicability*. This change does not apply to a taxpayer that is required to use an accrual method pursuant to § 447 or prohibited from using the cash method by § 448.

(2) *Definitions*.

(a) Cash method of accounting is the method defined by § 446(c)(1) and §§ 1.446–1(c)(1)(i), 1.451–1(a), and 1.461–1(a)(1). See also, §§ 1.61–4 and 1.162–12 for specific rules relating to farmers.

(b) The trade or business of farming is a farming business as defined by § 263A(e)(4) and the regulations thereunder.

(3) *Manner of making change*. Generally, a taxpayer changing its method of accounting under this section 14.13, must compute a § 481(a) adjustment. However, if the taxpayer is changing from the crop method, that portion of the change is made using a cut-off basis under which expenses reported on the crop method and not deducted prior to the year of change are deducted in the year the related crop is sold.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 14.13 is "128."

(5) *Contact information*. For further information regarding a change under this section, contact Maxine Woo-Garcia at (202) 317-7011 or Renay France at (202) 317-7003 (not a toll-free number).

.14 *Nonshareholder contributions to capital under § 118*.

(1) *Description of change*.

(a) *Water and sewerage disposal utilities*.

(i) This change applies to a regulated public utility described in § 118(c) that wants to change its method of accounting for payments received from customers as customer connection fees, which are not contributions to the capital of the regulated public utility within the meaning of § 118(c), from excluding the payments from gross income as nontaxable contributions to capital under § 118 to including the payments in gross income under § 61. *See* Rev. Rul. 2008–30, 2008–1 C.B. 1156.

(ii) This change applies to a regulated public utility described in § 118(c) that wants to change its method of accounting for payments or property received that are contributions in aid of construction under § 118(c) and § 1.118–2 and that meet the requirements of §§ 118(c)(1)(B) and 118(c)(1)(C) from including the payments or the fair market value of the property in gross income under § 61 to excluding the payments or the fair market value of the property from income as nontaxable contributions to capital under § 118(a).

(b) *Other payments or property received*. This change applies to a taxpayer that wants to change its method of accounting for payments or property received (other than the payments received by a public utility described in § 118(c) that are addressed in section 14.14(1)(a)(i) of this revenue procedure) that do not constitute contributions to the capital of the taxpayer within the meaning of § 118 and the regulations thereunder, from excluding the payments or the fair market value of the property from gross income as nontaxable contributions to capital under § 118 to including the payments or the fair market value of the property in gross income under § 61.

(2) *Additional requirement*. A taxpayer that is making a change described in section 14.14(1)(a)(i) or (1)(b) must complete Schedule E of Form 3115 for the depreciable property to which the change relates (as well as all other relevant portions of the Form 3115).

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 14.14 is "129."

(4) *Contact information*. For further information regarding a change under this section, contact David H. McDonnell at (202) 317-4137 (not a toll-free number).

.15 *Debt issuance costs*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method of accounting for capitalized debt issuance costs to comply with § 1.446–5, which provides rules for allocating the costs over the term of the debt. This change also applies to a taxpayer that wants to change its method of accounting for capitalized debt issuance costs from one permissible method to another permissible method under the last sentence in § 1.446–5(b)(2) if the total original issue discount determined for purposes of § 1.446–5 is *de minimis*.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 14.15 is "148."

(3) *Contact information*. For further information regarding a change under this section, contact Charles W. Culmer at (202) 317-6945 (not a toll-free number).

SECTION 15. TAXABLE YEAR OF INCLUSION (§ 451)

.01 *Accrual of interest on nonperforming loans*.

(1) *Description of change*.

(a) This change applies to a taxpayer using an overall accrual method of accounting that is a bank as defined in § 581 (or whose primary business is making or managing loans) and wants to change its method of accounting to comply with § 451 and § 1.451–1(a) for qualified stated interest (as defined in § 1.1273–1(c)) on nonperforming loans.

(b) Section 1.451–1(a) requires income to be accrued when all the events have occurred that fix the right to receive the income and the amount thereof can be determined with reasonable accuracy. A taxpayer may not stop accruing qualified stated interest on a nonperforming loan for federal income tax purposes merely because payments on the loan are overdue by a certain length of time, such as 90 days, even if a federal, state, or other regulatory authority having jurisdiction over the taxpayer permits or requires that the overdue interest not be accrued for regulatory purposes.

(c) Under § 451 and § 1.451–1(a), a taxpayer must continue accruing qualified stated interest on any nonperforming loan until either (i) the loan is worthless under § 166 and charged off as a bad debt, or (ii) the interest is determined to be uncollectible. In order for interest to be determined uncollectible, the taxpayer must substantiate, taking into account all the facts and circumstances, that it has no reasonable expectation of payment of the interest. This substantiation requirement is applied on a loan by loan basis.

(d) A taxpayer that changes its method of accounting under this section 15.01 must do so for all of its loans.

(2) *Section 481(a) adjustment*. In general, the § 481(a) adjustment for a method change under this section 15.01 represents the amount of qualified stated interest on the taxpayer's nonperforming loans outstanding as of the beginning of the year of change that should have been accrued under § 451 and § 1.451–1(a) and was not accrued. Interest for which the taxpayer, as of the beginning of the year of change, has no reasonable expectation of payment is not taken into account in determining the amount of the § 481(a) adjustment.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 15.01 is "36."

(4) *Contact information*. For further information regarding a change under this section, contact Timothy Sebastian at (202) 317-6945 (not a toll-free number).

.02 *Advance rentals*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method of accounting for advance rentals (other than advance rentals subject to § 467 and the regulations thereunder) to include such advance rentals in gross income in the taxable year received. *See* § 1.61–8(b).

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 15.02 is "37."

(3) *Contact information*. For further information regarding a change under this section, contact Daniel Cassano at (202) 317-7011 (not a toll-free number).

.03 *State or local income or franchise tax refunds*.

(1) *Description of change*. This change applies to a taxpayer using an overall accrual method of accounting that receives a state or local income or franchise tax refund and wants to accrue the refund in the taxable year the taxpayer receives payment or notice that the claim has been approved, whichever is earlier, as provided in Rev. Rul. 2003–3, 2003–1 C.B. 252.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 15.03 is "38."

(3) *Contact information*. For further information regarding a change under this

section, contact Sandra Cheston at (202) 317-7011 (not a toll-free number).

.04 *Capital Cost Reduction Payments*.

(1) *Description of change*. This change applies to a taxpayer that purchases motor vehicles subject to leases and assumes the associated leases from the vehicles' dealers and wants to use the safe harbor method of accounting for capital cost reduction (CCR) payments specified in Rev. Proc. 2002–36, 2002–1 C.B. 993.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 15.04 is "39."

(3) *Contact information*. For further information regarding a change under this section, contact Arvind Ravichandran at (202) 317-4718 (not a toll-free number).

.05 *Credit card annual fees*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method of accounting for credit card annual fees as described in Rev. Rul. 2004–52, 2004–1 C.B. 973, either to a method that satisfies the all events test in accordance with Rev. Rul. 2004–52 or to the Ratable Inclusion Method for Credit Card Annual Fees that is described in section 4 of Rev. Proc. 2004–32, 2004–1 C.B. 988. Rev. Rul. 2004–52 holds that credit card annual fees are not interest for federal income tax purposes and that such fees are includible in income by the card issuer when the all events test under § 451 is satisfied. Rev. Proc. 2004–32 provides additional guidance for taxpayers seeking to change their methods of accounting for such fees, including guidance with respect to the Ratable Inclusion Method for Credit Card Annual Fees. However, a taxpayer may make either change under this revenue procedure only if the taxpayer uses an overall accrual method of accounting for federal income tax purposes and issues credit cards to, and receives annual fees from, cardholders under agreements that allow each cardholder to use a credit card to access a revolving line of credit to make purchases of goods and services and, if so authorized, to obtain cash advances.

(2) *Manner of making change*. In completing its Form 3115 to make this change, a taxpayer must identify the specific method to which the taxpayer is changing.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 15.05 to a method that satisfies the all events test in accordance with Rev. Rul. 2004–52 is "80." The designated automatic accounting method change number for a change under this section 15.05 to the Ratable Inclusion Method for Credit Card Annual Fees is "81."

(4) *Contact information*. For further information regarding a change under this section, contact Jon Silver at (202) 317-7053 (not a toll-free number).

.06 *Credit card late fees*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method of accounting for credit card late fees to a method that treats these fees as interest income that creates or increases the amount of original issue discount (OID) on the pool of credit card loans to which the fees relate. This change is available only to a taxpayer that issues credit cards allowing cardholders to access a revolving line of credit established by the taxpayer and that, for federal income tax purposes, does not treat the credit card purchase transactions of its cardholders as creating either debt that is given in consideration for the sale or exchange of property (within the meaning of § 1274) or debt that is deferred payment for property (within the meaning of § 483). See Rev. Proc. 2004–33, 2004–1 C.B. 989, for additional guidance relating to this change.

(2) *Additional requirements*. A taxpayer making this change must be able to demonstrate both of the following:

(a) the amount of any credit card late fee charged to each cardholder by the taxpayer is separately stated on the cardholder's account when that fee is imposed; and

(b) under the applicable credit card agreement governing each cardholder's use of the credit card, no amount identified as a credit card late fee is charged for property or for specific services performed by the taxpayer for the benefit of the cardholder.

(3) *Audit protection*. Any audit protection provided in connection with this change is not a determination by the Commissioner that the taxpayer is properly accounting for any OID income on that pool of credit card loans. Thus, for example, the IRS is not precluded from pursuing the issue of whether a taxpayer is properly accounting for its OID income (including any OID income attributable to credit card late fees) on its pool of credit card loans in accordance with § 1272(a)(6).

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 15.06 is "82."

(5) *Contact information*. For further information regarding a change under this section, contact Jon Silver at (202) 317-7053 (not a toll-free number).

.07 *Advance payments*.

(1) *Description of change*.

(a) *Applicability*. This change applies to:

(i) a taxpayer using or changing to an overall accrual method of accounting that receives advance payments, as defined in Rev. Proc. 2004–34, 2004–1 C.B. 991, as modified and clarified by Rev. Proc. 2011–18, 2011–5 I.R.B. 443, and Rev. Proc. 2013–29, 2013–33 I.R.B. 141, and as modified by Rev. Proc. 2011–14, 2011–4 I.R.B. 330, and wants to change to either the full inclusion or deferral method, as described in Rev. Proc. 2004–34, other than a taxpayer changing to a method described in section 15.11 of this revenue procedure. *See also* Announcement 2004–48, 2004–1 C.B. 998.

(ii) a taxpayer using an overall accrual method of accounting that receives advance payments, as defined in § 1.451–5(a)(1), and wants to change to the method of including advance payments in income in the taxable year of receipt. *See* § 1.451–5(b)(1).

(b) *Inapplicability*. This change does not apply to a taxpayer that wants to use the Deferral Method for payments described in section 5.02(4)(a) of Rev. Proc. 2004–34 (other than allocable payments described in section 5.02(4)(c) of Rev. Proc. 2004–34) or for payments for which a method under section 5.02(3)(b)(i) or (iii) of Rev. Proc. 2004–34 applies. The taxpayer must request any such change in method of accounting using the non-automatic change procedures in Rev. Proc. 2015–13, 2015–5 I.R.B. 419. *See* section 8.03 of Rev. Proc. 2004–34.

(2) *Concurrent automatic change to an overall accrual method*. A taxpayer making both a change to its method of accounting for advance payments under this section 15.07 and a change to an overall accrual method under section 14.01 of this revenue procedure for the same year of change must file a single Form 3115 for both changes and enter the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under section 15.07(1)(a)(i) of this revenue procedure to use the full-inclusion method is "83." The designated automatic accounting method change number for a change under section 15.07(1)(a)(i) of this revenue procedure to use the deferral method is "84." The designated automatic accounting method change number for a change under section 15.07(1)(a)(ii) of this revenue procedure is "216."

(4) *Contact information*. For further information regarding a change under this section, contact Peter Ford at (202) 317-7011 (not a toll-free number).

.08 *Credit card cash advance fees*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method of accounting for credit card cash advance fees to a method that treats these fees as creating or increasing original issue discount (OID) on a pool of credit card loans that includes the cash advances that give rise to the fees. This change is available only to a taxpayer that issues credit cards allowing cardholders to access a revolving line of credit established by the taxpayer both to make credit card purchase transactions and to obtain cash advances and that, for federal income tax purposes, does not treat the credit card purchase transactions of its cardholders as creating debt that is given in consideration for the sale or exchange of property. See Rev. Proc. 2005–47, 2005–2 C.B. 269, for additional guidance relating to this change.

(2) *Other requirements*. A taxpayer making this change must be able to demonstrate both of the following:

(a) the amount of any credit card cash advance fee charged to a cardholder by the taxpayer is separately stated on the cardholder's account when that fee is imposed; and

(b) under the credit card agreement with the cardholder, no amount identified as a credit card cash advance fee is charged for property or for specific services performed by the taxpayer for the benefit of the cardholder.

(3) *Audit protection*. Any audit protection applicable to this change under section 8 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, is not a determination by the Commissioner that the taxpayer is properly accounting for any OID income on that pool of credit card loans. Thus, for example, the IRS is not precluded from pursuing the issue of whether, under § 1272(a)(6), a taxpayer is correctly accounting for its OID income (including any OID income attributable to credit card cash advance fees) on its pool of credit card loans.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under section 15.08 is "94."

(5) *Contact information*. For further information regarding a change under this section, contact Jon Silver at (202) 317-7053 (not a toll-free number).

.09 *Reserved*.

.10 *Retainages*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer using an overall accrual method of accounting that wants to change its method of accounting for treating retainages to a method consistent with the holding in Rev. Rul. 69–314, 1969–1 C.B. 139. A taxpayer changing its method of accounting for retainages under this section 15.10 must treat all retainages, that is both receivables and payables, in the same manner.

(b) *Inapplicability*. This change does not apply to retainages (receivables and payables) for long-term contracts that must be accounted for under the percentage-of-completion method (PCM) under § 460. Nor does this change apply to long-term contracts otherwise accounted for under the PCM or long-term contracts accounted for under exempt percentage-of-completion method or the completed contract method. For the treatment of retainages under such methods, see Treas. Reg. §§ 1.460–4(b)(4)(i)(A) and 1.460–4(d)(3).

(2) *Manner of making change*.

(a) Except as provided in section 15.10(2)(b) of this revenue procedure, a taxpayer changing its method of accounting under this section 15.10 must take into account a § 481(a) adjustment.

(b) For retainages received and paid in connection with long term contracts that are exempt construction contracts (as defined in § 1.460–3(b)(1)) accounted for using the taxpayer's overall accrual method of accounting, this change is made on a cut-off basis and applies only to long-term contracts entered into on or after the beginning of the year of change. See § 1.460–1(c)(2) for a description of when a contract is treated as "entered into." Accordingly, a § 481(a) adjustment is neither permitted nor required.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 15.10 for retainages not received under long-term contracts is "130." The designated automatic method change number for a change under this section 15.10 for retainages received under long-term contracts is "217." A taxpayer making a change under this section 15.10 that has both types of retainages must file a single Form 3115 and enter both change numbers on the appropriate line on Form 3115.

(4) *Contact information*. For further information regarding a change under this section, contact Peter Cohn at (202) 317-7011 (not a toll-free number).

.11 *Advance payments – change in applicable financial statements (AFS)*.

(1) *Description of change*.

(a) *Applicability*.

(i) This change applies to a taxpayer that: (A) receives advance payments, as defined in Rev. Proc. 2004–34, 2004–1 C.B. 991, as modified and clarified by Rev. Proc. 2011–18, 2011–5 I.R.B. 443, and Rev. Proc. 2013–29, 2013–33 I.R.B. 141, and as modified by Rev. Proc. 2011–14, 2011–4 I.R.B. 330, (B) uses the deferral method described in section 5.02(3)(a) of Rev. Proc. 2004–34 for including those advance payments in gross income in accordance with its applicable financial statement (AFS), (C) changes the manner in which it recognizes advance payments in revenues in its AFS, and (D) wants to change its method of accounting to use its proposed method of recognizing advance payments in revenues in its AFS for determining the extent to which advance payments are included in gross income under Rev. Proc. 2004–34.

(ii) A taxpayer's restatement of its AFS for financial accounting presentation does not affect the propriety of the taxpayer's method of accounting for advance payments in the prior taxable year(s). Thus, if the taxpayer uses the deferral method described in section 5.02(3)(a) of Rev. Proc. 2004–34 for including advance payments in gross income in accordance with its AFS (even if the AFS for that taxable year is later restated), the taxpayer satisfies the requirement of section 15.11(1)(a)(i)(B) and may change its method of accounting under this section if it is otherwise eligible.

(b) *Inapplicability*. This change does not apply to:

(i) a taxpayer that uses a present method of accounting for advance payments that is not the deferral method described in section 5.02(3)(a) of Rev. Proc. 2004–34. For example, this change does not apply to a taxpayer that uses the full inclusion method under section 5.01 of Rev. Proc. 2004–34;

(ii) a taxpayer that wants to change its method for allocating payments under section 5.02(4) of Rev. Proc. 2004–34.

(2) *Manner of making change and designated automatic accounting method change number*.

(a) This change is made on a cut-off basis and applies only to advance payments received on or after the beginning of the year of change. Any advance payments received prior to the year of change are accounted for under the taxpayer's former method of accounting (that is, according to its former AFS). Accordingly, a § 481(a) adjustment is neither permitted nor required.

(b) In accordance with § 1.446–1(e)(3)(ii), the requirement of § 1.446–1(e)(3)(i) to file a Form 3115 is waived and a statement in lieu of a Form 3115 is authorized for this change. Notwithstanding the definition of Form 3115 in section 3.07 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, the statement in lieu of a Form 3115 that is permitted under this section 15.11 is considered a Form 3115 for purposes of the automatic consent procedures of Rev. Proc. 2015–13. However, the requirement to file the Ogden copy, under section 6.03(1)(a) of Rev. Proc. 2015–13, is waived. The statement attached to the taxpayer's return for the year of change must include the following information:

(i) the designated automatic accounting change number for this change, which is "153;"

(ii) the taxpayer's name and employer identification (or social security number in the case of an individual) for each applicant as would be provided had a Form 3115 been required;

(iii) the year of change (both the beginning and ending dates);

(iv) for each applicant, identify the type of applicable financial statement (as defined in section 4.06 of Rev. Proc. 2004–34) used by the taxpayer;

(v) a detailed and complete description of each type of item affected by the change in revenue recognition and the line number (or schedule) where the affected item is reflected on the federal tax return for the year of change; and

(vi) a detailed description of the basis used for deferral (that is, the method the taxpayer uses in its applicable financial statement or how the taxpayer determines amounts earned, as applicable) both before and after the change in the revenue recognition policy for the applicable financial statement.

(3) *Certain eligibility rule inapplicable*. The eligibility rule in section 5.01(1)(f) Rev. Proc. 2015–13 does not apply to this change.

(4) *No audit protection*. A taxpayer does not receive audit protection under section 8.01 of Rev. Proc. 2015–13 in connection with this change. *See* section 8.02(2) of Rev. Proc. 2015–13.

(5) *Special rule*.

(a) *Background*. Under § 446(e), a taxpayer that changes its book method of accounting must secure the Commissioner's consent before applying its new book method of accounting for tax purposes. *See also* § 1.446–1(e)(2)(i). Accordingly, a taxpayer that previously elected to defer advance payments under Rev. Proc. 2004–34 is required to obtain consent under § 446(e) if the taxpayer subsequently changes its book method for the deferred advance payments and wants to use its new AFS in determining the extent to which advance payments are included in gross income under Rev. Proc. 2004–34. The IRS recognizes that some taxpayers took the position that consent under § 446(e) was not required in these circumstances and changed their method of accounting without properly obtaining consent. The safe harbor described below in section 15.11(5)(b) of this revenue procedure is provided to reduce controversy in this area.

(b) *Safe harbor*. If before January 10, 2011, a taxpayer: (i) received advance payments, as defined in Rev. Proc. 2004–34; (ii) used the deferral method described in section 5.02(3)(a) of Rev. Proc. 2004–34 for including those advance payments in gross income in accordance with its AFS; (iii) changed the manner in which advance payments are recognized in revenues in its AFS; and (iv) used its new AFS method with respect to a timely filed original federal income tax return in determining the amount of advance payments included in gross income under the deferral method of Rev. Proc. 2004–34 without securing the consent of the Commissioner to that change in accordance with § 446(e) and § 1.446–1(e)(2)(i), the IRS will not assert that the taxpayer's present method of accounting for advance payments is not a proper deferral method described in section 5.02(3)(a) of Rev. Proc. 2004–34 solely on the ground that the taxpayer failed to obtain the consent of the Commissioner for that change.

(6) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 15.11 is "153."

(7) *Contact information*. For further information regarding a change under this section, contact Ronald Goldstein at (202) 317-7003 (not a toll-free number).

SECTION 16. OBLIGATIONS ISSUED AT DISCOUNT (§ 454)

.01 *Series E, EE or I U.S. savings bonds*.

(1) *Description of change*. This change applies to a taxpayer that uses the overall

cash receipts and disbursements (cash) method of accounting and that wants to change its method of accounting for interest income on Series E, EE, or I U.S. savings bonds. However, this change only applies to a taxpayer that previously made an election under § 454 to report as interest income the increase in redemption price on a bond occurring in a taxable year, and that now wants to report this income in the taxable year in which the bond is redeemed, disposed of, or finally matures, whichever is earliest.

(2) *Manner of making change and designated automatic accounting method change number*.

(a) This change is made on a cut-off basis and is effective for any increase in redemption price occurring after the beginning of the year of change for all Series E, EE and I U.S. savings bonds held by the taxpayer on or after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(b) In accordance with § 1.446–1(e)(3)(ii), the requirement of § 1.446–1(e)(3)(i) to file a Form 3115 is waived and a statement in lieu of a Form 3115 is authorized for this change. Notwithstanding the definition of Form 3115 in section 3.07 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, the statement in lieu of a Form 3115 that is permitted under this section 16.01 is considered a Form 3115 for purposes of the automatic consent procedures of Rev. Proc. 2015–13. However, the requirement to file the Ogden copy, under section 6.03(1)(a) of Rev. Proc. 2015–13, is waived. The statement must include the following information:

(i) the designated automatic accounting method change number for this change, which is "131";

(ii) the taxpayer's name and employer identification number or social security number, as applicable;

(iii) the year of change (both the beginning and ending dates);

(iv) the Series E, EE or I U.S. savings bonds for which this change in accounting method is requested;

(v) a statement that the taxpayer will report all interest on any U.S. savings bonds acquired during or after the year of change when the interest is realized upon disposition, redemption, or final maturity, whichever is earliest; and

(vi) a statement that the taxpayer will report all interest on the U.S. savings bonds acquired before the year of change when the interest is realized upon disposition, redemption, or final maturity, whichever is earliest, with the exception of any interest income previously reported in prior taxable years.

(3) *Contact information*. For further information regarding a change under this section, contact William E. Blanchard at (202) 317-3900 (not a toll-free number).

.02 *Reserved*.

SECTION 17. PREPAID SUBSCRIPTION INCOME (§ 455)

.01 *Prepaid subscription income*.

(1) *Description of change*. This change applies to a taxpayer using an overall accrual method of accounting that wants to change its method of accounting for prepaid subscription income to the method described in § 455 and the regulations thereunder, including an eligible taxpayer that wants to make the "within 12 months" election under § 1.455–2.

(2) *Manner of making change and designated automatic accounting method change number*.

(a) This change is made on a cut-off basis and applies only to prepaid subscription income received on or after the beginning of the year of change. The taxpayer must continue to account for prepaid subscription income received prior to the year of change under the taxpayer's present method of accounting. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(b) In accordance with § 1.446–1(e)(3)(ii), the requirement in § 1.455–6 to file a statement requesting consent is satisfied by filing a short Form 3115 for a change under this section 17.01. The short Form 3115 must include the following information:

(i) the identification section of page 1 (above Part I);

(ii) the signature section at the bottom of page 1;

(iii) Part I, line 1(a);

(iv) the information described in § 1.455–6(a), as required by § 1.455–6(b); and

(v) if the taxpayer wants to make a "within 12 months" election under § 1.455–6(c), the information described in section § 1.455–6(c)(2).

(c) The consent granted in section 9 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, satisfies the consent required under § 455(c)(3) and § 1.455–6(b).

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 17.01 is "132."

(4) *Contact information*. For further information regarding a change under this section, contact Patrick M. Clinton at (202) 317-7005 (not a toll-free number).

.02 *Reserved*.

SECTION 18. SPECIAL RULES FOR LONG-TERM CONTRACTS (§ 460)

.01 *Change to percentage-of-completion method (PCM)*.

(1) *Description of change*. This change applies to a taxpayer that wants to, or is required to, change its method of accounting for its long-term contracts as defined in § 460(f) to the percentage-of-completion method described in § 1.460–4(b) (the PCM).

(2) *Inapplicability*. This change does not apply in the first taxable year a taxpayer must begin use of the PCM to account for long-term construction contracts because it does not meet the gross receipts test in § 1.460–3(b)(3) (the first taxable year). The taxpayer must generally use the PCM to account for long-term construction contracts entered into during the first taxable year and any subsequent taxable year the taxpayer does not meet the gross receipts test in § 1.460–3(b)(3). The taxpayer must continue to use its present method of accounting for long-term contracts in progress as of the beginning of the first taxable year. Use of the PCM in the first taxable year is not a change in method of accounting, and, therefore, does not require the Commissioner's consent (*see* Rev. Rul. 92–28, 1992–1 C.B. 153). A taxpayer who fails to use the PCM for the first taxable year may amend its return for that year prior to failing to use the PCM for the succeeding taxable year. A taxpayer who fails to use the PCM for the first taxable year and the succeeding

taxable year is within the scope of this section 18.01.

(3) *Manner of making change*. This change is made on a cut-off basis and applies only to long-term contracts entered into on or after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(4) *No audit protection*. A taxpayer does not receive audit protection under section 8.01 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, in connection with this change. *See* section 8.02(2) of Rev. Proc. 2015–13.

(5) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 18.01 is "41."

(6) *Contact information*. For further information regarding a change under this section, contact Lore Cavanaugh at (202) 317-7006 (not a toll-free number).

.02 *Reserved*.

SECTION 19. TAXABLE YEAR INCURRED (§ 461)

In general. Applicable provisions of the Code, regulations and other guidance published in the Internal Revenue Bulletin may prescribe the manner in which a taxpayer takes into account a liability that has been incurred. For example, for a taxpayer with inventories and subject to § 263A, the taxpayer must include direct and indirect costs in inventory costs, which may be recovered through cost of goods sold. *See* § 1.263A–1(e)(2)(i)(B). A taxpayer may not rely on any provision in this section 19 to take a current year deduction if another applicable provision requires the taxpayer to take the liability into account in a year other than the year incurred.

.01 *Timing of incurring liabilities for employee compensation*.

(1) *Self-insured employee medical benefits*.

(a) *Description of change*.

(i) *Applicability*. This change applies to a taxpayer using an overall accrual method of accounting that wants to change its method of accounting for self-insured liabilities (including any amounts not covered by insurance, such as a "deductible" amount under an insurance policy) relating to employee medical expenses (including liabilities resulting from medical services provided to retirees and to employees who have filed claims under a workers' compensation act) that are not paid from a welfare benefit fund within the meaning of § 419(e) to a method as follows:

(A) If the taxpayer has a liability to pay an employee for medical expenses incurred by the employee, the taxpayer will treat the liability as incurred in the taxable year in which the employee files the claim with the employer. *See United States v. General Dynamics Corp.*, 481 U.S. 239 (1987), 1987–2 C.B. 134.

(B) If the taxpayer has a liability to pay a 3rd party for medical services provided to its employees, the taxpayer will treat the liability as incurred in the taxable year in which the services are provided.

(ii) *Inapplicability*. This change does not apply to a taxpayer that is required under § 263A and the regulations thereunder to capitalize the costs with respect to which the taxpayer wants to change its method of accounting under this section 19.01(1) if the taxpayer is not capitalizing these costs, unless the taxpayer concurrently changes its method to capitalize these costs in conjunction with a change to a UNICAP method under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable).

(b) *Concurrent automatic change*. A taxpayer making both this change and a change to a UNICAP method described in section 19.01(1)(a)(ii) of this revenue procedure under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable) for the same year of change should file a single Form 3115 for both changes, in which case the taxpayer must enter the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for information on making concurrent changes.

(c) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 19.01(1) is "42."

(2) *Bonuses*.

(a) *Description of change*.

(i) *Applicability*. This change applies to a taxpayer using an overall accrual method of accounting that wants to change its method of accounting to treat bonuses as incurred in the taxable year in which all events have occurred that establish the fact of the liability to pay a bonus and the amount of the liability can be determined with reasonable accuracy (*see* § 1.446–1(c)(1)(ii)). Specifically, a taxpayer may change its method of accounting under this section 19.01(2) to one of the following methods:

(A) If all the events that establish the fact of the liability to pay a bonus have occurred by the end of the taxable year in which the related services are provided, and the bonus is received by the employee no later than the 15th day of the 3rd calendar month after the end of the taxable year in which the related services are provided, the taxpayer will treat the bonus liability as incurred in that taxable year. *See* Rev. Rul. 55–446, 1955–2 C.B. 531, as modified by Rev. Rul. 61–127, 1961–2 C.B. 36.

(B) If all the events that establish the fact of the liability to pay a bonus occur in the taxable year subsequent to the taxable year in which the related services are provided, the taxpayer will treat the bonus liability as incurred in such subsequent taxable year.

(ii) *Inapplicability*. This change does not apply to a taxpayer that is required under § 263A and the regulations thereunder to capitalize the costs with respect to which the taxpayer wants to change its method of accounting under this section 19.01(2) if the taxpayer is not capitalizing these costs, unless the taxpayer concurrently changes its method to capitalize these costs in conjunction with a change to a UNICAP method under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable).

(b) *Concurrent automatic change*. A taxpayer making both this change and a change to a UNICAP method described in section 19.01(2)(a)(ii) of this revenue procedure under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable) for the same year of change should file a single Form 3115 for both changes, in which case the taxpayer must enter the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes.

(c) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 19.01(2) is "133."

(3) *Vacation pay, sick pay, and severance pay*.

(a) *Description of change*.

(i) *Applicability*. This change applies to a taxpayer using an overall accrual method of accounting that wants to change its method of accounting to treat vacation pay, sick pay, and severance pay as incurred in the taxable year in which all events have occurred that establish the fact of the liability to pay vacation pay, sick pay, and severance pay and the amount of the liability can be determined with reasonable accuracy (*see* § 1.446–1(c)(1)(ii)). Specifically, a taxpayer may change its method of accounting under this section 19.01(3) to one of the following methods:

(A) If all the events that establish the fact of the liability to pay vacation pay, sick pay, and severance pay have occurred by the end of the taxable year in which the related services are provided, the vacation pay, sick pay, and severance pay vests in the taxable year the related services are provided, and the vacation pay, sick pay, and severance pay is received by the employee no later than the 15^{th} day of the 3^{rd} calendar month after the end of the taxable year in which the related services are provided, the taxpayer will treat the vacation pay, sick pay, and severance pay liability as incurred in the taxable year in which the related services are provided.

(B) If all the events that establish the fact of the liability to pay vacation pay, sick pay, and severance pay occur in the taxable year subsequent to the taxable year in which the related services are provided, the taxpayer will treat the vacation pay, sick pay, and severance pay liability as incurred in such subsequent taxable year.

(ii) *Inapplicability*. This change does not apply to a taxpayer that is required under § 263A and the regulations thereunder to capitalize the costs with respect to which the taxpayer wants to change its method of accounting under this section 19.01(3) if the taxpayer is not capitalizing these costs, unless the taxpayer concurrently changes its method to capitalize these costs in conjunction with a change to a UNICAP method under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable).

(b) *Concurrent automatic change*. A taxpayer making both this change and a change to a UNICAP method described in section 19.01(3)(a)(ii) of this revenue procedure under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable) for the same year of change should file a single Form 3115 for both changes, in which case the taxpayer must enter the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes.

(c) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 19.01(3) is "134."

(4) *Contact information*. For further information regarding a change under this section, contact Sandra Cheston at (202) 317-7011 (not a toll-free number).

.02 *Timing of incurring liabilities for real property taxes, personal property taxes, state income taxes, and state franchise taxes*.

(1) *Background*. A taxpayer using an overall accrual method of accounting generally incurs a liability in the taxable year that all the events have occurred that establish the fact of the liability, the amount of the liability can be determined with reasonable accuracy, and economic performance has occurred with respect to the liability. *See* § 1.446–1(c)(1)(ii). Under § 1.461–4(g)(6), if the liability of the taxpayer is to pay a tax, economic performance occurs as the tax is paid to the government authority that imposed the tax.

(2) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer using an overall accrual method of accounting that wants to change its method of accounting to:

(i) treat liabilities (for which the all events test of § 461(h)(4) is otherwise met) for real property taxes, personal property taxes, state income taxes, or state franchise taxes as incurred in the taxable year in which the taxes are paid, under § 461 and § 1.461–4(g)(6);

(ii) account for real property taxes, personal property taxes, state income taxes, or state franchise taxes under the recurring item exception method under § 461(h)(3) and § 1.461–5(b)(1); or

(iii) revoke an election under § 461(c) (ratable accrual election).

(b) *Inapplicability*. This change does not apply to:

(i) a taxpayer's liability for a tax subject to the limitation on acceleration of accrual of taxes under § 461(d); or

(ii) a taxpayer that is required under § 263A and the regulations thereunder to capitalize the costs with respect to which the taxpayer wants to change its method of accounting under this section 19.02 if the taxpayer is not capitalizing these costs, unless the taxpayer concurrently changes its method to capitalize these costs in conjunction with a change to a UNICAP method under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable).

(3) *Concurrent automatic change*. A taxpayer making both this change and a change to a UNICAP method described in section 19.02(2)(b)(ii) of this revenue procedure under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable) for the same year of change should file a single Form 3115 for both changes, in which case the taxpayer must enter the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for information on making concurrent changes.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 19.02 is "43."

(5) *Contact information*. For further information regarding a change under this section, contact Erika Reigle at (202) 317-5100 (not a toll-free number).

.03 *Timing of incurring liabilities under a workers' compensation act, tort, breach of contract, or violation of law*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer using an overall accrual method of accounting that wants to change its method of accounting for self-insured liabilities (including any amounts not covered by insurance, such as a "deductible" amount under an insurance policy) arising under any workers' compensation act or out of any tort, breach of contract, or violation of law, to treating the liability for the workers' compensation, tort, breach of contract, or violation of law as being incurred in the taxable year in which all the events have occurred that establish the fact of the liability, the amount of the liability can be determined with reasonable accuracy, and payment is made to the person to which the liability is owed. *See* § 461 and § 1.461–4(g)(1) and (2). If the taxpayer has self-insured liabilities resulting from medical services provided to employees who have filed claims under a workers compensation act, the taxpayer may change its method of accounting for those liabilities under section 19.01(1) of this revenue procedure (if the taxpayer is otherwise eligible).

(b) *Inapplicability*. This change does not apply to a taxpayer that is required under § 263A and the regulations thereunder to capitalize the costs with respect to which the taxpayer wants to change its method of accounting under this section 19.03 if the taxpayer is not capitalizing these costs, unless the taxpayer concurrently changes its method to capitalize these costs in conjunction with a change to a UNICAP method under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable).

(2) *Concurrent automatic change*. A taxpayer making both this change and change to either a method provided in section 19.01(1) of this revenue procedure for self-insured employee medical expenses or a UNICAP method described in section 19.03(1)(b) of this revenue procedure under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable) for the same year of change should file a single Form 3115, in which case the taxpayer must enter the designated automatic accounting method change numbers for each change on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for information on making concurrent changes.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 19.03 is "44."

(4) *Contact information*. For further information regarding a change under this section, contact Erika Reigle at (202) 317-5100 (not a toll-free number).

.04 *Timing of incurring certain liabilities for payroll taxes*.

(1) *Description of change*.

(a) *Applicability*. This change applies to:

(i) an employer using an overall accrual method of accounting that wants to change its method of accounting for:

(A) FICA and FUTA taxes to a method consistent with the holding in Rev. Rul. 96–51, 1996–2 C.B. 36. Rev. Rul. 96–51 permits an accrual method employer to take into account in Year 1, under the all events test of § 461, its otherwise deductible FICA and FUTA taxes imposed with respect to year-end wages properly accrued in Year 1, but paid in Year 2, if the requirements of the recurring item exception are met; and

(B) state unemployment taxes and, in the event the taxpayer is an employer within the meaning of the Railroad Retirement Tax Act (RRTA) (*see* § 3231(a)), RRTA taxes to a method under which the taxpayer may take into account in Year 1 its otherwise deductible state unemployment taxes and railroad retirement taxes (if applicable) imposed with respect to year-end wages properly accrued in Year 1, but paid in Year 2, if the requirements of the recurring item exception are met (including the requirement that, as of the end of the taxable year, all events have occurred that establish the fact of the liability and the amount of the liability can be determined with reasonable accuracy, *see* § 1.461–5(b));

(ii) an accrual method employer that utilizes a method of accounting for FICA and FUTA taxes that is consistent with the holding in Rev. Rul. 96–51 and wants to change its method of accounting for state unemployment taxes and, in the event the employer is an employer within the meaning of RRTA (*see* § 3231(a)), RRTA taxes to a method under which the taxpayer may take into account in Year 1 its otherwise deductible state unemployment taxes and railroad retirement taxes (if applicable) imposed with respect to year-end wages properly accrued in Year 1, but paid in Year 2, if the requirements of the recurring item exception are met (including the requirement that, as of the end of the taxable year, all events have occurred that establish the fact of the liability and the amount of the liability can be determined with reasonable accuracy, *see* § 1.461–5(b)); or

(iii) a taxpayer using an overall accrual method of accounting that wants to change its method of accounting for FICA and FUTA taxes to the safe harbor method provided in Rev. Proc. 2008–25, 2008–1 C.B. 686. Rev. Proc. 2008–25 provides that for purposes of the recurring item exception, a taxpayer will be treated as satisfying the requirement in § 1.461–5(b)(1)(i) for its payroll tax liability in the same taxable year in which all events have occurred that establish the fact of the related compensation liability and the amount of the related compensation liability can be determined with reasonable accuracy.

(b) *Inapplicability*. This change does not apply to a taxpayer that is required under § 263A and the regulations thereunder to capitalize the costs with respect to which the taxpayer wants to change its method of accounting under this section 19.04 if the taxpayer is not capitalizing these costs, unless the taxpayer concurrently changes its method to capitalize these costs in conjunction with a change to a UNICAP method under section 11.01, 11.02, 11.09, or 11.13 of this revenue procedure (as applicable).

(2) *Recurring item exception*. A taxpayer that previously has not changed to or adopted the recurring item exception for FICA taxes, FUTA taxes, state unemployment taxes, and RRTA taxes (if applicable) must change to the recurring item exception method for FICA taxes, FUTA taxes, state unemployment taxes, and RRTA taxes (if applicable) as specified in § 461(h)(3) as part of this change.

(3) *Concurrent automatic change*. A taxpayer making both this change and a change to a UNICAP method described in section 19.04(1)(b) of this revenue procedure under section 11.01, 11.02, 11.09, or

11.13 of this revenue procedure (as applicable) for the same year of change should file a single Form 3115 for both changes, in which case the taxpayer must enter the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for information on making concurrent changes.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under section 19.04(1)(a)(i) or (ii) of this revenue procedure is "45." The designated automatic accounting method change number for a change under section 19.04(1)(a)(iii) of this revenue procedure is "113."

(5) *Contact information*. For further information regarding a change under this section, contact Mon Lam at (202) 317-5100 (not a toll-free number).

.05 *Cooperative advertising*.

(1) *Description of change*. This change applies to a taxpayer using an overall accrual method of accounting that wants to change its method of accounting for cooperative advertising costs to a method consistent with the holding in Rev. Rul. 98–39, 1998–2 C.B. 198. Rev. Rul. 98–39 generally provides that, under the all events test of § 461, an accrual method manufacturer's liability to pay a retailer for cooperative advertising services is incurred in the year in which the services are performed, provided the manufacturer is able to reasonably estimate this liability, and even though the retailer does not submit the required claim form until the following year.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 19.05 is "46."

(3) *Contact information*. For further information regarding a change under this section, contact Mon Lam at (202) 317-5100 (not a toll-free number).

.06 *Timing of incurring certain liabilities for services or insurance*.

(1) *Description of change*. This change applies to a taxpayer using an overall accrual method of accounting that is currently treating the mere execution of a contract for services or insurance as establishing the fact of the liability under § 461 and wants to change from that method of accounting for liabilities for services or insurance to comply with Rev. Rul. 2007–3, 2007–1 C.B. 350, that is, all the events needed to establish the fact of the liability occur when (a) the event fixing the liability, whether that be the required performance or other event occurs or (b) payment is due, whichever happens earliest.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 19.06 is "106."

(3) *Contact information*. For further information regarding a change under this section, contact Christina M. Glendening at (202) 317-7003 (not a toll-free number).

.07 *Rebates and allowances*.

(1) *Description of change*.

(a) *Applicability*. This change applies to taxpayer using an overall accrual method of accounting that wants to change its method of accounting for treating its liability for rebates and allowances to the recurring item exception method under § 461(h)(3) and § 1.461–5.

(b) *Inapplicability*. This change does not apply to a taxpayer's liability to pay a refund.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 19.07 is "135."

(3) *Contact information*. For further information regarding a change under this section, contact Mon Lam at (202) 317-5100 (not a toll-free number).

.08 *Ratable accrual of real property taxes*.

(1) *Description of change*. This change applies to a taxpayer using an overall accrual method of accounting that wants to change its method of accounting for real property taxes to the method described in § 461(c) and § 1.461–1(c)(1) (ratable accrual election). This change applies to real property taxes that relate to a definite period of time. This change does not apply to a taxpayer's first taxable year in which the taxpayer incurs real property taxes, in which case the change is made using the provisions of § 1.461–1(c)(3)(i).

(2) *Manner of making change and designated automatic accounting method change number*.

(a) This change is made on a cut-off basis and applies only to real property taxes accrued on or after the beginning of the year of change. Any real property taxes accrued prior to the year of change are accounted for under the taxpayer's former method of accounting. *See* § 1.461–1(c)(6), *Examples (2) – (5)*. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(b) In accordance with § 1.446–1(e)(3)(ii), the requirement in § 1.461–1(c)(3)(ii) for requesting consent is satisfied by filing a short Form 3115 for this change. The taxpayer's short Form 3115 must include all of the following information:

(i) the identification section of page 1 (above Part I);

(ii) the signature section at the bottom of page 1;

(iii) Part I, line 1(a); and

(iv) the information described in § 1.461–1(c)(3)(ii)(*a*) through (*f*).

(c) The consent granted under section 9 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, satisfies the consent required under § 461(c)(2)(B) and § 1.461–1(c)(3)(ii).

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 19.08 is "149."

(4) *Contact information*. For further information regarding a change under this section, contact Daniel Cassano at (202) 317-7011 (not a toll-free number).

.09 *California Franchise Taxes*.

(1) *Description of change*. This change applies to a taxpayer using an overall accrual method of accounting that wants to change its method of accounting for California franchise taxes to a method consistent with the holding in Rev. Rul. 2003–90, 2003–2 C.B. 353. Rev. Rul. 2003–90 provides that for taxable years beginning on or after January 1, 2000, a taxpayer that uses an accrual method of accounting incurs a liability for California franchise tax for federal income tax purposes in the taxable year following the taxable year in which the California franchise tax is incurred under the Cal. Rev. & Tax Code, as amended.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 19.09 is "154."

(3) *Contact information*. For further information regarding a change under this section, contact Christina M. Glendening at (202) 317-7003.

.10 *Gift cards issued as a refund for returned goods*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer using an overall accrual method of accounting that sells goods at retail and that wants to change its method of accounting for gift cards (as defined by section 4.02 of Rev. Proc. 2011–17, 2011–5 I.R.B. 441) issued as a refund for returned goods to treat the transaction as (1) the payment of a cash refund in the amount of the gift card, and (2) the sale of a gift card in the amount of the gift card.

(b) *Treatment of proceeds of the deemed sale*. A taxpayer must treat the proceeds of the deemed sale of a gift card in accordance with the method of accounting it otherwise employs for sales of gift cards.

(2) *Concurrent automatic change*. A taxpayer making both this change and an automatic change to the deferral method for advance payments under Rev. Proc. 2004–34 (*see* section 15.07 of this revenue procedure) for the same taxable year of change must file a single Form 3115 for both changes and enter the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for information on making concurrent changes.

(3) *Concurrent non-automatic change*. A taxpayer making both this change and change to a permissible method of accounting under § 1.451–5 for the same taxable year of change on a single Form 3115 must request this change in method of accounting using the non-automatic procedures in Rev. Proc. 2015–13 (or any successor).

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 19.10 is "156."

(5) *Contact information*. For further information regarding a change under this section, contact Christina M. Glendening at (202) 317-7003 (not a toll-free number).

.11 *Timing of incurring liabilities under the recurring item exception to the economic performance rules*.

(1) *Description of change*. This change applies to a taxpayer using an overall accrual method of accounting that wants to conform to any of the holdings in Rev. Rul. 2012–1, 2012–2 I.R.B. 255, which clarifies the treatment of certain liabilities under the recurring item exception to the economic performance requirement under § 461(h)(3) by addressing the application of the "not material" and "better matching" requirements, and distinguishes contracts for the provision of services from insurance and warranty contracts.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 19.11 is "161."

(3) *Contact information*. For further information regarding a change under this section, contact Christina M. Glendening at (202) 317-7003 (not a toll-free number).

SECTION 20. RENT (§ 467)

.01 *Change from an improper method of inclusion of rental income or expense to inclusion in accordance with the rent allocation*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer that:

(i) is a party to § 467 rental agreements (within the meaning of § 1.467–1(c)(1) for rental agreements entered into after May 18, 1999, and § 467(d) for all other agreements); and

(ii) wants to change its method of accounting for its fixed rent (as defined in § 1.467–1(d)(2)) to the rent allocation method provided in § 1.467–1(d)(2)(iii).

(b) *Inapplicability*. This change does not apply to taxpayers required to use the constant rental accrual method described in § 1.467–(3)(a) or the proportional rental accrual method described in § 1.467–(2)(a) for their fixed rent.

(2) *Additional requirements*. The taxpayer must attach to its Form 3115 a copy of one of its § 467 rental agreements to be covered by this automatic change (or at least the pages of the agreement relating to the manner in which rent is allocated).

(3) *Audit protection limited*. Any audit protection under section 8 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to this change for any § 467 rental agreement determined by the Commissioner to be a disqualified leaseback or long-term agreement described in § 1.467–(3)(b).

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 20.01 is "136."

(5) *Contact information*. For further information regarding a change under this section, contact William Ruane at (202) 317-4718 (not a toll-free number).

.02 *Reserved*.

SECTION 21. INVENTORIES (§ 471)

.01 *Cash discounts*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method of accounting for cash discounts (that is, discounts granted for timely payment) when they approximate a fair interest rate, from a method of consistently including the price of the goods before discount in the cost of the goods and including in gross income any discounts taken (the "gross invoice method"), to a method of reducing the cost of the goods by the cash discounts and deducting as an expense any discounts not taken (the "net invoice method"), or *vice versa*. *See* Rev. Rul. 73–65, 1973–1 C.B. 216.

(2) *Computation of § 481(a) adjustment for changes to net invoice method*. In the case of a taxpayer changing from the gross invoice method to the net invoice method, a negative § 481(a) adjustment is required to prevent duplications arising from the fact that the gross invoice method reported income upon timely payment for some or all of the goods that remain in inventory, and a positive § 481(a) adjustment is required to prevent omissions arising from the fact that the gross invoice method included the invoice price, unadjusted for the cash discounts, of some or all goods in cost of goods sold and the discount will be earned by payment in a subsequent taxable year. The net

§ 481(a) adjustment is computed by deducting the "Applicable Discount" at the beginning of the year of change from the "Available Discount" at the beginning of the year of change. The Available Discount is equal to the difference between the accounts payable balance under the gross invoice method and the net invoice method. The Applicable Discount is equal to the difference between the beginning inventory value under the gross invoice method and the net invoice method.

Example. Taxpayer's accounts payable balance at the beginning of the year of change was $1,000 under the gross invoice method and $980 under the net invoice method. Taxpayer's inventory value was $3,000 under the gross invoice method and $2,955 under the net invoice method. The Available Discount is $20 ($1,000 - $980) and the Applicable Discount is $45 ($3,000 - $2,955). Thus, Taxpayer's net § 481(a) adjustment is a negative $25 ($20 - $45).

(3) *Computation of § 481(a) adjustment for changes to gross invoice method*. In the case of a taxpayer changing from the net invoice method to the gross invoice method, a positive § 481(a) adjustment is required to prevent omissions arising from the fact that the net invoice method did not report income upon timely payment for some or all of the goods that remain in inventory, and a negative § 481(a) adjustment is required to prevent duplications arising from the fact that the net invoice method included the invoice price, adjusted for the cash discounts, of some or all goods in cost of goods sold and the discount will be earned by payment in a subsequent taxable year. The net § 481(a) adjustment can be computed by deducting the "Available Discount" at the beginning of the year of change from the "Applicable Discount" at the beginning of the year of change. The Available Discount is equal to the difference between the accounts payable balance under the gross invoice method and the net invoice method. The Applicable Discount is equal to the difference between the beginning inventory value under the gross invoice method and the net invoice method.

Example. Taxpayer's accounts payable balance at the beginning of the year of change was $980 under the net invoice method and $1,000 under the gross invoice method. Taxpayer's inventory value was $2,955 under the net invoice method and $3,000 under the gross invoice method. The Applicable Discount is $45 ($3,000 - $2,955) and the Available Discount is $20 ($1,000 - $980). Thus, Taxpayer's net § 481(a) adjustment is a positive $25 ($45 - $20).

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 21.01 is "48."

(5) *Contact information*. For further information regarding a change under this section, contact Christopher W. Call at (202) 317-7007 (not a toll-free number).

.02 *Estimating inventory "shrinkage"*.

(1) *Description of change*. This change applies to a taxpayer that wants to change to a method of accounting for estimating inventory shrinkage in computing ending inventory, using:

(a) the "retail safe harbor method" described in section 4 of Rev. Proc. 98–29, 1998–1 C.B. 857, as modified by this revenue procedure; or

(b) a method other than the retail safe harbor method, provided (i) the taxpayer's present method of accounting does not estimate inventory shrinkage, and (ii) the taxpayer's proposed method of accounting (that estimates inventory shrinkage) clearly reflects income under § 446(b).

(2) *Additional requirements*. If the taxpayer wants to change to a method of accounting for inventory shrinkage other than the retail safe harbor method, the taxpayer must attach to its Form 3115 a statement setting forth a detailed description of all aspects of the proposed method of estimating inventory shrinkage (including, for last-in, first-out (LIFO) taxpayers, the method of determining inventory shrinkage for, or allocating inventory shrinkage to, each LIFO pool). The director or national office subsequently may review whether the proposed method clearly reflects the taxpayer's income under § 446(b), notwithstanding any provision of Rev. Proc. 2015–13, 2015–5 I.R.B. 419 (or successor). If the director or the national office determines that the proposed method of accounting does not clearly reflect the taxpayer's income, the taxpayer will be treated as having made a change in method of accounting without obtaining the consent of the Commissioner as required by § 446(e). *See* sections 2.01(3) and 2.03 of Rev. Proc. 2015–13.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 21.02 is "49."

(4) *Contact information*. For further information regarding a change under this section, contact Steven Gee at (202) 317-7007 (not a toll-free number).

.03 *Small taxpayer exception from requirement to account for inventories under § 471*.

(1) *Description of change*. This change applies to either a taxpayer (other than a taxpayer described § 448(a)(3)) with "average annual gross receipts" (as defined in section 5.01 of Rev. Proc. 2001–10, as modified by Announcement 2004–16 (regarding placement of § 481(a) adjustment on the Form 3115), and Rev. Proc. 2011–14 (removing § 6.02(1)(a) of Rev. Proc. 2001–10)) of $1,000,000 or less or a qualifying taxpayer (other than a taxpayer described in § 448) with "average annual gross receipts" (as defined in section 5.02 of Rev. Proc. 2002–28, as modified by Announcement 2004–16 (regarding placement of § 481(a) adjustment on the Form 3115), and Rev. Proc. 2011–14 (removing § 7.02(1)(a) of Rev. Proc. 2002–28)) of $10,000,000 or less that wants to change from a method of accounting for inventoriable items (including, if applicable, from the method of capitalizing costs under § 263A) to the method described in Rev. Proc. 2001–10 and Rev. Proc. 2002–28, for treating inventoriable items in the same manner as materials and supplies that are not incidental under § 1.162–3.

(2) *Manner of making change*. See Rev. Proc. 2001–10 or Rev. Proc. 2002–28 (as applicable) for additional guidance on the computation of the § 481(a) adjustment and the completion of the Form 3115.

(3) *Concurrent automatic change to the overall cash method under Rev. Proc. 2001–10 or Rev. Proc. 2002–28*. A taxpayer making both this change and a change to the overall cash method under Rev. Proc. 2001–10 or Rev. Proc. 2002–28 (*see* section 14.03 of this revenue procedure) for the same year of change may file a single Form 3115 for both changes, provided the taxpayer enters the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc.

2015–13, 2015–5 I.R.B. 419, for information on making concurrent changes.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 21.03 for the small taxpayer ($1,000,000) inventory exception contained in Rev. Proc. 2001–10 is "50." The designated automatic accounting method change number for a change under this section 21.03 for the small taxpayer ($10,000,000) inventory exception contained in Rev. Proc. 2002–28 is "51."

(5) *Contact information*. For further information regarding a change under this section, contact Neville R. Jiang at (202) 317-7007 (not a toll-free number).

.04 *Qualifying volume-related trade discounts*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method of accounting to treat qualifying volume-related trade discounts as a reduction in the cost of merchandise purchased at the time the discount is recognized in accordance with § 1.471–3(b). A "qualifying volume-related trade discount" means a discount satisfying the following criteria:

(a) the taxpayer receives or earns the discount based solely upon the purchase of a particular volume of the merchandise to which the discount relates;

(b) the taxpayer is neither obligated nor expected to perform or provide any services in exchange for the discount; and

(c) the discount is not a reimbursement of any expenditure incurred or to be incurred by the taxpayer.

(2) *Section 481(a) adjustment*. The net § 481(a) adjustment attributable to the change is computed in a manner similar to the computation of a net § 481(a) adjustment in the case of a change to the net invoice method of accounting for cash discounts. *See* section 21.01(2) of this revenue procedure.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 21.04 is "53."

(4) *Contact information*. For further information regarding a change under this section, contact Christopher W. Call at (202) 317-7007 (not a toll-free number).

.05 *Impermissible methods of identification and valuation*.

(1) *Description of change*. This change applies to a taxpayer:

(a) changing from an impermissible method of accounting described in §§ 1.471–2(f)(1) through (5), including a LIFO taxpayer restoring a write down of inventory below cost or discontinuing maintaining an inventory reserve;

(b) changing from a method that is not in accordance with § 1.471–2(c) for determining the value of "subnormal" goods; or

(c) changing from a gross profit method or from a method of determining market that is not in accordance with § 1.471–4; or

(i) *Gross profit method*. A gross profit method is a method in which the taxpayer estimates the cost of goods sold by reducing its gross sales by a percentage "markup" from cost. The estimated cost of goods sold is subtracted from the sum of the beginning inventory and purchases and the result is used as the ending inventory.

(ii) *Method of determining market*. An example of a method of determining market that is not in accordance with § 1.471–4 is where a taxpayer, under ordinary circumstances, determines the market value of purchased merchandise using judgment factors, and not using the prevailing current bid price on the inventory date for the particular merchandise in the volume in which it is usually purchased by the taxpayer.

(2) *Applicability*. For purposes of this change, a taxpayer must be changing to an inventory method (identification or valuation, or both) specifically permitted by the Code, the regulations, or other guidance published in the Internal Revenue Bulletin, or a decision of the United States Supreme Court for the inventory goods, and the taxpayer is neither prohibited from using that method nor required to use a different inventory method for those inventory goods. This change does not apply to a change described in another section of this revenue procedure or in other guidance published in the Internal Revenue Bulletin.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 21.05 is "54."

(4) *Contact information*. For further information regarding a change under this section, contact Christopher W. Call at (202) 317-7007 (not a toll-free number).

.06 *Core Alternative Valuation Method*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a remanufacturer and rebuilder of motor vehicle parts and a reseller of remanufactured and rebuilt motor vehicle parts that use the cost or market, whichever is lower, (LCM) inventory valuation method to value their inventory of cores held for remanufacturing or sale and wants to use the Core Alternative Valuation (CAV) method specified in Rev. Proc. 2003–20, 2003–1 C.B. 445.

(b) *Inapplicability*. This change does not apply to a taxpayer that values its inventory of cores at cost (including a taxpayer using the LIFO inventory method) unless the taxpayer concurrently changes (under section 6.02 of Rev. Proc. 2003–20) from cost to the LCM method for its cores (including labor and overhead related to the cores in raw materials, work-in-process, and finished goods).

(2) *Concurrent automatic change*. A taxpayer making both this change and (i) a change from the cost method to the LCM method under section 21.11 of this revenue procedure, or (ii) a change from the LIFO inventory method to a permitted method for identification under (and as determined and defined in) section 22.01(1)(b) of this revenue procedure for the same year of change, should file a single Form 3115 for both changes, provided the taxpayer enters the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for information on making concurrent changes.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 21.06 is "55."

(4) *Contact information*. For further information regarding a change under this section, contact Neville R. Jiang at (202) 317-7007 (not a toll-free number).

.07 *Replacement cost for automobile dealers' parts inventory*.

(1) *Description of change*. This change applies to a taxpayer that is engaged in the trade or business of selling vehicle parts at retail, that is authorized under an agreement with one or more vehicle manufacturers or distributors to sell new automobiles or new light, medium, or heavy-duty trucks, and that wants to use the replacement cost method described in section 4 of Rev. Proc. 2002–17, 2002–1 C.B. 676, as modified by Rev. Proc. 2006–14, 2006–1 C.B. 350, for its vehicle parts inventory. See Rev. Proc. 2002–17 for further information regarding this change.

(2) *Manner of making change*. This change is made on a cut-off basis and applies only to the computation of ending inventories on or after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 21.07 is "63."

(4) *Contact information*. For further information regarding a change under this section, contact Neville R. Jiang at (202) 317-7007 (not a toll-free number).

.08 *Replacement cost for heavy equipment dealers' parts inventory*.

(1) *Description of change*. This change applies to a heavy equipment dealer that is engaged in the trade or business of selling heavy equipment parts at retail, that is authorized under an agreement with one or more heavy equipment manufacturers or distributors to sell new heavy equipment, and that wants to use the replacement cost method described in section 4 of Rev. Proc. 2006–14, 2006–1 C.B. 350, for its heavy equipment parts inventory.

(2) *Manner of making the change*. This change is made on a cut-off basis and applies only to the computation of ending inventories after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(3) *Concurrent automatic change*. A taxpayer making both this change and another automatic change in method of accounting under § 263A (*see* section 11 of this revenue procedure) for the same year of change may file a single Form 3115 for both changes, provided the taxpayer enters the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115, and complies with the ordering rules of § 1.263A–7(b)(2).

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 21.08 is "96."

(5) *Contact information*. For further information regarding a change under this section, contact Neville R. Jiang at (202) 317-7007 (not a toll-free number).

.09 *Rotable spare parts*.

(1) *Description of change*. This change applies to a taxpayer that is using the safe harbor method of accounting to treat its rotable spare parts as depreciable assets in accordance with Rev. Proc. 2007–48, 2007–2 C.B. 110, as modified by this revenue procedure, and wants to change its method of accounting to treat its rotable spare parts as inventoriable items. This change also applies to a taxpayer who is treating its rotable spare parts as depreciable assets in a manner similar to the safe harbor method described in Rev. Proc. 2007–48, and wants to change its method of accounting to treat its rotable spare parts as inventoriable items. A taxpayer changing its method of accounting for rotable spare parts under this section 21.09, must use a proper inventory method to identify and value its rotable spare parts.

(2) *Eligibility rule inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to a taxpayer that is required to make the change in method of accounting pursuant to section 5.06 of Rev. Proc. 2007–48.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 21.09 is "110."

(4) *Contact information*. For further information regarding a change under this section, contact Elizabeth Binder at (202) 317-7003 (not a toll-free number).

.10 *Advance Trade Discount Method*.

(1) *Description of change*. This change applies to a taxpayer that wants to use the Advance Trade Discount Method described in Rev. Proc. 2007–53, 2007–2 C.B. 233.

(2) *Applicability*. This change in method of accounting applies to a taxpayer using an overall accrual method of accounting that is required to use an inventory method of accounting, that maintains inventories as provided in § 471 and the regulations thereunder, and that receives advance trade discounts as defined in section 4.03 of Rev. Proc. 2007–53.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 21.10 is "111."

(4) *Contact information*. For further information regarding a change under this section, contact Neville R. Jiang, at (202) 317-7007 (not a toll-free number).

.11 *Permissible methods of identification and valuation*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer that wants to change from one permissible method of identifying and valuing inventories to another permissible method of identifying and valuing inventories. For example, a taxpayer using first-in, first-out (FIFO) as its inventory-identification method may change its inventory-valuation method from cost to cost or market, whichever is lower (LCM). (Note, however, a real estate developer may not value real property or improvements to the real property at LCM because real property is not inventoriable property under § 1.471–1. Also, a taxpayer who meets the definition of a "dealer in securities" under both § 1.471–5 and § 475 is required to account for securities, as defined in § 475, under § 475 and may not use the rules described in § 1.471–5 for those securities.) Furthermore, a taxpayer may change to a permissible method of valuing "subnormal" goods under § 1.471–2(c).

However, this change does not apply to any change described in another section of this revenue procedure or in other guidance published in the Internal Revenue Bulletin, or to any changes within the last-in, first-out (LIFO) inventory method. For example, this change does not apply to a taxpayer that wants to change to a rolling-average method (*but see* section 21.14 of this revenue procedure).

(b) *Permissible method defined*. For purposes of this change, a permissible method is an inventory method (identification or valuation, or both) specifically permitted for inventories by the Code, the regulations, or other guidance published in the Internal Revenue Bulletin, or a decision of the United States Supreme Court. However, an otherwise permissible inventory method is not permissible under this section 21.11 for a specific taxpayer if that taxpayer is prohibited from using that method or if that taxpayer is required to use a different method.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 21.11 is "137."

(3) *Contact information*. For further information regarding a change under this section, contact Christopher W. Call at (202) 317-7007 (not a toll-free number).

.12 *Change in the official used vehicle guide utilized in valuing used vehicles*.

(1) *Description of change*. Used vehicles taken in trade as part payment on the sale of vehicles by a dealer may be valued for inventory purposes at valuations comparable to those listed in an official used vehicle guide as the average wholesale prices for comparable vehicles. *See* Rev. Rul. 67–107, 1967–1 C.B. 115. This change applies to:

(a) a taxpayer that wants to change from not using an official used vehicle guide to using an official used vehicle guide for valuing used vehicles; or

(b) a taxpayer that wants to change to a different official used vehicle guide for valuing used vehicles.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 21.12 is "138."

(3) *Contact information*. For further information regarding a change under this section, contact Christopher W. Call at (202) 317-7007 (not a toll-free number).

.13 *Invoiced advertising association costs for new vehicle retail dealerships*.

(1) *Description of change*. This change applies to a taxpayer that is engaged in the trade or business of retail sales of new automobiles or new light-duty trucks ("dealership") that wants to discontinue capitalizing certain advertising costs as acquisition costs under § 1.471–3(b). The change applies to advertising costs that meet the following criteria: (a) the dealership must pay this advertising fee when acquiring vehicles from the manufacturer; (b) the advertising costs are separately coded and included in the manufacturer's invoice cost of the new vehicle; (c) the advertising cost is a flat fee per vehicle or a fixed percentage of the invoice price; and (d) the fees collected by the manufacturer are paid to local advertising associations that promote and advertise the manufacturer's products in the dealership's market area. Under the proposed method, the dealership will exclude advertising costs that meet the above criteria from the cost of new vehicles and deduct the advertising costs under § 162 as the advertising services are provided to the dealership. *See* § 1.461–4(d)(2)(i).

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 21.13 is "139."

(3) *Contact information*. For further information regarding a change under this section, contact Christopher W. Call at (202) 317-7007 (not a toll-free number).

.14 *Rolling-average method of accounting for inventories*.

(1) *Description of change*. This change applies to a taxpayer that uses a rolling-average method to value inventories for financial accounting purposes and wants to use the same rolling-average method to value inventories for federal income tax purposes in accordance with Rev. Proc. 2008–43, 2008–30 C.B. 186, as modified by Rev. Proc. 2008–52, 2008–2 C.B. 587 (*see* section 13).

(2) *Manner of making change*. This change is made on a cut-off basis and is applied only to the computation of ending inventories after the beginning of the year of change. However, if the taxpayer's books and records contain sufficient information to compute a § 481(a) adjustment, the taxpayer may choose to implement the change with a § 481(a) adjustment as provided in sections 7.02 and 7.03 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 21.14 is "114."

(4) *Contact information*. For further information regarding a change under this section, contact Christopher W. Call at (202) 317-7007 (not a toll-free number).

.15 *Sales-Based Vendor Chargebacks*.

(1) *Description of change.* This change, as described in Rev. Proc. 2014–33, 2014–22 I.R.B. 1060, applies to a taxpayer that wants to change its method of accounting to treat sales-based vendor chargebacks as a reduction in cost of goods sold in accordance with § 1.471–3(e)(1).

(2) *Certain eligibility rule temporarily inapplicable.* The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to this change for a taxpayer's first and second taxable years ending on or after January 13, 2014.

(3) *Concurrent automatic changes*. A taxpayer making both this change and the change described in section 11.12 of this revenue procedure for the same taxable year of change may file a single Form 3115 for both changes, provided the taxpayer enters the designated automatic change numbers for both changes on the appropriate line on the Form 3115, and complies with the ordering rules of § 1.263A–7(b)(2). See section 6.03(1)(b) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for information on making concurrent changes.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for changes in methods of accounting under this section 21.15 is "203."

(5) *Contact information*. For further information regarding a change under this section, contact John Roman Faron at (202) 317-7005 (not a toll-free number).

.16 *Retail inventory method.*

(1) *Description of change.* This change, as described in Rev. Proc. 2014–48, 2014–36 I.R.B. 527, applies to a taxpayer using the retail inventory method that wants to make one of the following changes:

(a) From adjusting to not adjusting the numerator of the cost complement by the amount of an allowance, discount, or price rebate that is required under § 1.471–3(e) to reduce only cost of goods sold;

(b) From adjusting to not adjusting the denominator of the cost complement for temporary markups and markdowns;

(c) In the case of a retail LCM taxpayer, to computing the cost complement using a method described in § 1.471–8(b)(3), including changes from a method described in § 1.471–8(b)(3) to another method described in § 1.471–8(b)(3);

(d) In the case of a retail cost taxpayer, from not adjusting to adjusting the denominator of the cost complement for permanent markups and markdowns.

(2) *Effective date and certain eligibility rule temporarily inapplicable*. This section 21.16 is effective for taxable years beginning after December 31, 2014. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply for a taxpayer's first or second taxable years beginning after December 31, 2014.

(3) *Multiple changes*. A taxpayer making multiple changes under this section 21.16 for the same year of change should file a single Form 3115.

(4) *Manner of making change*. A taxpayer making a change under this section 21.16 for its first or second taxable year beginning after December 31, 2014 may use either a § 481(a) adjustment as provided in sections 7.02 and 7.03 of Rev. Proc. 2015–13 or implement the change on a cut-off basis. If the taxpayer uses a cut-off basis, the change applies only to the computation of ending inventories after the beginning of the year of change, and a § 481(a) adjustment is neither permitted nor required if a change is made on a cut-off basis.

(5) *Designated automatic accounting method change number*. The designated automatic accounting method change number for changes in methods of accounting under this section 21.16 is "204."

(6) *Contact information*. For further information regarding a change under this section, contact Natasha M. Mulleneaux at (202) 317-7007 (not a toll-free number).

SECTION 22. LAST-IN, FIRST-OUT (LIFO) INVENTORIES (§ 472)

.01 *Change from the LIFO inventory method.*

(1) *Description of change*.

(a) *In general*. This change applies to a taxpayer that wants to:

(i) change from the LIFO inventory method for all its LIFO inventory or for the entire content of one or more dollar-value pools; and

(ii) change to a permitted method or methods as determined in section 22.01(1)(b) of this revenue procedure.

(b) *Method to be used*.

(i) *Determining the permitted method to be used*. A taxpayer may change to one or more non-LIFO inventory methods for the LIFO inventories that are the subject of this accounting method change, but only if the selected non-LIFO method is a permitted method for the inventory goods to which it will be applied. For example, a heavy equipment dealer may change to the specific identification method for new heavy equipment inventories and the replacement cost method, as described in Rev. Proc. 2006–14, 2006–1 C.B. 350, for heavy equipment parts inventories.

(ii) *Permitted method defined*. For purposes of this section 22.01, an inventory method (identification or valuation, or both) is a permitted method if it is specifically permitted for the inventory goods by the Code, the regulations, or other guidance published in the Internal Revenue Bulletin, or a decision of the United States Supreme Court and if the taxpayer is neither prohibited from using that method nor required to use a different inventory method for those inventory goods.

(iii) *Determining permitted method*. Whether an inventory method is a permitted method is determined without regard to the types and amounts of costs capitalized under the taxpayer's method of computing inventory cost. *See* § 263A and the regulations thereunder, which govern the types and amounts of costs required to be included in inventory cost for taxpayers subject to those provisions.

(2) *Certain eligibility rule inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply for the first taxable year that the taxpayer does not or will not comply with the requirements of § 472(e)(2) because the taxpayer has applied or will apply International Financial Reporting Standards in its financial statements or because the taxpayer has been acquired by an entity that has not or will not use the LIFO method in its financial statements.

(3) *Limitation on LIFO election*. The taxpayer may not re-elect the LIFO inventory method for a period of at least five taxable years beginning with the year of change unless, based on a showing of unusual and compelling circumstances, consent is specifically granted by the Commissioner to change the method of accounting at an earlier time. A taxpayer that wants to re-elect the LIFO inventory method within a period of five taxable years (beginning with the year of change) must file a Form 3115 in accordance with the non-automatic change procedures in Rev. Proc. 2015–13. A taxpayer that wants to re-elect the LIFO inventory method after a period of five taxable years (beginning with the year of change) does not file a Form 3115 using the non-automatic change procedures in Rev. Proc. 2015–13, but, rather, must file a Form 970, *Application To Use LIFO Inventory Method*, in accordance with § 1.472–3.

(4) *Effect of subchapter S election by corporation*. *See* section 7.03(4)(b) and (c) of Rev. Proc. 2015–13.

(5) *Additional requirements*. The taxpayer must complete the following statements and attach them to its Form 3115. If the taxpayer will use different methods for different inventory goods to which the change applies, the taxpayer must complete the statements for each of those different types of inventory goods.

(a) "The proposed method of identifying [*Insert description of inventory goods*] is the [*Insert method, as appropriate; that is, specific identification; FIFO; retail; etc.*] method."

(b) "The proposed method of valuing [*Insert description of inventory goods*] is [*Insert method, as appropriate; that is, cost; LCM; etc.*]."

(6) *Pool split and partial termination*. If a taxpayer must remove goods from a LIFO inventory pool because those goods are not within the scope of that pool (*for*

example, removing resale goods from a manufacturing pool), and if the taxpayer wants to change from the LIFO inventory method for those removed goods, the taxpayer may split the pool pursuant to section 22.10 of this revenue procedure and then may change from the LIFO method pursuant to this section 22.01. *See* section 22.10(2) of this revenue procedure. The taxpayer must file a separate Form 3115 for each such change.

(7) *Section 481(a) adjustment required*.

(a) *General rule*. A taxpayer changing from a LIFO inventory method must compute a § 481(a) adjustment for the year of change. *See* section 7.02 of Rev. Proc. 2015–13.

(b) *Special rule for changes that would otherwise be implemented on a cut-off basis*. If a taxpayer is changing from the LIFO inventory method to a method of accounting that is implemented on a cut-off basis under another section of this revenue procedure (see, for example, sections 21.07, 21.08, and 21.14 of this revenue procedure), the taxpayer's § 481(a) adjustment is "the LIFO recapture amount" as defined in § 312(n)(4)(B) and (C). A taxpayer computing the § 481(a) adjustment under this special rule must then compute its ending inventory value for the year of change using the proposed method (that is, treat the deemed change from the first-in, first-out (FIFO) method to the proposed method on a cut-off basis).

(8) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 22.01 is "56."

(9) *Contact information*. For further information regarding a change under this section, contact Leo Nolan at (202) 317-7007 (not a toll-free number).

.02 *Determining current-year cost under the LIFO inventory method*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer using the LIFO inventory method that wants to change its method of determining current-year cost to:

(i) the actual cost of the goods most recently purchased or produced (most-recent-acquisitions method);

(ii) the actual cost of the goods purchased or produced during the taxable year in the order of acquisition (earliest-acquisitions method);

(iii) the average unit cost equal to the aggregate actual cost of all the goods purchased or produced throughout the taxable year divided by the total number of units so purchased or produced. *See* § 1.472–8(e)(2)(ii);

(iv) the specific identification method; or

(v) a rolling-average method if the taxpayer uses that rolling-average method in accordance with Rev. Proc. 2008–43, 2008–30 I.R.B. 186, as modified by Rev. Proc. 2008–52, 2008–36 I.R.B. 587 (*see* section 13).

(b) *Inapplicability*. This change does not apply to a taxpayer using the lower of cost or market method to determine current-year cost. A taxpayer using the lower of cost or market method that valued inventory below cost may not change to a proper cost valuation under this section 22.02.

(2) *Manner of making change*. This change is made using a cut-off basis and applies only to the computations of current-year cost after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(3) *Concurrent change to a rolling-average method*. A taxpayer making both a change to a rolling-average method of determining current-year cost for its LIFO inventory under this section 22.02 and a change to a rolling-average method of accounting for non-LIFO inventories under Rev. Proc. 2008–43 (*see* section 21.14 of this revenue procedure) should file a single Form 3115 for both changes, in which case the taxpayer must enter the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for information on making concurrent changes.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 22.02 is "57."

(5) *Contact information*. For further information regarding a change under this section, contact Leo Nolan at (202) 317-7007 (not a toll-free number).

.03 *Alternative LIFO inventory method for retail automobile dealers*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer engaged in the trade or business of retail sales of new automobiles or new light-duty trucks ("automobile dealer") that wants to change to the "Alternative LIFO method" described in section 4 of Rev. Proc. 97–36, 1997–2 C.B. 450, as modified by Rev. Proc. 2008–23, 2008–1 C.B. 664, for its LIFO inventories of new automobiles and new light-duty trucks. Light-duty trucks are trucks with a gross vehicle weight of 14,000 pounds or less, which also are referred to as class 1, 2, or 3 trucks.

(b) *Inapplicability*. This change does not apply to an automobile dealer that uses the inventory price index computation (IPIC) method for goods other than new automobiles, new light-duty trucks, parts and accessories, used automobiles, and used trucks.

(2) *Manner of making change*.

(a) *Cut-off basis*. This change is made using a cut-off basis and applies only to the computation of ending inventories after the beginning of the year of change. See section 5.03(6) of Rev. Proc. 97–36 for more information regarding a cut-off basis. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(b) *Concurrent change from IPIC method*. An automobile dealer using the IPIC method that also has parts and accessories, used automobiles, or used light-duty trucks (other goods) inventory may incorporate a change, using a cut-off basis, from IPIC to another acceptable LIFO method for those other goods into this change. When changing from IPIC to a dollar-value LIFO method for its other goods, the automobile dealer must establish separate inventory pools for new automobiles and new light-duty trucks, unless the automobile dealer also concurrently changes to the Vehicle-Pool Method (*see* section 22.08 of this revenue procedure). Further, the automobile dealer must establish a separate inventory pool for the parts and accessories. See section 6.03(1)(b) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for information on making concurrent changes.

(c) *Additional requirements*. An automobile dealer also must comply with the following:

(i) the conditions in section 5.03 of Rev. Proc. 97–36; and

(ii) for an automobile dealer changing from the IPIC method under this section 22.03, the automobile dealer also must attach to its Form 3115 a schedule setting forth the classes of goods for which the automobile dealer has elected to use the LIFO method and the accounting method changes being made under this section 22.03 for each class of goods.

(3) *Concurrent change to the Vehicle-Pool Method*. A taxpayer making both a change to the Alternative LIFO Method under this section 22.03 and a change to the Vehicle-Pool Method under Rev. Proc. 2008–23 (*see* section 22.08 of this revenue procedure) should file a single Form 3115 for both changes, in which case the taxpayer must enter the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 22.03 is "58."

(5) *Contact information*. For further information regarding a change under this section, contact Leo Nolan at (202) 317-7007 (not a toll-free number).

.04 *Used vehicle alternative LIFO method*.

(1) *Description of change*. This change applies to a taxpayer that sells used automobiles and used light-duty trucks ("used vehicle dealers") that wants to change to the "Used Vehicle Alternative LIFO Method" as described in Rev. Proc. 2001–23, 2001–1 C.B. 784, as modified by Announcement 2004–16, 2004–1 C.B. 668, and Rev. Proc. 2008–23, 2008–1 C.B. 664.

(2) *Additional requirements*. A taxpayer making this change must comply with the additional conditions set forth in section 5.04 of Rev. Proc. 2001–23.

(3) *Manner of making change*.

(a) *Cut-off basis*. This change is made on a cut-off basis, which requires that the value of the taxpayer's used automobile and used light-duty truck inventory at the beginning of the year of change must be the same as the value of that inventory at the end of the preceding taxable year, plus cost restorations, if any, required by section 5.04(5) of Rev. Proc. 2001–23. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(b) *Bargain purchase*. If the taxpayer has previously improperly accounted for a bulk bargain purchase, the taxpayer must, as part of this change, first change its method of accounting to comply with *Hamilton Industries, Inc. v. Commissioner*, 97 T.C. 120 (1991), and compute a § 481(a) adjustment for that part of the change. *See* Announcement 91–173, 1991–47 I.R.B. 29. Upon examination, if a taxpayer has properly changed under this section 22.04 except for complying with this section 22.04(3)(b), an examining agent may not deny the taxpayer the change. However, the taxpayer does not receive audit protection under section 8.01 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, with respect to the improper method of accounting for the bargain purchase. *See* section 8.02(2) of Rev. Proc. 2015–13. Accordingly, the examining agent may make any necessary adjustments in any year for which the period of limitations on assessment and collection of tax is open to effect compliance with *Hamilton Industries, Inc*.

(c) *New base year*. In effecting a change to the Used Vehicle Alternative LIFO Method under this revenue procedure, the taxpayer must retain any LIFO inventory cost increments previously determined and the value of those increments. Instead of using the earliest taxable year for which the taxpayer adopted LIFO as the base year, the taxpayer must use the year of change as the new base year in determining the value of all existing LIFO cost increments for the year of change and later taxable years. (The cumulative index at the beginning of the year of change is 1.00). The taxpayer must restate the base-year cost of all LIFO cost increments at the beginning of the year of change in terms of new base-year costs, using the year of change as the new base year, and must recompute the indexes for previously determined inventory increments accordingly. The new base-year cost of a pool is equal to the total current-year cost of all the vehicles in the pool.

(d) *Form 3115*. A completed Form 3115 includes the completion of Part I of Schedule C.

(4) *Concurrent change from IPIC method*. A used vehicle dealer using the IPIC method that also has parts and accessories, new automobiles, or new light-duty trucks (other goods) inventory may incorporate a change, using a cut-off basis, from IPIC to another acceptable LIFO method for those other goods into this change. When changing from IPIC to a dollar-value LIFO method for its other goods, the used vehicle dealer must establish separate inventory pools for new automobiles and new light-duty trucks, unless the used vehicle dealer also concurrently changes to the Vehicle-Pool Method (*see* section 22.08 of this revenue procedure). Further, the used vehicle dealer must establish a separate inventory pool for the parts and accessories. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes.

(5) *Concurrent change to the Vehicle-Pool Method*. A taxpayer making both a change to the Used Vehicle Alternative LIFO Method under this section 22.04 and a change to the Vehicle-Pool Method under Rev. Proc. 2008–23 (*see* section 22.08 of this revenue procedure) should file a single Form 3115 for both changes, in which case the taxpayer must enter the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes.

(6) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 22.04 is "59."

(7) *Contact information*. For further information regarding a change under this section, contact Leo Nolan at (202) 317-7007 (not a toll-free number).

.05 *Determining the cost of used vehicles purchased or taken as a trade-in*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a taxpayer using the LIFO inventory method that wants to:

(i) determine the cost of used vehicles acquired by trade-in using the average wholesale price listed by an official used vehicle guide on the date of the trade-in. *See* Rev. Rul. 67–107, 1967–1 C.B. 115. The taxpayer must consistently use the official used vehicle guide selected unless the taxpayer receives permission to use a different guide;

(ii) use a different official used vehicle guide for determining the cost of used vehicles acquired by trade-in;

(iii) determine the cost of used vehicles purchased for cash using the actual purchase price of the vehicle; or

(iv) reconstruct the beginning-of-the-year cost of used vehicles purchased for cash using values computed by national auto auction companies based on vehicles purchased for cash. The national auto auction company selected must be consistently used.

(b) *Inapplicability*. This change does not apply to a taxpayer that adopted or changed to the Used Vehicle Alternative LIFO Method (*see* section 22.04 of this revenue procedure).

(2) *Manner of making change*. This change is made on a cut-off basis and applies only to used vehicles acquired on or after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 22.05 is "60."

(4) *Contact information*. For further information regarding a change under this section, contact Christopher W. Call at (202) 317-7007 (not a toll-free number).

.06 *Change to the inventory price index computation (IPIC) method*.

(1) *Description of change*. This change applies to a taxpayer that wants to change:

(a) from a non-IPIC LIFO inventory method to the IPIC method in accordance with all relevant provisions of § 1.472–8(e)(3); or

(b) from the IPIC method as described in T.D. 7814, 1982–1 C.B. 84, (March 15, 1982) (the old IPIC method) to the IPIC method as described in § 1.472–8(e)(3) (*see* T.D. 8976, 2002–1 C.B. 421, (January 8, 2002)) (the new IPIC method), which includes the following required changes (if applicable):

(i) from using 80% of the inventory price index (IPI) to using 100% of the IPI to determine the base-year cost and dollar-value of a LIFO pool(s);

(ii) from using a weighted arithmetic mean to using a weighted harmonic mean to compute an IPI for a dollar-value pool(s); and

(iii) from using a components-of-cost method to define inventory items to using a total-product-cost method to define inventory items.

(2) *Manner of making change*. This change is made on a cut-off basis and applies only to the computation of ending inventories after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(3) *Bargain purchase*. If the taxpayer has previously improperly accounted for a bulk bargain purchase, the taxpayer must, as part of this change, first change its method of accounting to comply with *Hamilton Industries, Inc. v. Commissioner*, 97 T.C. 120 (1991), and compute a § 481(a) adjustment for that part of the change. *See* Announcement 91–173, 1991–47 I.R.B. 29. Upon examination, if a taxpayer has properly changed under this section 22.06 except for complying with section 22.06(3) of this revenue procedure, an examining agent may not deny the taxpayer the change. However, the taxpayer does not receive audit protection under section 8.01 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, with respect to the improper method of accounting for the bargain purchase. *See* section 8.02(2) of Rev. Proc. 2015–13. Accordingly, the examining agent may make any necessary adjustments in any year for which the period of limitations on assessment and collection of tax is open to effect compliance with *Hamilton Industries, Inc.*

(4) *Concurrent automatic changes*.

(a) A taxpayer making this change and to change its method of determining current-year cost under section 22.02 of this revenue procedure for the same year of change may file a single Form 3115 for both changes, provided the taxpayer enters the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes.

(b) A taxpayer making this change and to change its method of pooling to IPIC-method pools described in § 1.472–8(b)(4) or § 1.472–8(c)(2) under section 22.07 of this revenue procedure for the same year of change may file a single Form 3115, provided the taxpayer enters the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes.

(c) A taxpayer making this change and to change its method of pooling under section 22.10 of this revenue procedure for the same year of change may file a single Form 3115, provided the taxpayer enters the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015–13 for information on making concurrent changes.

(5) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 22.06 is "61."

(6) *Contact information*. For further information regarding a change under this section, contact Leo Nolan at (202) 317-7007 (not a toll-free number).

.07 *Changes within the inventory price index computation (IPIC) method*.

(1) *Description of change*. This change applies to a taxpayer using the IPIC method described in § 1.472–8(e)(3) as revised by T.D. 8976, 2002–1 C.B. 421, (new IPIC method) that wants to make one or more of the following changes:

(a) change from the double-extension IPIC method to the link-chain IPIC method, or *vice versa*. *See* § 1.472–8(e)(3)(iii)(E) for principles concerning the computation of the inventory price index under the double-extension IPIC method and the link-chain IPIC method;

(b) change to or from the 10 percent method. See § 1.472–8(e)(3)(iii)(C) for principles concerning the assignment of inventory items to Bureau of Labor Statistics (BLS) categories under the IPIC method;

(c) change to IPIC-method pools described in § 1.472–8(b)(4) or § 1.472–8(c)(2), including a change to begin or discontinue applying one or both of the 5 percent pooling rules;

(d) change to combine or separate pools as a result of the application of a 5 percent pooling rule described in § 1.472–8(b)(4) or § 1.472–8(c)(2);

(e) change its selection of BLS table from Table 3 (Consumer Price Index for All Urban Consumers (CPI–U): U.S. city average, detailed expenditure categories) of the monthly CPI Detailed Report to Table 9 (Producer price indexes (PPI) and percent changes for commodity and service groupings and individual items, not seasonally adjusted) of the monthly PPI Detailed Report (formerly, Table 6), or *vice versa*. *See* § 1.472–8(e)(3)(iii)(B)(2) for principles concerning the selection of a BLS table under the IPIC method;

(f) change the assignment of one or more inventory items to BLS categories under either Table 3 (CPI–U): U.S. City average, detailed expenditure categories) of the monthly CPI Detailed Report or Table 9 (PPI and percent changes for commodity and service groupings and individual items, not seasonally adjusted) of the monthly PPI Detailed Report (formerly, Table 6). See § 1.472–8(e)(3)(iii)(C) for principles concerning the assignment of inventory items to BLS categories under the IPIC method. As part of this change, a taxpayer may separate a reassigned item from an inappropriate pool and combine the reassigned item with items in an appropriate pool. See § 1.472–8(g)(2) for principles concerning the manner of combining and separating dollar-value pools;

(g) change the representative month when necessitated because of a change in taxable year or a change in method of determining current-year cost made pursuant to section 22.02 of this revenue procedure. See § 1.472–8(e)(3)(iii)(B) for principles concerning the determination of a representative month under the IPIC method. A change in method of determining current-year cost and a change of the representative month may be made using a single Form 3115, provided the taxpayer enters the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115.

(h) change from using preliminary BLS price indexes to using final BLS price indexes to compute an inventory price index, or *vice versa*. See § 1.472–8(e)(3)(iii)(D)(*2*) for principles concerning the selection of BLS price indexes under the IPIC method; and

(i) change from using a representative appropriate month to using an appropriate month. See § 1.472–8(e)(3)(iii)(B)(*3*) for principles concerning the selection of an appropriate month.

(2) *Certain eligibility rule inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to the changes described in sections 22.07(1)(d), (f) in the case of a taxpayer using the 10 percent method described in § 1.472–8(e)(3)(iii)(C)(*2*), and (g) of this revenue procedure.

(3) *Manner of making change*.

(a) *Cut-off basis*. These changes are made on a cut-off basis and apply only to the computation of ending inventories after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(b) *New base year*. A taxpayer that changes pursuant to sections 22.07(1)(a), (b), and (e) of this revenue procedure must establish a new base year in the year of change.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 22.07 is "62."

(5) *Contact information*. For further information regarding a change under this section, contact Leo Nolan at (202) 317-7007 (not a toll-free number).

.08 *Changes to the Vehicle-Pool Method*.

(1) *Description of change*. This change applies to a retail dealer or wholesale distributor ("reseller") of cars and light-duty trucks that wants to change to the "Vehicle-Pool Method" as described in Rev. Proc. 2008–23, 2008–1 C.B. 664.

(2) *Manner of making change*.

(a) *Cut-off basis*. This change is made on a cut-off basis and applies only to the computation of ending inventories after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required. A reseller that changes its method of pooling under Rev. Proc. 2008–23 and this section 22.08 must comply with § 1.472–8(g).

(b) *New base year*. Instead of using the earliest taxable year for which the reseller adopted the LIFO method for any items in a pool, the reseller must use the year of change as the base year when determining the LIFO value of that pool for the year of change and subsequent taxable years (that is, the cumulative index at the beginning of the year of change is 1.00). The reseller must restate the base-year cost of all layers of increment in a pool at the beginning of the year of change in terms of new base-year cost. For an example of establishing a new base year, see § 1.472–8(e)(3)(iv)(B)(*1*)(*ii*).

(3) *Concurrent change to the Alternative LIFO Method or the Used Vehicle Alternative LIFO Method*. A reseller making both a change to the Vehicle-Pool Method under this section 22.08 and a change to the Alternative LIFO Method under Rev. Proc. 97–36 (*see* section 22.03 of this revenue procedure) or the Used Vehicle Alternative LIFO Method under Rev. Proc. 2001–23 (*see* section 22.04 of this revenue procedure) should file a single Form 3115 for both changes, in which case the taxpayer must enter the designated automatic accounting method change numbers for both changes on the appropriate line on that Form 3115. *See* section 6.03(1)(b) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, for information on making concurrent changes.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 22.08 is "112."

(5) *Contact information*. For further information regarding a change under this section, contact Leo Nolan at (202) 317-7007 (not a toll-free number).

.09 *Changes within the used vehicle alternative LIFO method*.

(1) *Description of change*. This change applies to a taxpayer using the "Used Vehicle Alternative LIFO Method" as described in Rev. Proc. 2001–23, 2001–1 C.B. 784, as modified by Announcement 2004–16, 2004–1 C.B. 668, and Rev. Proc. 2008–23, 2008–1 C.B. 664, that

wants to change the particular "official used vehicle guide" utilized by the taxpayer in connection with the Used Vehicle Alternative LIFO Method or any change in the precise manner of its utilization (for example, a change in the specific guide category that a taxpayer uses to represent vehicles of average condition for purposes of section 4.02(5)(a) of Rev. Proc. 2001–23).

(2) *Manner of making change*.

(a) *Cut-off basis*. This change is made on a cut-off basis and applies only to the computation of ending inventories after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(b) *New base year*. A taxpayer that changes its method pursuant to this section 22.09 must establish a new base year in the year of change.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 22.09 is "140."

(4) *Contact information*. For further information regarding a change under this section, contact Leo Nolan at (202) 317-7007 (not a toll-free number).

.10 *Changes to dollar-value pools of manufacturers*.

(1) *Description of change*. This change applies to a manufacturer that:

(a) purchases goods for resale (resale goods) and, thus, must reassign resale goods from the pool(s) it maintains for the goods it manufactures to one or more resale pools;

(b) wants to change from using multiple pools described in § 1.472–8(b)(3) to using natural business unit (NBU) pools described in § 1.472–8(b)(1), or *vice versa*; or

(c) wants to reassign items in NBU pools described in § 1.472–8(b)(1) into the same number or a greater number of NBU pools.

(2) *Manner of making change*. This change is made on a cut-off basis and applies only to the computation of ending inventories after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required. A taxpayer that changes its method of pooling pursuant to this section 22.10 must combine or separate pools as required by § 1.472–8(g). If a taxpayer splits a pool into two or more permissible pools pursuant to this section 22.10, which must be implemented on a cut-off basis, the taxpayer then may file a separate Form 3115 to change from the LIFO inventory method for one or more of the resulting pools pursuant to section 22.01 of this revenue procedure, which must be implemented with a § 481(a) adjustment.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 22.10 is "141."

(4) *Contact information*. For further information regarding a change under this section, contact Leo Nolan at (202) 317-7007 (not a toll-free number).

SECTION 23. MARK-TO-MARKET ACCOUNTING METHOD (§ 475)

.01 *Commodities dealers, securities traders, and commodities traders electing to use the mark-to-market method of accounting under § 475(e) or (f)*.

(1) *Description of change*. This change applies to certain taxpayers that have elected to use the mark-to-market method of accounting under § 475(e) or (f). Under § 475(e) and (f) and Rev. Proc. 99–17, 1999–1 C.B. 503, if a taxpayer makes an election under § 475(e) or (f), then beginning with the first taxable year for which the election is effective (election year), mark to market is the only permissible method of accounting for securities or commodities subject to the election. Thus, if the electing taxpayer's method of accounting for its taxable year immediately preceding the election year is inconsistent with § 475, the taxpayer is required to change its method of accounting to comply with the election. A taxpayer that makes a § 475(e) or (f) election but fails to change its method of accounting to comply with that election is using an impermissible method. *See* section 4 of Rev. Proc. 99–17.

(2) *Applicability*. This change applies to a taxpayer if all of the following conditions are satisfied:

(a) the taxpayer is a commodities dealer, securities trader, or commodities trader that has made a valid election under § 475(e) or (f) (*see* section 5.03(1) of Rev. Proc. 99–17) and that is required to change its method of accounting to comply with the election;

(b) the method of accounting to which the taxpayer changes is in accordance with its election under § 475(e) or (f); and

(c) the year of change is the election year.

(3) *Certain eligibility rule inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to this change.

(4) *Election under Rev. Proc. 99–17*. In accordance with section 5.03(1) of Rev. Proc. 99–17, to make a § 475(e) or (f) election, a taxpayer must file a statement satisfying the requirements in section 5.04 of Rev. Proc. 99–17. The taxpayer must file the statement not later than the due date (without regard to any extension) of the original federal income tax return for the taxable year immediately preceding the election year and must attach the statement either to that return or, if applicable, to a request for an extension of time to file that return. For example, if a calendar year individual taxpayer wants to make a § 475(e) or (f) election for 2014 (the election year), the taxpayer must file the statement on or before April 15, 2014, with the taxpayer's timely filed (without regard to any extension) federal income tax return for 2013 or the taxpayer's timely filed request for an extension of time to file the 2013 federal income tax return. On the Form 3115 filed for the year of change, a taxpayer should indicate that the taxpayer has filed the statement in compliance with section 5.03(1) of Rev. Proc. 99–17.

(5) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 23.01 is "64."

(6) *Contact information*. For further information regarding a change under this section, contact Eric E. Boody at (202) 317-6945 (not a toll-free number).

.02 *Taxpayers requesting to change their method of accounting from the mark-to-market method of accounting described in § 475 to a realization method*.

(1) *Description of change*. This change applies to any taxpayer requesting permission to change its method of accounting for securities or commodities as defined in § 475 from the mark-to-market method of accounting described in § 475 to a real-

ization method of accounting. For example, this section 23.02 applies when a taxpayer is required to change its method of accounting to a realization method after revoking an election under § 475(e), (f)(1), or (f)(2).

(2) *Exclusive procedure*. The procedure set forth in this section 23.02 is the exclusive procedure for changing a taxpayer's method of accounting from the mark-to-market method described in § 475 to a realization method. Thus, filing the Notification Statement described in section 23.02(6) of this revenue procedure is the exclusive manner of revoking a § 475(e), (f)(1), or (f)(2) election. Moreover, any taxpayer requesting permission to change to a realization method must follow the procedures described in this section 23.02 and other applicable provisions of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, to request consent to change its method of accounting for securities described in § 475(c)(2) (Section 475 Securities), commodities described in § 475(e)(2) (Section 475 Commodities), or both.

(3) *Applicability*. This change applies to a taxpayer if all of the following conditions in paragraphs (a) through (c) below are satisfied:

(a) the taxpayer is using, properly or improperly, the mark-to-market method of accounting described in § 475;

(b) the taxpayer is requesting permission to change to a realization method of accounting and report gains or losses from the disposition of Section 475 Securities, Section 475 Commodities, or both, under § 1001; and

(c) the taxpayer meets the requirements of this section 23.02, including the requirement that it timely file the Notification Statement described in section 23.02(6) of this revenue procedure.

(4) *Certain eligibility rules inapplicable*. The eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13 do not apply to this change.

(5) *Manner of making change*. This change is made using a cut-off basis and applies only to Section 475 Securities, Section 475 Commodities, or both, that are accounted for using the mark-to-market method of accounting described in § 475 and for which a change in method is requested under this section 23.02. Accordingly, a § 481(a) adjustment is neither permitted nor required.

Under the cut-off basis, a taxpayer must make a final mark of all Section 475 Securities, Section 475 Commodities, or both, that are being marked to market and that are the subject of the accounting method change being requested, on the last business day of the year preceding the year of change. As a result of the final mark, gain or loss attributable to those securities and commodities is also recognized on the last business day of the year preceding the year of change. In the case of any Section 475 Security or Section 475 Commodity that a taxpayer holds on the first day of the year of change, the taxpayer must make proper adjustment in the amount of any subsequently realized gain or loss to take into account adjustments for the gain or loss recognized prior to the first day of the year of change pursuant to the use of the mark-to-market method of accounting described in § 475 in order to prevent amounts from being duplicated or omitted. Any change in value on or after the first day of the year of change will be taken into account using a realization method of accounting unless section 23.02(7) of this revenue procedure permits the taxpayer to resume a mark-to-market method and the taxpayer resumes a mark-to-market method.

(6) *Notification Statement required*. In addition to filing the Form 3115 required under section 6.03(1) of Rev. Proc. 2015–13, to change to a realization method of accounting under this section 23.02 of this revenue procedure, a taxpayer must also file a Notification Statement that satisfies the requirements in section 23.02(6) of this revenue procedure. The Notification Statement must be filed not later than the due date (without regard to any extension) of the original federal income tax return for the taxable year immediately preceding the year of change and must be attached either to that return or, if applicable, to a request for an extension of time to file that return.

(a) *Notification Statement contents*. The Notification Statement must contain (1) the name of the taxpayer that will change its method of accounting (that is, the applicant), and, if applicable, the filer (for example, its parent corporation); (2) a statement that the taxpayer is requesting to change its method of accounting from the mark-to-market method of accounting described in § 475 to a realization method; (3) the year of change (both the beginning and ending dates); and (4) the types of instruments subject to the method change, that is, Section 475 Securities, Section 475 Commodities, or both. If a taxpayer has made an election under § 475(e), (f)(1), or (f)(2), the taxpayer must also include a statement revoking the taxpayer's section 475 election or elections for the Section 475 Securities, Section 475 Commodities, or both, for which a change in accounting method is sought.

(b) *Effect of filing Notification Statement*. Once the taxpayer files a Notification Statement for the year of change, a realization method of accounting is the only permissible method of accounting for Section 475 Securities, Section 475 Commodities, or both, described in the Notification Statement for the entire year of change and all subsequent years (unless section 23.02(7)(a) of this revenue procedure applies). A taxpayer that files the Notification Statement described in this section 23.02 but fails to change its method of accounting using the procedures described in Rev. Proc. 2015–13 and this section 23.02 is using an impermissible method.

(c) *Limited § 301.9100 relief*. Section 9100 relief for failure to comply with the requirements of this section 23.02(6) will be granted only in unusual and compelling circumstances.

(7) *Additional requirements*.

(a) *Resuming the mark-to-market method of accounting*. A taxpayer may not use the automatic change procedures in Rev. Proc. 2015–13 and section 23.01 of this revenue procedure to resume using the mark-to-market method of accounting described in § 475 for the Section 475 Securities, Section 475 Commodities, or both, that are the subject of the method change being requested using this section 23.02 during any of the five taxable years beginning with the year of change. To resume using the mark-to-market method of accounting described in § 475 during this 5-year period, a taxpayer must: (i) request the change using the non-automatic change procedures in Rev. Proc. 2015–13, (ii) request the change by the date an election would be due under section 5.03 of Rev. Proc. 99–17, 1999–1 C.B. 503, and (iii) include a statement that satisfies all applicable requirements of section 5.04 of Rev. Proc. 99–17.

(b) *Copy of Notification Statement*. A taxpayer must attach a copy of the Notification Statement required in section 23.02(6) of this revenue procedure to its Form 3115 filed under this section 23.02.

(c) *No audit protection for valuation*. A taxpayer does not receive audit protection under section 8.01 of Rev. Proc. 2015–13 for the method of valuation used by the taxpayer to determine the fair market value of the taxpayer's Section 475 Securities, Section 475 Commodities, or both, for a taxable year prior to the year of change, or for a failure to comply with the requirements in Rev. Proc. 99–17 to properly elect the mark-to-market method. *See* section 8.02(2) of Rev. Proc. 2015–13.

(8) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 23.02 is "218".

(9) *Contact information*. For further information regarding a change under this section, contact Eric E. Boody at (202) 317-6945 (not a toll-free number).

SECTION 24. BANK RESERVES FOR BAD DEBTS (§ 585)

.01 *Changing from the § 585 reserve method to the § 166 specific charge-off method*.

(1) *Description of change*.

(a) *Applicability*. This change applies to a bank (as defined in § 581, including a bank for which a qualified subchapter S subsidiary (Qsub) election is filed) that wants to change its method of accounting for bad debts from the § 585 reserve method to the § 166 specific charge-off method.

(b) *Inapplicability*. This change does not apply to a large bank as defined in § 585(c)(2).

(2) *Certain eligibility rule inapplicable*. A bank that changed from the § 593 reserve method under § 593(g) to the § 585 reserve method is not prohibited under section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, from changing its method of accounting for bad debts under this section 24.01 solely because of the § 593(g) change. A bank for which a Qsub election is filed will not be prohibited under section 5.01(1)(f) of Rev. Proc. 2015–13 from changing its method of accounting for bad debts under this section 24.01 solely because of the deemed liquidation of the bank arising from a Qsub election.

(3) *Section 481(a) adjustment*. Generally, the amount of the § 481(a) adjustment for a change in method of accounting under this section 24.01 is the amount of the bank's reserve for bad debts as of the close of the taxable year immediately before the year of change. However, the amount of the § 481(a) adjustment does not include the amount of a bank's pre-1988 reserves (as described in § 593(g)(2)(A)(ii), without taking into account § 593(g)(2)(B)) if the bank changed in a prior year from the § 593 reserve method to the § 585 reserve method and § 593(g) applied to that change. The deemed liquidation of a bank occurring solely because its parent makes a Qsub election does not accelerate the § 481(a) adjustment. In accordance with section 7.03(4)(a) of Rev. Proc. 2015–13, a bank that ceases to be a bank under § 581 must accelerate its § 481(a) adjustment.

(4) *Change from § 585 required when electing S corporation status*.

(a) *General rule*. A bank electing S corporation status (or a bank for which a Qsub election is filed) cannot use the § 585 reserve method. The filing by a bank of a Form 2553, *Election by a Small Business Corporation*, or the filing by a bank's parent of Form 8869, *Qualified Subchapter S Subsidiary Election*, with respect to the bank will constitute an agreement by the bank to change its method of accounting for bad debts from the § 585 reserve method to the § 166 specific charge-off method effective as of the taxable year for which the S corporation election or Qsub election is effective (year of change) in accordance with all of the automatic change procedures of Rev. Proc. 2015–13 and this section 24.01. The resulting § 481(a) adjustment is recognized built-in gain under § 1374, unless the bank elects under § 1361(g) and section 24.01(4)(b) of this revenue procedure to take the § 481(a) adjustment into account in determining taxable income for the taxable year immediately preceding the year of change. *See* § 1.1374–4(d).

(b) *Election to include § 481(a) adjustment in taxable year immediately preceding the year of change*.

(i) *Election requirements*. A bank that changes its method of accounting for bad debts under this section 24.01, from the § 585 reserve method to the § 166 specific charge-off method for the first taxable year for which the bank's S corporation election is effective (year of change) may elect under § 1361(g) to take into account the amount of the resulting § 481(a) adjustment in determining taxable income for the taxable year immediately preceding the year of change. To make this election, a bank must (1) file an original and copy of Form 3115 under section 6.03(1) of Rev. Proc. 2015–13 (and any other copy required under section 6.03) for the year of change, (2) file an additional copy of the Form 3115 with its original (or amended) federal income tax return for the taxable year immediately preceding the year of change filed no later than the date the original Form 3115 is properly filed under section 6.03(1) of Rev. Proc. 2015–13 (and any other copy required under section 6.03) and (3) include the amount of the § 481(a) adjustment in gross income for the taxable year immediately preceding the year of change. The bank must attach a statement to the original and both copies of Form 3115 stating that the bank elects under § 1361(g) to take the § 481(a) adjustment into account in determining taxable income for the taxable year immediately preceding the year of change.

(ii) *Special rule for Qsub banks*. In the case of a Qsub bank, the S corporation parent must file an original and copy of Form 3115 under section 6.03(1) of Rev. Proc. 2015–13 for the year of change. The Qsub bank must file an additional copy of the Form 3115 with its original (or amended) federal income tax return for the taxable year immediately preceding the year of change filed no later than the date the original Form 3115 is properly filed under section 6.03(1) of Rev. Proc. 2015–13, and include the amount of the § 481(a) adjustment in gross income for the taxable year immediately preceding the year of change. In the case of a Qsub bank, the Form 3115 should indicate that the "filer" is the S corporation parent and the "applicant" is the Qsub bank.

(iii) The following example illustrates the principles of section 24.01(4)(b) of this revenue procedure.

Example. *X*, a calendar year taxpayer, is a calendar year bank as defined in § 581 and is not a large bank as defined in § 585(c)(2). For taxable years before 2015, *X* accounted for its bad debts under the § 585 reserve method. By March 15, 2015, *X* properly filed a Form 2553 electing to be an S corporation effective January 1, 2015. Pursuant to section 24.01(4)(a) of this revenue procedure, the filing of the Form 2553 constituted an agreement by *X* to change from the § 585 reserve method to the § 166 specific charge-off method for 2015 in accordance with all of the automatic change procedures of Rev. Proc. 2015–13, and the applicable provisions of this section 24.01. Thus, for example, *X* must file a Form 3115 for this 2015 change in duplicate, in accordance with section 6.03(1) of Rev. Proc. 2015–13, by attaching the original Form 3115 to *X*'s timely filed (including any extension) original federal income tax return for 2015 and filing a copy of the Form 3115 with the Ogden office. The amount of *X*'s § 481(a) adjustment for the change is the amount of *X*'s bad debt reserve as of the close of December 31, 2014. *X* wishes to elect under § 1361(g) to include the § 481(a) adjustment in income in the taxable year ending December 31, 2014, the taxable year immediately preceding the year of change. To make this election, *X* must (1) file an original and copy of Form 3115 for the 2015 change under section 6.03(1) of Rev. Proc. 2015–13, (2) file an additional copy of that Form 3115 with its original (or amended) federal income tax return for 2014 filed no later than the date the original Form 3115 is properly filed under section 6.03(1) of Rev. Proc. 2015–13, and (3) include the amount of its § 481(a) adjustment in gross income in its return for 2014. *X* must attach a statement to the original and both copies of Form 3115 stating that *X* elects under § 1361(g) to take the § 481(a) adjustment into account in determining taxable income for 2014, the taxable year immediately preceding the year of change.

(5) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 24.01 is "66."

(6) *Contact information*. For further information regarding a change under this section, contact K. Scott Brown at (202) 317-6945, Laura Fields at (202) 317-6850 or Adrienne Mikolashek at (202) 317-6850 (not a toll-free number).

.02 *Reserved*.

SECTION 25. INSURANCE COMPANIES (§§ 816, 832, 833)

.01 *Safe harbor method of accounting for premium acquisition expenses*.

(1) *Description of change*. Rev. Proc. 2002–46, 2002–2 C.B. 105, sets forth a safe harbor method of accounting for premium acquisition expenses of certain non-life insurance companies. Under this method, an insurance company is permitted to treat as premium acquisition expenses incurred for the taxable year an amount equal to the sum of (a) the amount of premium acquisition expenses paid during the taxable year; (b) the difference between the unpaid premium acquisition expenses shown on the company's annual statement for the taxable year and the unpaid premium acquisition expenses shown on the company annual statement for the preceding taxable year; and (c) the difference between the amount of the insurance company's *pro forma* premium acquisition expenses at the end of the taxable year and the company's *pro forma* premium acquisition expenses at the end of the preceding taxable year. The amount taken into account as a net increase in the *pro forma* premium acquisition expenses, however, cannot exceed the insurance company's unearned premium reserve offset amount for that year. A special rule applies to premium acquisition expenses with respect to certain contracts with installment premiums. *See* Rev. Proc. 2002–46.

(2) *Applicability*. The automatic change in this section 25.01 applies to any insurance company that is subject to tax under § 831(a) and determines its premiums earned for insurance contracts during the taxable year under § 832(b)(4) in accordance with the provisions of § 1.832–4. The automatic change does not apply to an existing Blue Cross or Blue Shield organization or any other organization to which § 833 applies.

(3) *Certain eligibility rules inapplicable*. The eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, do not apply to this change.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 25.01 is "67."

(5) *Contact information*. For further information regarding a change under this section, contact David Remus at (202) 317-6995 (not a toll-free number).

.02 *Certain changes in method of accounting for organizations to which § 833 applies.*

(1) *Description of change*. This change applies to an existing Blue Cross or Blue Shield organization within the meaning of § 833(c)(2), or an organization described in § 833(c)(3), that is required to change its method of accounting for unearned premiums by reason of failing to meet the Medical Loss Ratio (MLR) requirements of § 833(c)(5), or by reason of meeting the MLR requirements of § 833(c)(5) after failing to meet those requirements in a prior year. *See* Notice 2011–4, 2011–2 I.R.B. 282.

(2) *Certain eligibility rules inapplicable*. The eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, do not apply to this change.

(3) *Accelerated § 481(a) adjustment period in certain situations*. In addition to the circumstances set forth in section 7.03(4) of Rev. Proc. 2015–13, the § 481 adjustment period provided in section 7.03 of Rev. Proc. 2015–13 will be accelerated in the event a taxpayer with a remaining balance of a § 481(a) adjustment that arose by reason of a change in method of accounting described in this section 25.02 is required to effect another change in method of accounting described in this section 25.02. Thus, for example, a taxpayer that fails to satisfy the requirements of § 833(c)(5) and as a result has a positive § 481(a) adjustment, is required to accelerate the remaining balance, if any, of that adjustment in a subsequent taxable year in which the taxpayer meets the requirements of § 833(c)(5).

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 25.02 is "155."

(5) *Contact information*. For further information regarding this section, contact Rebecca L. Baxter at (202) 317-6995 (not a toll-free number).

.03 *Change in qualification as life/non-life insurance company under § 816(a)*.

(1) *Description of change*. This change applies to a taxpayer that changes its qualification under § 816(a) to move from a life insurance company taxable under part I of subchapter L to a non-life insurance company taxable under part II of subchapter L, or *vice versa*. Whether an insurance company is taxed under § 801 as a life

insurance company is determined using the statutory requirements of § 816(a). This section requires that a company's life insurance reserves (as defined in § 816(b)), plus unearned premiums and unpaid losses on noncancellable life, accident, and health insurance contracts not included in life insurance reserves, be compared to its total reserves (as defined in § 816(c)). The comparison mandated by § 816(a) is referred to as the qualification fraction. An insurance company is a life insurance company if the sum of the life insurance reserves and unearned premiums and unpaid losses (whether or not ascertained) on noncancellable life, accident, or health policies not included in life insurance reserves comprise more than 50% of total reserves.

(2) *Certain eligibility rules inapplicable*. The eligibility rules in sections 5.01(1)(d) and (f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, do not apply to this change.

(3) *No audit protection or ruling on qualificiation as a life insurance company*. The taxpayer does not receive either: (a) any audit protection under section 8.01 of Rev. Proc. 2015–13 or (b) ruling reliance under section 10 of Rev. Proc. 2015–13 in connection with the consent granted under section 9 of Rev. Proc. 2015–13 for a change under this section 25.03 regarding whether the taxpayer qualifies as a life insurance company. The director will ascertain whether the taxpayer qualifies as a life insurance company.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 25.03 is "219."

(5) *Contact information*. For further information regarding a change under this section, contact Rebecca L. Baxter at (202) 317-6995 (not a toll-free number).

SECTION 26. DISCOUNTED UNPAID LOSSES (§ 846)

.01 *Composite method for discounting unpaid losses*.

(1) *Description of change*. Section 846 defines "discounted unpaid losses" for purposes of computing the insurance company taxable income of certain insurance companies. Notice 88–100, 1988–2 C.B. 439, section V, sets forth a composite method for computing unpaid losses with respect to accident years not separately stated on the NAIC annual statement. Rev. Proc. 2002–74, 2002–2 C.B. 980, section 3.01, clarifies that the composite method of Notice 88–100, section V, is permitted, but not required; section 3.02 sets forth an alternative method for those taxpayers that do not use the composite method of section 3.01. An insurance company using a method provided in section 3.01 or 3.02 of Rev. Proc. 2002–74 to compute discounted unpaid losses, must use the same method to compute discounted estimated salvage recoverable. An insurance company that currently uses a permissible method of accounting for discounted unpaid losses may change its method of accounting to or from the composite method of Notice 88–100, section V, without the consent of the Commissioner. This change applies to insurance companies that are required to discount unpaid losses under § 846. *See* Rev. Proc. 2002–74.

(2) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 26.01 is "68."

(3) *Contact information*. For further information regarding a change under this section, contact David Remus at (202) 317-6995 (not a toll-free number).

.02 *Reserved*.

SECTION 27. REAL ESTATE MORTGAGE INVESTMENT CONDUIT (REMIC) (§§ 860A–860G)

.01 *REMIC inducement fees*.

(1) *Description of change*. A taxpayer that receives an inducement fee in connection with becoming the holder of a noneconomic residual interest in a REMIC must take that fee into account over the remaining expected life of the applicable REMIC in accordance with § 1.446–6. This change applies to a taxpayer that seeks to change from any method of accounting for such inducement fees to one of the safe harbor methods provided under § 1.446–6(e)(1)–(2). *See* Rev. Proc. 2004–30, 2004–1 C.B. 950, for additional guidance relating to this change.

(2) *Manner of making change*. A taxpayer making this change must identify the specific safe harbor method under § 1.446–6(e) to which the taxpayer is changing.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 27.01 is "79."

(4) *Contact information*. For further information regarding a change under this section, contact John W. Rogers, III at (202) 317-6895 (not a toll-free number).

.02 *Reserved*.

SECTION 28. RESERVED

SECTION 29. FUNCTIONAL CURRENCY (§ 985)

.01 *Change in functional currency*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its functional currency or the functional currency of a qualified business unit (QBU) of the taxpayer. The preceding sentence does not apply to a QBU of a taxpayer described in § 1.985–1(b)(1)(iii).

(2) *Manner of making change*. A taxpayer making this change must make all necessary adjustments required by such change. *See* §§ 1.985–5, 1.985–8(c). A taxpayer must attach a statement to the Form 3115 representing that it has made the adjustments set forth in § 1.985–5 or § 1.985–8(c). The statement must also provide the amount of any unrealized exchange gain or loss required to be taken into account pursuant to § 1.985–5 or § 1.985–8(c) and the date on which a taxpayer took such amount into account. Finally, the statement must provide a detailed and complete description of any other adjustments required pursuant to § 1.985–5 or § 1.985–8(c).

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 29.01 is "70."

(4) *Contact information*. For further information regarding a change under this section, contact Peter Merkel at (202) 317-4919 (not a toll-free number).

.02 *Reserved*.

SECTION 30. RESERVED

SECTION 31. ORIGINAL ISSUE DISCOUNT (§§ 1272, 1273)

.01 *De minimis original issue discount (OID).*

(1) *Description of change*. This change applies to a taxpayer that wants to change to the principal-reduction method of accounting described in section 5 of Rev. Proc. 97–39, 1997–2 C.B. 485. The principal-reduction method of accounting is an aggregate method of accounting for *de minimis* OID (discount) on certain loans originated by the taxpayer.

(2) *Certain eligibility rule inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to this change.

(3) *Description*. The principal-reduction method of accounting is a permissible method for use by taxpayers to account for discount on one or more categories of loans described in section 4.02 or 4.03 of Rev. Proc. 97–39. If the principal-reduction method is used to account for any loans in a category of loans, the method must be used for the entire category of loans. The principal-reduction method applies only to loans described in section 3 of Rev. Proc. 97–39.

(4) *Manner of making change*.

(a) This change is made on a cut-off basis and applies only to loans described in section 3 of Rev. Proc. 97–39 that were acquired on or after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required.

(b) The taxpayer must maintain books and records sufficient to satisfy the director that old and new loans have been adequately segregated.

(5) *Additional requirements*. On a statement attached to the Form 3115, the taxpayer must:

(a) identify the categories of loans to which the proposed method will apply; and

(b) describe any "additional categories" permitted under section 4.03 of Rev. Proc. 97–39.

(6) *No audit protection*. A taxpayer does not receive audit protection under section 8.01 of Rev. Proc. 2015–13 in connection with this change. *See* section 8.02(2) of Rev. Proc. 2015–13.

(7) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 31.01 is "72."

(8) *Contact information*. For further information regarding a change under this section, contact William E. Blanchard at (202) 317-3900 (not a toll-free number).

.02 *Proportional method of accounting for OID on a pool of credit card receivables*.

(1) *Description of change*. This change applies to a taxpayer that wants to change to the proportional method of accounting for OID on a pool of credit card receivables as described in Rev. Proc. 2013–26, 2013–22 I.R.B. 1160.

(2) *Manner of making change*. This change is made on a cut-off basis. Accordingly, a § 481(a) adjustment is neither required nor permitted. The unaccrued OID for the pool as of the beginning of the first period in the year of change is equal to the unaccrued OID for the pool as of the end of the preceding year under the taxpayer's previous method of accounting for the pool.

(3) *Certain eligibility rule temporarily inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to a change to the proportional method of accounting for OID on a pool of credit card receivables, as described in section 5 of Rev. Proc. 2013–26, for the taxpayer's first or second taxable year ending on or after December 31, 2012.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 31.02 is "183."

(5) *Contact information*. For further information regarding this section, please contact Charles W. Culmer at (202) 317-6945 (not a toll-free number).

SECTION 32. MARKET DISCOUNT BONDS (§ 1278)

.01 *Revocation of § 1278(b) election*.

(1) *Description of change*. This change applies to a taxpayer that wants to change its method of accounting for market discount bonds by revoking its § 1278(b) election. Under § 1278(b), a taxpayer may elect a method of accounting under which market discount is currently included in gross income for the taxable years to which the discount is attributable. *See* Rev. Proc. 92–67, 1992–2 C.B. 429, for the procedures to make a § 1278(b) election (including a deemed § 1278(b) election). The procedures for revoking a § 1278 election were formerly provided in section 7 of Rev. Proc. 92–67.

(2) *Revocation of election*. The revocation of a § 1278(b) election applies to all market discount bonds that are held by the taxpayer on the first day of the first taxable year for which the revocation is effective (year of change), and to all market discount bonds that are subsequently acquired by the taxpayer. If a § 1278(b) election is revoked, then for purposes of § 1278(a), accrued market discount with respect to any bond previously subject to the election means accrued market discount as defined in § 1276(b) less any market discount included in income while the bond was subject to the § 1278(b) election.

(3) *Manner of making change*. This change is made on a cut-off basis and applies only to market discount accruing on or after the beginning of the year of change. Accordingly, a § 481(a) adjustment is neither permitted nor required. Market discount accruing on a bond prior to the year of change was currently included in income and market discount accruing on the bond on and after the first day of the year of change is included in income generally upon disposition of the bond. *See* § 1276(a). Because a cut-off basis is prescribed for this change, the basis of any bond, adjusted for amounts previously included in income during the period of the election, is not affected by the revocation.

(4) *Additional requirements*. On a statement attached to the Form 3115, the taxpayer must provide:

(a) the reason(s) for revoking the § 1278(b) election (or deemed § 1278(b) election);

(b) a description of the method by which, and the date on which, the taxpayer made the § 1278(b) election (or deemed § 1278(b) election) that is being revoked; and

(c) a statement that, after the revocation, the taxpayer will not make a constant interest rate election for any bond that has been subject to the § 1278(b) election (or deemed § 1278(b) election) being revoked and for which a constant interest rate election was not effective in the year of acquisition.

(5) *Audit protection*. A taxpayer may receive audit protection, as provided in section 8.01 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, in connection with this change. Any audit protection applicable to this change under section 8.01 of Rev. Proc. 2015–13 does not preclude the Commissioner from examining the method used by the taxpayer to determine the amount of accrued market discount under § 1276(b) for a taxable year prior to the year of change.

(6) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 32.01 is "73."

(7) *Contact information*. For further information regarding a change under this section, contact William E. Blanchard at (202) 317-3900 (not a toll-free number).

.02 *Reserved*.

SECTION 33. SHORT-TERM OBLIGATIONS (§ 1281)

.01 *Interest income on short obligations*.

(1) *Description of change*.

(a) This change applies to a taxpayer that wants to change its method of accounting to comply with § 1281 for interest income on short-term obligations.

(b) Under § 1281, a holder of certain short-term obligations, including a bank as defined in § 581, must include in gross income any accrued interest income on such obligations, regardless of the holder's overall method of accounting. Section 1281 applies to all types of interest income, including acquisition discount, original issue discount (OID), and stated interest. *See* S. Rep. No. 99–313, 99th Cong., 2d Sess. 903 (1986), 1986–3 (Vol. 3) C.B. 903.

(c) Section 1283(a)(1) generally defines a short-term obligation as any bond, debenture, note, certificate, or other evidence of indebtedness that matures in one year or less from its issue date.

(d) Under §§ 1281(a) and 1283(c), a holder of a short-term obligation subject to § 1281 must include in gross income an amount equal to the sum of the daily portions of the acquisition discount or OID, whichever is applicable, on the obligation for each day during the taxable year that the obligation is held by the holder. *See* § 1283(b), as modified by § 1283(c), to determine the daily portions of acquisition discount or OID. In addition, § 1281(a) requires the holder to include in gross income any stated interest that is payable on the short-term obligation (other than stated interest taken into account to determine the amount of the acquisition discount or OID) as it accrues.

(2) *Section 481(a) adjustment period*. A taxpayer must take the entire § 481(a) adjustment into account in computing taxable income for the year of change.

(3) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 33.01 is "74."

(4) *Contact information*. For further information regarding a change under this section, contact William E. Blanchard at (202) 317-3900 (not a toll-free number).

.02 *Stated interest on short-term loans of cash method banks*.

(1) *Description of change*. This change applies to a bank that uses the cash receipts and disbursements (cash) method of accounting as its overall accounting method and that wants to change its method of accounting from accruing stated interest on short-term loans made in the ordinary course of business to using the cash method for that interest. For example, *see Security State Bank v. Commissioner*, 214 F.3d 1254 (10th Cir. 2000), *aff'g* 111 T.C. 210 (1998), *acq*., 2001–1 C.B. xix; and *Security Bank Minnesota v. Commissioner*, 994 F.2d 432 (8th Cir. 1993), *aff'g* 98 T.C. 33 (1992), in which the courts held that § 1281 does not apply to short-term loans made by a cash method bank in the ordinary course of its business.

(2) *Certain eligibility rule inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, does not apply to this change.

(3) *Section 481(a) adjustment period*. A taxpayer making this change must take the entire § 481(a) adjustment into account in computing taxable income for the year of change.

(4) *Designated automatic accounting method change number*. The designated automatic accounting method change number for a change under this section 33.02 is "75."

(5) *Contact information*. For further information regarding a change under this section, contact William E. Blanchard at (202) 317-3900 (not a toll-free number).

EFFECTIVE DATE

This revenue procedure is effective for a Form 3115 filed on or after January 16, 2015, for a year of change ending on or after May 31, 2014, that is filed under the automatic change procedures of Rev. Proc. 2015–13, 2015–5 I.R.B. 419. See section 15.02 of Rev. Proc. 2015–13 for the transition rules relating to filing a Form 3115 under either the automatic change procedures of Rev. Proc. 2015–13 or making a method change under the procedures and APPENDIX of Rev. Proc. 2011–14.

EFFECT ON OTHER DOCUMENTS

.01 This revenue procedure, in conjunction with Rev. Proc. 2015–13 amplifies, clarifies, and modifies Rev. Proc. 2011–14, 2011–4 I.R.B. 330. Rev. Proc. 2011–14, as amplified, clarified, and modified is superseded in part. The second sentences in sections 14.01 and 14.02, and sections 14.04, 14.05, 14.06, and 14.07 of Rev. Proc. 2011–14 remain in effect. All other sections of Rev. Proc. 2011–14 are superseded.

.02 Rev. Proc. 2014–16, 2014–9 I.R.B. 606, is modified as follows:

(1) Section 3.01(3)(a)(vii) is modified to remove the term "transaction" from the paragraph.

(2) Section 3.01(3)(b)(vii) is modified to remove the term "transaction" from the paragraph.

(3) The chart in section 3.01(8)(a) is modified to remove the term "transaction" from line 13 of the column titled, Description of Change, which pertains to a change by a dealer in property to deduct commissions and other costs that facilitate the sale of property.

.03 Rev. Proc. 2011–46, 2011–42 I.R.B. 518, is modified as follows:

(1) Section 5.02(3)(a) is modified to remove the first two sentences in the Man-

ner of Making Change section and to substitute the following three new sentences in its place:

(a) In accordance with § 1.446–1(e)(3)(ii), the requirement under § 1.446–1(e)(3)(i) to file a Form 3115 is waived and a statement in lieu of a Form 3115 is authorized for this change. Notwithstanding the definition of Form 3115 in section 3.07 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, the statement in lieu of a Form 3115 that is permitted under this paragraph 5.02(3)(a) is considered a Form 3115 for purposes of the automatic consent procedures in Rev. Proc. 2015–13. However, the requirement to file the Ogden copy, under section 6.03(1)(a) of Rev. Proc. 2015–13, is waived.

(2) Section 5.02(4) is modified to read as follows:

(4) *Certain eligibility rule inapplicable*. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13 (or any successor) does not apply to a change in method of accounting under section 5.02 of Rev. Proc. 2011–46.

(3) Section 5.03(2)(a) is modified to remove the first two sentences in the Manner of Making Change section and to substitute the following three new sentences in its place:

(a) In accordance with § 1.446–1(e)(3)(ii), the requirement under § 1.446–1(e)(3)(i) to file a Form 3115 is waived and a statement in lieu of a Form 3115 is authorized for this change. Notwithstanding the definition of Form 3115 in section 3.07 of Rev. Proc. 2015–13, the statement in lieu of a Form 3115 that is permitted under this paragraph 5.03(2)(a) is considered a Form 3115 for purposes of the automatic consent procedures in Rev. Proc. 2015–13. However, the requirement to file the Ogden copy, under section 6.03(1)(a) of Rev. Proc. 2015–13, is waived.

.04 Rev. Rul. 2004–62, 2004–1 C.B. 1072, is modified to remove the second sentence in the CHANGE IN METHOD OF ACCOUNTING section and to substitute the following new two sentences in its place:

A taxpayer that wants to change its method of accounting to comply with this revenue ruling must follow the automatic change procedures in Rev. Proc. 2015–13, 2015–5 I.R.B. 419, (or successor) if the taxpayer is eligible to request such consent under the automatic change procedures therein. The eligibility rules in section 5.01(1) of Rev. Proc. 2015–13 (or successor) apply to a change in method of accounting described in section 3.04 of Rev. Proc. 2015–14, 2015–5 I.R.B. 419 (or successor).

.05 Rev. Proc. 2002–12, 2002–1 C.B. 374, is modified to remove section 6. Thus, the eligibility rules in section 5.01(1) and the audit protection provisions in section 8 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, apply to a change in method of accounting described in section 3.03 of this revenue procedure. Moreover, the section 481(a) adjustment period for a change in method of accounting described in section 3.03 of this revenue procedure is determined in accordance with section 7.03 of Rev. Proc. 2015–13.

.06 Rev. Rul. 2000–7, 2000–9 C.B. 712, is modified to remove the fourth sentence of the paragraph in the APPLICATION section and to substitute the following new fourth sentence:

A taxpayer that wants to change its method of accounting to conform with the holding in this revenue ruling must follow the automatic change procedures in Rev. Proc. 2015–13, 2015–5 I.R.B. 419, (or successor) if the taxpayer is eligible to request such consent under the automatic change procedures therein, except that the eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13 (or successor) does not apply to a change described in section 10.03 of Rev. Proc. 2015–14, 2015–5 I.R.B. 450.

.07 Rev. Rul. 2000–4, 2000–1 C.B. 331, is modified to remove the second sentence of the paragraph in the APPLICATION section, and to substitute the following two new sentences in that paragraph in its place:

A taxpayer that wants to change its method of accounting to conform with the holding in this revenue ruling must follow the automatic change procedures in Rev. Proc. 2015–13, 2015–5 I.R.B. 419, (or successor) if the taxpayer is eligible to request such consent under the automatic change procedures therein. The eligibility rules in section 5.01(1) of Rev. Proc. 2015–13 (or successor) apply to a change in method of accounting under section 3.02 of Rev. Proc. 2015–14, 2015–5 I.R.B. 450.

.08 Rev. Proc. 98–29, 1998–1 C.B. 857, is modified to remove sections 5.02(1), 5.02(3) and 5.03. Thus, the eligibility rules in section 5.01(1) and other automatic change procedures of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, (or successor) apply to a change in method of accounting made under section 21.02 of this revenue procedure.

Also, section 5.02(4) of Rev. Proc. 98–29 is modified to read as follows:

(4) In addition to the automatic change procedures in Rev. Proc. 2015–13 (or successor), the following rule applies to a taxpayer within the scope of this revenue procedure and eligible under Rev. Proc. 2015–13 (or successor) that changes to a method other than the retail safe harbor method of accounting for estimating inventory shrinkage. The taxpayer must provide a detailed description of all aspects of the proposed method of estimating inventory shrinkage (including, for LIFO taxpayers, the method of determining inventory shrinkage for, or allocating inventory shrinkage to, each LIFO pool) in the Form 3115 filed by the taxpayer for such a change. The director or national office subsequently may review whether the proposed method clearly reflects the taxpayer's income under § 446(b), notwithstanding any provision of Rev. Proc. 2015–13 (or successor). If the director or the national office determines that the proposed method of accounting does not clearly reflect the taxpayer's income, the taxpayer will be treated as having made a change in method of accounting without obtaining the consent of the Commissioner as required by § 446(e). *See* sections 2.01(3) and 2.03 of Rev. Proc. 2015–13 (or successor).

.09 Rev. Proc. 2007–48, 2007–2 C.B. 110, is modified to remove section 5.06(1) and to substitute it with the following sentence:

The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13, 2015–5 I.R.B. 419, (or successor) does not apply to a change in method of accounting described in section 5.06 of Rev. Proc. 2007–48, and made under section 21.09 of Rev. Proc. 2015–14, 2015–5 I.R.B. 450 (or successor).

PAPERWORK REDUCTION ACT

The collection of information contained in this revenue procedure 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 1545–1551. 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 collections of information in this revenue procedure are in sections 3, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 29, 31, and 32. This information is necessary and will be used to determine whether the taxpayer properly changed to a permitted method of accounting. The collections of information are required for the taxpayer to obtain consent to change its method of accounting. The likely respondents are the following: individuals, farms, business or other for-profit institutions, nonprofit institutions, and small businesses or organizations.

The estimated total annual reporting and/or recordkeeping burden is 30,580 hours.

The estimated annual burden per respondent/recordkeeper varies from 1/6 hour to 8 % hours, depending on individual circumstances, with an estimated average of 1 ¼ hours. The estimated number of respondents is 27,336. The estimated annual frequency of responses is on occasion.

.SIGNIFICANT CHANGES

.01 Significant changes to the List of Automatic Changes (formerly known as the APPENDIX of Rev. Proc. 2011–14) include:

(1) Section 3.01 relating to advances made by a lawyer on behalf of clients, is amplified and modified to include method changes involving cases handled on a non-contingent fee basis;

(2) Section 6.01, relating to impermissible to permissible methods of depreciation or amortization, is clarified to provide that a taxpayer can make a change under this section if the asset is depreciable or amortizable under the taxpayer's present or proposed method of accounting;

(3) Section 7.01, relating to changes for research and experimental (R&E) expenditures under § 174, is amplified and modified. Section 7.01 of this revenue procedure now applies to a method change from treating R&E expenditures under any provision of the Code other than § 174 (including § 263A) to treating R&E expenditures under § 174. Section 7.01 of this revenue procedure also now applies where a taxpayer already has a valid § 174 election in effect, but fails to treat a portion of its R&E expenditures in accordance with its valid election. Under section 7.01 of this revenue procedure, the taxpayer may change its method regarding that portion of its R&E expenditures to conform to its valid election;

(4) Section 10.11, relating to changes for tangible property, is modified. Sections 10.11(3)(a)(vii), 10.11(3)(b)(vii) and 10.11(8)(a) are modified to remove the term "transaction" in describing costs in addition to commissions that facilitate the sale of property by a dealer in property. This term is removed to eliminate inconsistencies in the terms utilized in section 10.11 and to more accurately reflect the costs described under § 1.263(a)–1(e)(2);

(5) Section 11.01, relating to certain UNICAP methods used by resellers and reseller producers, is clarified to provide that the change does not apply to a reseller or reseller-producer that wants to change its method of accounting for interest capitalization;

(6) Section 11.09, relating to changes to a reasonable allocation method described in § 1.263A–1(f)(4) for self-constructed assets, is modified to provide that a reseller-producer may make this change, and that a producer or reseller-producer not capitalizing a cost subject to § 263A may make a change to capitalizing that cost under a reasonable method within the meaning of section 1.263A–1(f)(4) (other than the methods specifically described in § 1.263A–1(f)(2) or (3)) that the producer or reseller-producer is already using for self-constructed assets;

(7) Section 14.01, relating to overall change from the cash method to an accrual method, is clarified, amplified, and modified to provide that a concurrent change to a special method is permitted to be made, if such change is also an automatic change under this revenue procedure, a section of the Code, or regulations, or in other guidance published in the Internal Revenue Bulletin;

(8) Section 14.09, relating to changes from the cash to an accrual method for specific items, is modified to provide that the change does not apply to a change in method of accounting for interest that is not taken into account under § 1.446–2;

(9) Section 14.15, relating to debt issuance costs, is modified to include a change for capitalized debt issuance costs from one permissible method to another permissible method under the last sentence of § 1.446–5(b)(2) if the total original issue discount determined for purposes of § 1.446–5 is *de minimis*;

(10) Section 15.07, relating to advance payments, is modified to include a change for advance payments that are defined in § 1.451–5(a)(1);

(11) Section 15.10, relating to retainages, is clarified to provide that the change does not apply to retainages for long-term contracts that must be accounted for under the percentage-of-completion method under § 460, or to long-term-contracts accounted for under exempt percentage of completion method or the completed contract method and is modified to require a new separate designated automatic accounting method change number for retainages received under long-term contracts;

(12) Section 15.11, relating to advance payments – changes in applicable financial statements,(AFS), is modified to provide that a change under this section is made without audit protection under section 8.01 of Rev. Proc. 2015–13, 2015–5 I.R.B. 419;

(13) Section 16.01, relating to Series E, EE, or I U.S. savings bonds, is modified to waive the requirement under section 6.03(1)(a) of Rev. Proc. 2015–13 to file an Ogden copy (formerly the national office copy under Rev. Proc. 2011–14) of the statement required by section 16.01(2)(b) of this revenue procedure;

(14) Section 18.01, relating to changes for long-term contracts, is amplified and modified to include a change made by a taxpayer that is required to change its method of accounting for its long-term contracts as defined in § 460(f) to the percentage of completion method (PCM) described in § 1.460–3(b)(2) if the tax-

payer fails to use the PCM in the first taxable year and the succeeding taxable year(s);

(15) Section 19.01(3), relating to changes involving timing of incurring liabilities for vacation pay, is amplified and modified to include method changes involving sick pay, and severance pay. This change was previously limited to vacation pay;

(16) Section 21.16, relating to a change in computing ending inventory under the retail inventory method, is modified to provide that a retail LCM taxpayer may make a change to computing the cost complement to comply with § 1.471–8(b)(3), including a change from an improper method to an alternative method for computing the cost complement and a change from one method described in § 1.471–8(b)(3) to another method described in § 1.471–8(b)(3);

(17) Section 22.07, relating to changes within the inventory price index computation (IPIC) method, is modified and amplified to include changes from using a representative appropriate month to using an appropriate month, and is modified to provide that the eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13 is inapplicable in the case of a taxpayer using the 10 percent method described in § 1.472–8(e)(3)(iii)(C)(2) that makes a change under section 22.07(1)(f) of this revenue procedure;

(18) This revenue procedure clarifies that the eligibility rule in section 5.01(1)(c) of Rev. Proc. 2015–13 (relating to § 381(a) transactions) applies to the method changes described in the List of Automatic Changes in a manner consistent with the rules provided in § 1.381(c)(4)–1(a)(4) or (5) or § 1.381(c)(5)–1(a)(4) or (5);

(19) The following sections are added to the List of Automatic Changes in this revenue procedure to provide additional changes in method of accounting to be made under the automatic change procedures:

(a) Section 4.02, relating to changes for conformity election by bank after previous election automatically revoked;

(b) Section 5.02, relating to changes to comply with § 163(e)(3);

(c) Section 10.12, relating to railroad track structure expenditures, is added to the List of Automatic Changes, consistent with Rev. Proc. 2002–65, 2002–2 C.B. 700, and Rev. Proc. 2001–46, 2001–2 C.B. 263. However, the eligibility rules in section 5.01(1) of Rev. Proc. 2015–13 apply to a change under section 10.12 of this revenue procedure;

(d) Section 11.13, relating to changes to or within the U.S. ratio method;

(e) Section 11.14, relating to depletion;

(f) Section 23.02, relating to changes from the mark-to-market method of accounting described in § 475 to a realization method of accounting; and

(g) Section 25.03, relating to changes in qualification as life/nonlife insurance company under § 816(a).

(20) The following sections are modified to provide that the eligibility rule in section 5.01(1)(d) of Rev. Proc. 2015–13 (final year of trade or business) applies to a taxpayer making a change under the automatic change procedures:

(a) Section 2.01, relating to treating amounts received as loans;

(b) Section 3.02, relating to ISO 9000 costs;

(c) Section 3.03, relating to restaurant or tavern smallwares packages;

(d) Section 3.04, relating to timber grower fertilization costs;

(e) Section 10.03, relating to removal costs;

(f) Section 21.02, relating to estimating inventory "shrinkage";

(g) Section 21.09, relating to rotable spare parts;

(h) Section 23.01, relating to commodities dealers, securities traders, and commodities traders electing to use the mark-to-market method of accounting under § 475(e) or (f);

(i) Section 31.01, relating to de minimis original issue discount (OID); and

(j) Section 33.02, relating to stated interest on short-term loans of cash method banks.

(21) The following sections are modified to provide that the eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015–13 (5-year item change) applies to a taxpayer making a change under the automatic change procedures:

(a) Section 3.02, relating to ISO 9000 costs;

(b) Section 3.03, relating to restaurant or tavern smallwares packages

(c) Section 3.04, relating to Timber grower fertilization costs; and

(d) Section 21.02, relating to Estimating inventory "shrinkage";

(22) The following sections of this revenue procedure are obsolete and are removed from the revenue procedure in their entirety:

(a) Section 6.12, relating to depreciation of qualified revitalization building in the expanded area of a renewal community;

(b) Section 6.13, relating to loss disallowance rule upon a disposition of an insurance contract acquired in an assumption re-insurance transaction;

(c) Section 6.22, relating to Kansas additional first-year depreciation;

(d) Section 11.03, relating to changes to no longer capitalize research and experimental expenditures under § 263A, is removed because it is now covered by new section 7.01(2)(a)(iv) of this revenue procedure, and is therefore obsolete; and

(e) Section 13.01, relating to a change to comply with § 404(a)(11).

(23) Because the following sections can also be made under section 6.01 of this revenue procedure, they are removed from the revenue procedure in their entirety:

(a) Section 6.04, relating to depreciation of modern golf course greens;

(b) Section 6.05, relating to depreciation of original and replacement tire costs;

(c) Section 6.06, relating to depreciation of gas pump canopies;

(d) Section 6.07, relating to depreciation of utility assets;

(e) Section 6.18, relating to depreciation of MACRS property acquired in a like-kind exchange or as a result of an involuntary conversion; and

(f) Section 6.21, relating to a change in treatment of land from depreciable to nondepreciable property.

(24) Certain method changes described in the APPENDIX of Rev. Proc. 2011–14 permitted a taxpayer to file a statement in lieu of a Form 3115. See, for example, sections 14.10, 15.11, 16.01, 17.01, 19.08, and certain changes under section 14.04 of the APPENDIX of Rev. Proc. 2011–14. Section 6.01 of Rev. Proc. 2015–13 requires taxpayers to file a Form 3115 when requesting consent under the automatic change procedures. However, the follow-

ing sections permit a taxpayer to request consent for a change on a short Form 3115: 11.13, 14.10, 17.01, and 19.08. See section 3.07(2) of Rev. Proc. 2015–13 for the definition of a short Form 3115. Sections 15.11 and 16.01, and certain changes under section 14.04 of this revenue procedure continue to permit a taxpayer to file a statement in lieu of a Form 3115.

(25) The following sections are modified to include a reduced filing requirement of the Form 3115 by qualified small taxpayers:

(a) Section 6.01, relating to a change from an impermissible to permissible method of accounting for depreciation;

(b) Section 6.02, relating to a change from a permissible to permissible method of accounting for depreciation;

(c) Section 6.08, relating to depreciation of cable TV fiber optics;

(d) Section 6.09, relating to a change in general asset account treatment due to a change in the use of MACRS property;

(e) Section 6.10, relating to a change in method of accounting for depreciation due to a change in the use of MACRS property;

(f) Section 6.11, relating to depreciation of qualified non-personal use vans and light trucks;

(g) Section 6.17, relating to a change from impermissible to permissible method of accounting for depreciation or amortization for disposed depreciable or amortizable property;

(h) Section 6.23, relating to tenant construction allowances;

(i) Section 6.26, relating to safe harbor method of accounting for determining the depreciation of certain tangible assets used by wireless telecommunications carriers under Rev. Proc. 2011–22; and

(j) Section 10.07, relating to repairable and reusable spare parts.

DRAFTING INFORMATION

The principal author of this revenue procedure is Karla M. Meola of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Ms. Meola, at (202) 317-7005 (not a toll-free number).

For further information regarding a specific change in method of accounting in this revenue procedure, contact the individual listed in the "Contact Person(s)" section located at the end of each section of the revenue procedure (telephone calls are not toll-free) or see the CONTACT LIST at the end of this revenue procedure. The contact person is with one of the following Offices of Associate Chief Counsel: Corporate (CORP), Financial Institutions and Products (FI&P), Income Tax & Accounting (IT&A), International (INTL), Passthroughs and Special Industries (P&SI), or Tax Exempt and Government Entities (TEGE).

LIST OF AUTOMATIC CHANGES CONTACT LIST

Section Number	Designated Automatic Accounting Change Number	Contact Name	Telephone Number	Office
1.01	91	William E. Blanchard	(202) 317-3900	FI&P
2.01	1	William Ruane	(202) 317-4718	IT&A
3.01	2	Martin Osborne[1]	(202) 317-7011	IT&A
3.02	3	Martin Osborne[2]	(202) 317-7011	IT&A
3.03	4	Martin Osborne[3]	(202) 317-7011	IT&A
3.04	86	Martin Osborne[4]	(202) 317-7011	IT&A
3.05	See § 10.11	See § 10.11	See § 10.11	IT&A
3.06	See § 10.11	See § 10.11	See § 10.11	IT&A
3.07	158	Lewis Saideman	(202) 317-5100	IT&A
3.08	159	Lewis Saideman	(202) 317-5100	IT&A
3.09	160	Lewis Saideman	(202) 317-5100	IT&A
3.10	Reserved	Reserved	Reserved	
3.11	Reserved	Reserved	Reserved	
3.12	Reserved	Reserved	Reserved	
3.13	Reserved	Reserved	Reserved	
3.14	Reserved	Reserved	Reserved	
3.15	Reserved	Reserved	Reserved	
3.16	Reserved	Reserved	Reserved	
3.17	Reserved	Reserved	Reserved	
3.18	Reserved	Reserved	Reserved	
3.19	Reserved	Reserved	Reserved	

Section Number	Designated Automatic Accounting Change Number	Contact Name	Telephone Number	Office
3.20	182	Lewis Saideman	(202) 317-5100	IT&A
3.21	208, 209	Merrill Feldstein	(202) 317-5100	IT&A
4.01	5	Renay France	(202) 317-7003	IT&A
4.02	211	Timothy Sebastian	(202) 317-6945	FI&P
5.01	16	William E. Blanchard	(202) 317-3900	FI&P
5.02	212	Joseph Vetting	(202) 317-4960	INTL
6.01	7	Douglas Kim	(202) 317-7005	IT&A
6.02	8	Douglas Kim	(202) 317-7005	IT&A
6.03	10	Edward Schwartz	(202) 317-7006	IT&A
6.04	Reserved	Reserved	Reserved	
6.05	Reserved	Reserved	Reserved	
6.06	Reserved	Reserved	Reserved	
6.07	Reserved	Reserved	Reserved	
6.08	15	Charles Magee	(202) 317-7005	IT&A
6.09	87	Charles Magee	(202) 317-7005	IT&A
6.10	88	Charles Magee	(202) 317-7005	IT&A
6.11	89	Bernard Harvey	(202) 317-7005	IT&A
6.12	Reserved	Reserved	Reserved	
6.13	Reserved	Reserved	Reserved	
6.14	Reserved	Reserved	Reserved	
6.15	Reserved	Reserved	Reserved	
6.16	Reserved	Reserved	Reserved	
6.17	107	Douglas Kim	(202) 317-7005	IT&A
6.18	Reserved	Reserved	Reserved	
6.19	Reserved	Reserved	Reserved	
6.20	Reserved	Reserved	Reserved	
6.21	Reserved	Reserved	Reserved	
6.22	Reserved	Reserved	Reserved	
6.23	145	Charles Magee	(202) 317-7005	IT&A
6.24	Reserved	Reserved	Reserved	
6.25	Reserved	Reserved	Reserved	
6.26	157	Charles Magee	(202) 317-7005	IT&A
6.27	175	Patrick M. Clinton	(202) 317-7005	IT&A
6.28	176	Patrick M. Clinton	(202) 317-7005	IT&A
6.29	177	Patrick M. Clinton	(202) 317-7005	IT&A
6.30	178	Patrick M. Clinton	(202) 317-7005	IT&A
6.31	179	Patrick M. Clinton	(202) 317-7005	IT&A
6.32	180	Patrick M. Clinton	(202) 317-7005	IT&A
6.33	196	Patrick M. Clinton	(202) 317-7005	IT&A
6.34	197	Patrick M. Clinton	(202) 317-7005	IT&A
6.35	198	Patrick M. Clinton	(202) 317-7005	IT&A
6.36	199	Patrick M. Clinton	(202) 317-7005	IT&A
6.37	200	Patrick M. Clinton	(202) 317-7005	IT&A
6.38	205	Patrick M. Clinton	(202) 317-7005	IT&A

Section Number	Designated Automatic Accounting Change Number	Contact Name	Telephone Number	Office
6.39	206	Patrick M. Clinton	(202) 317-7005	IT&A
6.40	207	Patrick M. Clinton	(202) 317-7005	IT&A
6.41		Summary of changes related to dispositions of MACRS property		
6.42	210	Charles Magee	(202) 317-7005	IT&A
7.01	17	Grant D. Anderson	(202) 317-7005	IT&A
8.01	Reserved	Reserved	Reserved	
8.02	Reserved	Reserved	Reserved	
8.03	Reserved	Reserved	Reserved	
8.04	152	Jennifer Bernardini	(202) 317-6853	P&SI
9.01	18	Charles Magee	(202) 317-7005	IT&A
9.02	Reserved	Reserved	Reserved	
10.01	19	Deena Devereux	(202) 317-7003	IT&A
10.02	20	Deena Devereux	(202) 317-7003	IT&A
10.03	21	Deena Devereux	(202) 317-7003	IT&A
10.04	47	Deena Devereux	(202) 317-7003	IT&A
10.05	78	Deena Devereux	(202) 317-7003	IT&A
10.06	109	Deena Devereux	(202) 317-7003	IT&A
10.07	121	Deena Devereux	(202) 317-7003	IT&A
10.08	Reserved	Reserved	Reserved	
10.09	Reserved	Reserved	Reserved	
10.10	Reserved	Reserved	Reserved	
10.11	162-170, 172-173, 184-193	Lewis Saideman	(202) 317-5100	IT&A
10.12	213	Gwen Turner	(202) 317-7003	IT&A
11.01	22	Christopher W. Call	(202) 317-7007	IT&A
11.02	23	Neville R. Jiang	(202) 317-7007	IT&A
11.03	Reserved	Reserved	Reserved	IT&A
11.04	25	Neville R. Jiang	(202) 317-7007	IT&A
11.05	77	John Roman Faron	(202) 317-7005	IT&A
11.06	92	John Roman Faron	(202) 317-7005	IT&A
11.07	150, 151	Neville R. Jiang	(202) 317-7007	IT&A
11.08	181	Patrick M. Clinton	(202) 317-7005	IT&A
11.09	194	Christopher W. Call	(202) 317-7007	IT&A
11.10	195	Roy Hirschhorn	(202) 317-7007	IT&A
11.11	201	John Roman Faron	(202) 317-7005	IT&A
11.12	202	John Roman Faron	(202) 317-7005	IT&A
11.13	214	Karla M. Meola	(202) 317-7005	IT&A
11.14	215	John Roman Faron	(202) 317-7005	IT&A
12.01	26	Steven Gee	(202) 317-7007	IT&A
		Joseph Vetting	(202) 317-4960	INTL
13.01	Reserved	Reserved	Reserved	
13.02	28	Maryellen Furr	(202) 317-5600	TEGE

Section Number	Designated Automatic Accounting Change Number	Contact Name	Telephone Number	Office
13.03	29	David Ziegler	(202) 317-8629	EP
		Carlton Watkins	(202) 317-8631	EP
14.01	122, 123	Cheryl Oseekey	(202) 317-7007	IT&A
14.02	31	Erika Reigle	(202) 317-5100	IT&A
14.03	32,33	Neville R. Jiang	(202) 317-7007	IT&A
14.04	34, 35	Karla M. Meola	(202) 317-7005	IT&A
14.05	71	William E. Blanchard	(202) 317-3900	FI&P
14.06	85	Bernard Harvey	(202) 317-7005	IT&A
14.07	90	David Remus	(202) 317-6995	FI&P
14.08	108	Timothy Sebastian	(202) 317-6945	FI&P
14.09	124	Charles Gorham	(202) 317-7003	IT&A
14.10	125	Erika Reigle	(202) 317-5100	IT&A
14.11	126	Megan M. Kirmil	(202) 317-7007	IT&A
14.12	127	K. Scott Brown	(202) 317-6945	FI&P
14.13	128	Maxine Woo-Garcia	(202) 317-7011	IT&A
		Renay France	(202) 317-7003	IT&A
14.14	129	David H. McDonnell	(202) 317-4137	P&SI
14.15	148	Charles W. Culmer	(202) 317-6945	FI&P
15.01	36	Timothy Sebastian	(202) 317-6945	FI&P
15.02	37	Daniel Cassano	(202) 317-7011	IT&A
15.03	38	Sandra Cheston	(202) 317-7011	IT&A
15.04	39	Arvind Ravichandran	(202) 317-4718	IT&A
15.05	80, 81	Jon Silver	(202) 317-7053	FI&P
15.06	82	Jon Silver	(202) 317-7053	FI&P
15.07	83, 84, 216	Peter Ford	(202) 317-7011	IT&A
15.08	94	Jon Silver	(202) 317-7053	FI&P
15.09	Reserved	Reserved	Reserved	
15.10	130, 217	Peter Cohn	(202) 317-7011	IT&A
15.11	153	Ronald Goldstein	(202) 317-7003	IT&A
16.01	131	William E. Blanchard	(202) 317-3900	FI&P
17.01	132	Patrick M. Clinton	(202) 317-7005	IT&A
18.01	41	Lore Cavanaugh	(202) 317-7006	IT&A
19.01	42, 133, 134	Sandra Cheston	(202) 317-7011	IT&A
19.02	43	Erika Reigle	(202) 317-5100	IT&A
19.03	44	Erika Reigle	(202) 317-5100	IT&A
19.04	45, 113	Mon Lam	(202) 317-5100	IT&A
19.05	46	Mon Lam	(202) 317-5100	IT&A
19.06	106	Christina M. Glendening	(202) 317-7003	IT&A
19.07	135	Mon Lam	(202) 317-5100	IT&A
19.08	149	Daniel Cassano	(202) 317-7011	IT&A
19.09	154	Christina M. Glendening	(202) 317-7003	IT&A
19.10	156	Christina M. Glendening	(202) 317-7003	IT&A

Section Number	Designated Automatic Accounting Change Number	Contact Name	Telephone Number	Office
19.11	161	Christina M. Glendening	(202) 317-7003	IT&A
20.01	136	William Ruane	(202) 317-4718	IT&A
21.01	48	Christopher W. Call	(202) 317-7007	IT&A
21.02	49	Steven Gee	(202) 317-7007	IT&A
21.03	50, 51	Neville R. Jiang	(202) 317-7007	IT&A
21.04	53	Christopher W. Call	(202) 317-7007	IT&A
21.05	54	Christopher W. Call	(202) 317-7007	IT&A
21.06	55	Neville R. Jiang	(202) 317-7007	IT&A
21.07	63	Neville R. Jiang	(202) 317-7007	IT&A
21.08	96	Neville R. Jiang	(202) 317-7007	IT&A
21.09	110	Elizabeth Binder	(202) 317-7003	IT&A
21.10	111	Neville R. Jiang	(202) 317-7007	IT&A
21.11	137	Christopher W. Call	(202) 317-7007	IT&A
21.12	138	Christopher W. Call	(202) 317-7007	IT&A
21.13	139	Christopher W. Call	(202) 317-7007	IT&A
21.14	114	Christopher W. Call	(202) 317-7007	IT&A
21.15	203	John Roman Faron	(202) 317-7005	IT&A
21.16	204	Natasha M. Mulleneaux	(202) 317-7005	IT&A
22.01	56	Leo Nolan	(202) 317-7007	IT&A
22.02	57	Leo Nolan	(202) 317-7007	IT&A
22.03	58	Leo Nolan	(202) 317-7007	IT&A
22.04	59	Leo Nolan	(202) 317-7007	IT&A
22.05	60	Christopher W. Call	(202) 317-7007	IT&A
22.06	61	Leo Nolan	(202) 317-7007	IT&A
22.07	62	Leo Nolan	(202) 317-7007	IT&A
22.08	112	Leo Nolan	(202) 317-7007	IT&A
22.09	140	Leo Nolan	(202) 317-7007	IT&A
22.10	141	Leo Nolan	(202) 317-7007	IT&A
23.01	64	Eric E. Boody	(202) 317-6945	FI&P
23.02	218	Eric E. Boody	(202) 317-6945	FI&P
24.01	66	K. Scott Brown	(202) 317-6945	FI&P
		Laura Fields	(202) 317-6850	P&SI
		Adrienne Mikolashek	(202) 317-6850	P&SI
25.01	67	David Remus	(202) 317-6995	FI&P
25.02	155	Rebecca L. Baxter	(202) 317-6995	FI&P
25.03	219	Rebecca L. Baxter	(202) 317-6995	FI&P
26.01	68	David Remus	(202) 317-6995	FI&P
27.01	79	John W. Rogers, III	(202) 317-6895	FI&P
28	Reserved	Reserved	Reserved	
29.01	70	Peter Merkel	(202) 317-4919	INTL
30.01	Reserved	Reserved	Reserved	
31.01	72	William E. Blanchard	(202) 317-3900	FI&P
31.02	183	Charles W. Culmer	(202) 317-6945	FI&P

Section Number	Designated Automatic Accounting Change Number	Contact Name	Telephone Number	Office
32.01	73	William E. Blanchard	(202) 317-3900	FI&P
33.01	74	William E. Blanchard	(202) 317-3900	FI&P
33.02	75	William E. Blanchard	(202) 317-3900	FI&P

[1]Before November 1, 2015, please contact Daniel Cassano, at (202) 317-7011 (not a toll-free number).

[2]Before November 1, 2015, please contact Daniel Cassano, at (202) 317-7011 (not a toll-free number).

[3]Before November 1, 2015, please contact Daniel Cassano, at (202) 317-7011 (not a toll-free number).

[4]Before November 1, 2015, please contact Daniel Cassano, at (202) 317-7011 (not a toll-free number).

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.
(Also Part I, §§ 5000A; 1.5000A–4.)

Rev. Proc. 2015–15

SECTION 1. PURPOSE

This revenue procedure provides the 2015 monthly national average premium for qualified health plans that have a bronze level of coverage for taxpayers to use in determining their maximum individual shared responsibility payment under § 5000A(c)(1)(B) of the Internal Revenue Code and § 1.5000A–4 of the Income Tax Regulations.

SECTION 2. CHANGES

Revenue Procedure 2014–46, 2014–33 I.R.B. 367, describes the methodology used to determine the monthly national average bronze plan premium and provides the premium amount for 2014. This revenue procedure provides the monthly national average bronze plan premium for 2015.

SECTION 3. BACKGROUND

.01 Section 5000A provides that if a taxpayer, or an individual for whom the taxpayer is liable, is without minimum essential coverage for one or more months in a taxable year, then the taxpayer is liable for the individual shared responsibility payment when filing his or her federal income tax return, unless an exemption applies. *See* § 5000A(a), (b)(1). In general, under § 5000A a taxpayer is liable for any individual who is a dependent, as defined in § 152, of the taxpayer. *See* §§ 5000A(b)(3)(A) and 1.5000A–1(c). Married individuals who file a joint return for a taxable year are jointly liable for any individual shared responsibility payment for a month included in the taxable year. *See* §§ 5000A(b)(3)(B) and 1.5000A–1(c)(3).

.02 For each taxable year, the individual shared responsibility payment is the lesser of (1) the sum of the monthly penalty amounts, or (2) the sum of the monthly national average bronze plan premiums for the shared responsibility family. *See* § 1.5000A–4(a). The monthly national average bronze plan premium means, for a month for which a shared responsibility payment is imposed, 1/12 of the annual national average premium for qualified health plans that (1) have a bronze level of coverage, (2) would provide coverage for the taxpayer's shared responsibility family members, and (3) are offered through Exchanges for plan years beginning in a calendar year with or within which the taxable year ends. *See* §§ 5000A(c)(1)(B) and 1.5000A–4(c). Shared responsibility family means, for a month in a taxable year, all nonexempt individuals for whom the taxpayer and the taxpayer's spouse, if the taxpayer is married and files a joint return with the spouse, are liable for the shared responsibility payment under § 5000A for that taxable year. *See* § 1.5000A–1(d)(17).

SECTION 4. MONTHLY NATIONAL AVERAGE BRONZE PLAN PREMIUM FOR 2015

.01 *Monthly National Average Bronze Plan Premium*. For purposes of § 5000A(c)(1)(B) and § 1.5000A–4, the monthly national average premium for qualified health plans that have a bronze level of coverage and are offered through Exchanges in 2015 is $207 per individual.

.02 *Maximum Monthly National Average Bronze Plan Premium*. For purposes of § 5000A(c)(1)(B) and § 1.5000A–4, the maximum monthly national average premium for qualified health plans that have a bronze level of coverage and are offered through Exchanges in 2015 is $1,035 for a shared responsibility family with five or more members.

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective for taxable years ending after December 31, 2014.

SECTION 6. EFFECT ON OTHER DOCUMENTS

Revenue Procedure 2014–46 is superseded.

SECTION 7. DRAFTING INFORMATION

The principal author of this revenue procedure is John B. Lovelace of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Mr. Lovelace at (202) 317-7006 (not a toll-free number).

Part IV. Items of General Interest

U.S.–Kazakhstan Agreement on Fiscally Transparent Entities

Announcement 2015–4

The following is a copy of the Competent Authority Agreement ("the Agreement") that was released to the public on February 2, 2015, by the Competent Authorities of the United States and Kazakhstan regarding the eligibility of entities that are treated as fiscally transparent under the laws of either Contracting State to benefits under the Convention Between the Government of the United States of America and the Government of the Republic of Kazakhstan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed on October 24, 1993 (the "Treaty").

The text of the Agreement is as follows:

COMPETENT AUTHORITY MUTUAL AGREEMENT

The competent authorities of the United States and of Kazakhstan hereby enter into the following mutual agreement (the "Agreement") regarding the eligibility of entities that are treated as fiscally transparent under the laws of either Contracting State to benefit under the Convention between the Government of the United States of America and the Government of the Republic of Kazakhstan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, along with a Protocol, signed on October 24, 1993. The Agreement specifies the cases where fiscally transparent entities are entitled to treaty benefits and clarifies the procedure for claiming treaty benefits from one of the Contracting States. The Agreement is entered into under paragraph 3 of Article 25 (Mutual Agreement Procedure).

1) Eligibility of fiscally transparent entities for treaty benefits

Article 4(1)(b) of the Convention provides:

For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, citizenship, place of management, place of incorporation, or any other criterion of a similar nature.

* * * * *

b) In the case of income derived by a partnership, trust, or estate, residence is determined in accordance with the residence of the person liable to tax with respect to such income.

The competent authorities agree that, in applying Article 4(1)(b) of the Convention, it is understood that income from sources within one of the Contracting States received by an entity, wherever organized, that is treated as fiscally transparent under the laws of either Contracting State will be treated as income derived by a resident of the other Contracting State to the extent that such income is subject to tax as the income of a resident of the other Contracting State.

For example, if a resident of the United States is a member of a limited liability company ("LLC") that is treated for U.S. federal tax purposes as a partnership, the resident of the United States would be afforded benefits of the Convention on the income that the resident derives from Kazakhstan through the LLC to the extent of the resident's share of that income. Similar rules would apply to a resident of the United States that is a partner of a partnership, a shareholder of a subchapter S Corporation, an owner of an LLC that is disregarded as an entity separate from its owner, or an owner of a grantor trust.

Similarly, if a resident of Kazakhstan is a member of a simple partnership, a consortium, or other joint venture that is treated as fiscally transparent under the laws of Kazakhstan, the resident of Kazakhstan would be afforded benefits of the Convention on the income that the resident derives from the United States through such an arrangement to the extent of the resident's share of that income.

2) Appropriate procedures for confirming U.S. residence

Any fiscally transparent entity, such as a general or limited partnership, shall request a certificate of residence on behalf of its owners that are residents of the United States. Accordingly, a U.S. LLC or other entity organized within or without the United States that is treated as a partnership for U.S. federal tax purposes shall obtain a certificate of residence on Form 6166 in the same manner as a partnership. For partnerships that are required to file Form 1065, U.S. Return of Partnership Income, generally domestic partnerships and foreign partnerships with U.S. source income, the Form 6166 confirms the filing of such form and includes a list of partners who have filed tax returns as U.S. residents. Form 6166 will inform the withholding agent to contact the partnership directly to provide information regarding the allocation of a particular payment to a specific partner. If a foreign partnership with U.S. partners is not required to file a Form 1065, the Form 6166 will confirm that position and otherwise contain the same information regarding its U.S. partners.

A U.S. LLC or other entity organized within or without the United States that is disregarded as an entity separate from its owner for U.S. tax purposes shall obtain a Form 6166 that provides that the LLC or such other entity is a branch, division, or business unit of its single member owner and that such single member owner is a resident of the United States.

A U.S. resident deriving income through a U.S. corporation that has made an election to be treated as an S Corporation for U.S. tax purposes shall also be certified in a manner similar to a partner in a partnership. The S corporation obtains a Form 6166 certificate of residence that confirms the filing of an information return, Form 1120S, U.S. Income Tax Return for an S Corporation, as required for a domestic S corporation, and includes a list of shareholders that are residents of the United States for purposes of U.S. taxation.

The competent authorities have agreed that U.S. persons providing original Forms 6166 to claim treaty benefits from Kazakhstan are not required to obtain apostils to authenticate such forms.

Agreed to by the undersigned competent authorities:

Douglas W. O'Donnell
U.S. Competent Authority

____
Date

Daulet Yergozhin
Chairman
State Revenue Committee
Ministry of Finance
Republic of Kazakhstan

____
Date

Notice of Proposed Rulemaking Notice of Public Hearing Credit for Increasing Research Activities

REG–153656–3

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Withdrawal of advance notice of proposed rulemaking; notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations concerning the application of section 41 of the Internal Revenue Code (Code), which provides a credit for increasing research activities. The proposed regulations provide guidance on computer software that is developed by (or for the benefit of) the taxpayer primarily for internal use by the taxpayer (internal use software) under section 41(d)(4)(E). These proposed regulations also include examples to illustrate the application of the process of experimentation requirement to computer software under section 41(d)(1)(C). The regulations will affect taxpayers engaged in research activities involving computer software. This document also provides notice of a public hearing on these proposed regulations and withdraws the advance notice of proposed rulemaking published on January 2, 2004.

DATES: Written or electronic comments must be received by March 23, 2015. Outlines of topics to be discussed at the public hearing scheduled for April 17, 2015, must be received by March 23, 2015.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–153656–03), room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–153656–03), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C.; or sent electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–153656–03). The public hearing will be held in IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT

Concerning the regulations, Martha Garcia, (202) 317-6853; concerning submission of comments, the hearing, and/or to be placed on the building access list to attend the hearing, call Oluwafunmilayo (Funmi) Taylor, (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document amends 26 CFR part 1 to provide rules relating to the credit for increasing research activities (research credit) under section 41 of the Code. On January 2, 1997, the Treasury Department and the IRS published a notice of proposed rulemaking (REG–209494–90, referred to in this preamble as the 1997 proposed regulations) in the **Federal Register** (62 FR 81) to provide guidance on internal use software under section 41(d)(4)(E). Final regulations (TD 8930, referred to in this preamble as the 2001 final regulations), which substantively modified the 1997 proposed regulations on internal use software, and also addressed other aspects of section 41, were published in the **Federal Register** (66 FR 280) on January 3, 2001. In response to taxpayer concerns regarding the 2001 final regulations, on January 31, 2001, Treasury and the IRS published Notice 2001–19 (2001–10 IRB 784) (see §601.601(d)(2) of this chapter) announcing that Treasury and the IRS would review the 2001 final regulations and reconsider comments previously submitted. Notice 2001–19 also provided that, upon the completion of this review, Treasury and the IRS would announce changes to the regulations, if any, in the form of new proposed regulations. On December 26, 2001, the Treasury Department and the IRS published proposed regulations (REG–112991–01, referred to in this preamble as the 2001 proposed regulations) in the **Federal Register** (66 FR 66362) relating to internal use software and other aspects of section 41. On January 2, 2004, the Treasury Department and the IRS published final regulations (TD 9104, referred to in this preamble as the 2004 final regulations) in the **Federal Register** (69 FR 22) on the research credit. The 2004 final regulations finalized the 2001 proposed regulations' rules relating to the definition of qualified research under section 41(d), but did not finalize rules relating to internal use software under section 41(d)(4)(E). The 2004 final regulations reserve the rules for internal use software. See §1.41–4(c)(6).

Concurrently with the 2004 final regulations, the Treasury Department and the IRS issued an advance notice of proposed rulemaking (2004 ANPRM) (published in the **Federal Register** (69 FR 43)). The 2004 ANPRM invited comments from the public regarding the 2001 proposed regulations relating to internal use software under section 41(d)(4)(E). The Treasury Department and the IRS specifically requested comments concerning the definition of internal use software. In addition, the Treasury Department and the IRS requested comments on whether final rules relating to internal use software should have retroactive effect. Written and electronic comments responding to the 2004 ANPRM were received. The preamble to these proposed regulations describes many of the comments received by the Treasury Department and the IRS. Although not all of the comments are addressed in this preamble, the Treasury Department and the IRS have reviewed and considered all written and electronic comments in the process of preparing these proposed regulations.

General Overview

Section 41(d)(4)(E) provides that, except to the extent provided by regulations, research with respect to computer software that is developed by (or for the benefit of) the taxpayer primarily for internal use by the taxpayer is excluded from the definition of qualified research under section 41(d). Software that is developed for use in an activity that constitutes qualified research and software that is developed for use in a production process with respect to which the general credit eligibility requirements are satisfied are not excluded as internal use software under section 41(d)(4)(E).

Legislative History

The legislative history of the Tax Reform Act of 1986, Public Law 99–514 (100 Stat. 2085 (1986)) (1986 Act), states that "the costs of developing software are not eligible for the credit where the software is used internally, for example, in general and administrative functions (such as payroll, bookkeeping, or personnel management) or in providing noncomputer services (such as accounting, consulting, or banking services) except to the extent permitted by Treasury regulations." See H.R. Conf. Rep. No. 841, at II–73 (1986 legislative history). The 1986 legislative history further states that Congress intended that regulations would make the costs of new or improved internal use software eligible for the credit only if the research satisfies, in addition to the general requirements for credit eligibility, an additional three-part high threshold of innovation test (that is, that the software is innovative, that the software development involves significant economic risk, and that the software is not commercially available for use by the taxpayer).

Congress extended the research credit a number of times since the 1986 Act, but has not made any changes to the statutory definition of qualified research or to the statutory exclusion from that definition for internal use software in section 41(d)(4)(E). When Congress extended the research credit in the Tax Relief Extension Act of 1999, (Public Law 106–170, 113 Stat. 1860 (1999)), however, the legislative history stated the following with respect to internal use software:

> The conferees further note the rapid pace of technological advance, especially in service-related industries, and urge the Secretary to consider carefully the comments he has and may receive in promulgating regulations in connection with what constitutes "internal use" with regard to software expenditures. The conferees also wish to observe that software research, that otherwise satisfies the requirements of section 41, which is undertaken to support the provision of a service, should not be deemed "internal use" solely because the business component involves the provision of a service.

H.R. Conf. Rep. No. 106–478, at 132 (1999).

Prior Regulations

As discussed in the 2004 ANPRM, prior regulatory guidance generally reflects three approaches to the definition of internal use software. The 1997 proposed regulations closely followed the language contained in the 1986 legislative history and required an evaluation of "all relevant facts and circumstances" to determine whether software was primarily for internal use. The 1997 proposed regulations referenced the 1986 legislative history's identification of software used in general and administrative functions or used in providing noncomputer services as generally not eligible for the research credit. The 1997 proposed regulations also incorporated the legislative history's three-part high threshold of innovation test. The 2001 final regulations provided greater specificity than the 1997 proposed regulations regarding the definition of internal use software by distinguishing between computer services and noncomputer services and providing a rule that the development of internal use software used to deliver noncomputer services to customers with new features that are not yet offered by a taxpayer's competitors is deemed to satisfy the three-part high threshold of innovation test. The 2001 final regulations continued to provide a general definition of internal use software that incorporated the 1986 legislative history's examples of general and administrative functions and noncomputer services, but modified the application of the three-part high threshold of innovation test to require a comparison of "the intended result with software that is within the common knowledge of skilled professionals" to determine if internal use software is innovative or the development involves significant economic risk. Finally, the 2001 proposed regulations continued to distinguish between software that provides computer services and software that provides noncomputer services, but did not include the rule provided in the 2001 final regulations that the development of internal use software used to deliver noncomputer services to customers with new features that are not yet offered by a taxpayer's competitors was deemed to satisfy the three-part high threshold of innovation test. Instead, the 2001 proposed regulations departed from the language used in the 1986 legislative history and provided a bright-line presumption that software is developed primarily for internal use unless the software is developed to be commercially sold, leased, licensed, or otherwise marketed for separately stated consideration to unrelated third parties. The 2001 proposed regulations also modified the innovation component of the three-part high threshold of innovation test to state that software is innovative if intended to be unique or novel and differ in a significant and inventive way from prior software implementations or methods.

Summary of Comments and Explanation of Provisions

In General

These proposed regulations provide a definition of software developed primarily for internal use and describe software not developed primarily for internal use. These proposed regulations also provide that certain internal use software is eligible for the research credit if the software satisfies the high threshold of innovation test. These proposed regulations provide rules for computer software that is developed for both internal use and noninternal use (dual function computer software), including a safe harbor for determining if any of the expenditures with respect to dual function computer software are qualified research expenditures. These proposed regulations include examples to illustrate application of the proposed regulations for internal use software. Finally, these proposed regulations include examples under §1.41–4 to illustrate the application of the process of experimentation requirement to computer software under section 41(d)(1)(C).

Definition of Internal Use Software

The 2004 ANPRM requested comments concerning an appropriate definition of internal use software that reflects the statute and legislative intent, can be readily applied by taxpayers and readily administered by the IRS, and is flexible enough to provide continuing application into the future. In submitting comments, commenters were invited to address any of the definitions included in prior guidance as well as other definitions that have been proposed to the Treasury Department and the IRS.

Commenters suggested that the definition of internal use software should closely follow the general and administrative examples from the 1986 legislative history. Commenters stated that characterizing services provided to customers as "computer" or "noncomputer" will result in disparate treatment. Commenters recommended that the definition should be based on the function provided by the software and not the overall nature of the end product or service provided to third parties. Commenters noted that a facts and circumstances functionality rule may be more difficult to administer, but it is preferable to a bright-line separately stated consideration rule. In addition, commenters asserted that today's highly integrated nature of software development will not prevent taxpayers from being able to separate software development into functions.

Although the 1986 legislative history indicates that Congress intended internal use software to include software used in noncomputer services, the 1999 legislative history requests that Treasury note the rapid pace of technological advance, especially in service-related industries, when providing rules for internal use software. The role that computer software plays in business activities is very different today than it was when the exclusion for internal use software was enacted in 1986. Today, computer software is used in all aspects of business activity, especially in providing goods and services to third parties, and such software has played a vital role in increasing the productivity of the U.S. economy and in making the U.S. more competitive globally.

Accordingly, these proposed regulations provide that software is developed by (or for the benefit of) the taxpayer primarily for internal use if the software is developed by the taxpayer for use in general and administrative functions that facilitate or support the conduct of the taxpayer's trade or business. Similarly, software that the taxpayer develops primarily for a related party's internal use will be considered internal use software. A related party is any corporation, trade or business, or other person that is treated as a single taxpayer with the taxpayer pursuant to section 41(f). Furthermore, these proposed regulations eliminate the distinction between software developed to deliver computer and noncomputer services.

Under these proposed regulations, general and administrative functions are limited to financial management functions, human resource management functions, and support services functions. Financial management functions are functions that involve the financial management of the taxpayer and the supporting recordkeeping. Human resource management functions are functions that manage the taxpayer's workforce. Support services functions are functions that support the day-to-day operations of the taxpayer, such as data processing or facilities services.

This list of functions that constitute general and administrative functions is intended to target the back-office functions of a taxpayer that most taxpayers would have regardless of the taxpayer's industry. The benefits of software developed by the taxpayer for use in general and administrative functions are likely to be captured only by the taxpayer developing it and therefore exclusion from credit eligibility is more consistent with the purposes for which Congress created the credit. However, the characterization of a function as back-office may depend upon the taxpayer's industry. For example, tax software in the tax services industry is not used by the taxpayer in a general and administrative function, but for taxpayers that do not provide tax services, tax software is used by the taxpayer in a general and administrative function.

Non-Internal Use Software

Some commenters, addressing the 2001 proposed regulations' definition of internal use software, suggested that software that is not developed to be commercially sold, leased, licensed, or otherwise marketed for separately stated consideration should not be presumed to be internal use software. Some commenters also questioned whether the exception for software developed to be commercially sold, leased, or licensed is appropriate given the purposes of the research credit. These commenters suggested that such criteria may not further the purposes of the statute because whether software is held for sale may not be indicative of the software's function. These proposed regulations do not contain a presumption for software that is not developed to be commercially sold, leased, licensed, or otherwise marketed for separately stated consideration, but they do treat software that is developed to be commercially sold, leased, licensed, or otherwise marketed as software not developed primarily for internal use.

The Treasury Department and the IRS have determined that the purpose of the software's development can be indicative of the software's function. In this way, the inquiry of whether software is developed for commercial sale, lease, or license looks to the purpose of the software and serves as an additional test separate from a pure functionality test. This approach to identifying software not developed primarily for internal use furthers the underlying purpose of the statute because the benefits from software held for commercial sale, lease, or license are likely to be captured by persons other than the taxpayer developing the software. Accordingly, it should be eligible for the research credit provided the other requirements of section 41 are met. Similarly, software that enables a taxpayer to interact with third parties or allows third parties to initiate functions or review data on the taxpayer's system does not solely benefit the taxpayer developing the software, and therefore it is appropriate to exclude such software from the definition of internal use software.

Accordingly, these proposed regulations provide that software is not developed primarily for internal use if it is developed to be commercially sold, leased, licensed, or otherwise marketed to third parties, or if it is developed to enable a taxpayer to interact with third parties or to allow third parties to initiate functions or review data on the taxpayer's system. Examples of software developed to enable a taxpayer to interact with third parties or to allow third parties to initiate functions or review data include software developed for third parties to execute banking transactions, track the progress of a delivery of goods, search a taxpayer's inventory for goods, store and retrieve a third party's digital files, purchase tickets for transportation or entertainment, and receive services over the internet. For purposes of these rules, third parties do not include any persons that use the software to support a taxpayer's general and administrative functions that facilitate or support the conduct of the taxpayer's trade or business.

Whether software is not developed primarily for internal use depends upon the intent of the taxpayer and the facts and circumstances at the beginning of the software development. If a taxpayer originally develops software primarily for internal use but later makes improvements to the software with the intent to hold the improved software for commercial sale, lease, or license or to allow third parties to initiate functions or review data, the improvements will be considered separate from the existing software and will not be considered to be for internal use. Likewise, if a taxpayer originally develops software for commercial sale, lease, or license or to interact with third parties or to allow third parties to initiate functions or review data, but later makes improvements to the software with the intent to use the software in general and administrative functions, the improvements will be considered developed primarily for internal use. Any improvements to the existing software will be considered separate from the existing software and the application of the internal use software rules will be made solely to the improvements to the software. Additionally, software that is intended to be developed for commercial sale, lease, or license will not be considered internal use merely because the taxpayer tests the software by using it internally.

Dual Function Computer Software

The Treasury Department and the IRS recognize the need to provide guidance on whether computer software is developed "primarily" for internal use if a taxpayer develops software that serves both general and administrative and non-general and administrative functions. These proposed regulations balance administrative and compliance concerns with the need to provide substantive rules appropriate to the purposes of the research credit. To further these objectives, the proposed regulations provide that dual function computer software is presumed to be developed primarily for a taxpayer's internal use. However, this presumption is inapplicable to the extent that a taxpayer can identify a subset of elements of dual function computer software that only enables a taxpayer to interact with third parties or to allow third parties to initiate functions or review data (third party subset). The proposed regulations provide that if the taxpayer can identify the third party subset, the portion of research expenditures allocable to a third party subset of the dual function computer software may be eligible for the research credit, provided all the other applicable requirements are met.

Moreover, the proposed regulations provide taxpayers with a safe harbor to apply to dual function computer software if a third party subset cannot be identified or to the remaining subset of dual function computer software after the third party subset has been identified (dual function subset). The safe harbor allows a taxpayer to include 25 percent of the qualified research expenditures of the dual function subset in computing the amount of the taxpayer's credit, provided that the taxpayer's research activities related to the dual function subset constitute qualified research and the use of the dual function subset by third parties or by the taxpayer to interact with third parties is reasonably anticipated to constitute at least 10 percent of the dual function subset's use. The proposed regulations provide that taxpayers must use an objective, reasonable method to estimate the computer software's use by third parties or by the taxpayer to interact with third parties and such use of the dual function computer software is estimated at the beginning of software development. The proposed regulations contain a facts and circumstances approach to determine a taxpayer's intent at the beginning of computer software development and provide several examples illustrating these rules. In the Request for Public Comments section of this preamble, the Treasury Department and the IRS request comments on the administrability of certain objective, reasonable methods of measuring third parties' reasonably anticipated use as well as other appropriate, objective standards that can be used to measure third parties' reasonably anticipated use.

Computer Software and Hardware Developed as a Single Product

Based upon the 1986 legislative history, these proposed regulations retain the exception for computer software and hardware developed as a single product and provide that internal use software does not include a new or improved package of computer software and hardware developed together by the taxpayer as a single product that is used directly by the taxpayer in providing services in the taxpayer's trade or business. These proposed regulations provide an example illustrating this rule.

Computer Software as Part of a Production Process

Several commenters asserted that computer software supporting the delivery of goods or services to third parties is not internal use software because the software is part of a production process within the meaning of section 41(d)(4)(E)(ii). Thus, for example, computer software that is used to track a taxpayer's inventory of goods would not be internal use software because the tracking of inventory supports the taxpayer's ability to deliver goods to third parties, which is a final step in the taxpayer's production process.

The Treasury Department and the IRS do not agree that computer software supporting the delivery of goods or services to third parties is part of a production process within the meaning of section 41(d)(4)(E)(ii). To the contrary, the delivery of goods and services to third parties is a post-production activity. Nonetheless, under rules provided in these proposed regulations and described previously in this preamble, computer software supporting the delivery of goods or services to third parties may not be within the definition of software developed primarily for internal use to the extent that the software enables a taxpayer to interact with third parties or allows third parties to initiate functions or review data.

High Threshold of Innovation

The high threshold of innovation test is derived from the legislative history of section 41(d)(4)(E). The Conference Report states:

> The conferees intend that these regulations will make the costs of new or improved internal-use software eligible for the credit only if the taxpayer can establish, in addition to satisfying the general requirements for credit eligibility, (1) that the software is innovative (as where the software results in a reduction in cost, or improvement in speed, that is substantial and economically significant); (2) that the software development involves significant economic risk (as where the taxpayer commits substantial resources to the development and also there is substantial uncertainty, because of technical risk, that such resources would be recovered within a reasonable period); and (3) that the software is not commercially available for use by the taxpayer (as where the software cannot be purchased, leased, or licensed and used for the intended purpose without modifications that would satisfy the first two requirements just stated).

See H.R. Conf. Rep. No. 841, at II–73.

Prior guidance reflects the 1986 legislative history by requiring that, in addition to satisfying the general requirements for the research credit, internal use software must meet the high threshold of innovation test to qualify for the credit. The high threshold of innovation test, described in this section of the preamble, is intended to limit credit eligibility of software developed primarily for internal use to software development that meets a higher standard than other business components. At the same time, it is clear that Congress intended that some software developed primarily for internal use would meet the high threshold of innovation test. Accordingly, the requirements should not be so restrictive as to make the test impossible to meet. The proposed regulations provide rules of application with respect to the high threshold of innovation test that reflect this purpose.

Innovation

The 1986 legislative history requires that the software result in a reduction in cost or improvement in speed that is substantial and economically significant. The 1997 proposed regulations contained an objective definition consistent with the 1986 legislative history. The 2001 final regulations modified the application of the innovation component of the high threshold of innovation test to require a comparison of "the intended result with software that is within the common knowledge of skilled professionals." As described previously in this preamble, the 2001 proposed regulations proposed a new definition of innovation that departed from the 1986 legislative history in that it required that the taxpayer intended the software to be unique or novel and that the taxpayer intended it to differ in a significant and inventive way from prior software implementations or methods. Most commenters requested that the definition reflect the more mechanical and quantitative approach in the 1986 legislative history and the 1997 proposed regulations.

Consistent with the 1986 legislative history, these proposed regulations provide that software is innovative if the software would result in a reduction in cost or improvement in speed or other measurable improvement, that is substantial and economically significant, if the development is or would have been successful. The innovativeness test does not require that the software development actually be successful, but assuming the software development would have been successful, the test requires that it would have resulted in such an improvement. This approach is measurable and objective, and should reduce the potential for controversy.

Significant Economic Risk

These proposed regulations, consistent with the 1986 legislative history, require that the software development involve significant economic risk, which exists if the taxpayer commits substantial resources to the development and there is substantial uncertainty, because of technical risk, that such resources would be recovered within a reasonable period. These proposed regulations do not incorporate the "common knowledge of skilled professionals" comparative assessment of uncertainty and technical risk that was adopted in the 2001 final regulations. As provided in these proposed regulations, the significant economic risk test is applied to the level of uncertainty involved at the outset of the development rather than the degree of innovation represented by the end result.

Section 1.41–4(a)(3) of the current regulations, which establishes the criteria for establishing whether research is undertaken for the purpose of discovering information, provides that "uncertainty exists if the information available to the taxpayer does not establish the capability or method for developing or improving the business component or the appropriate design of the business component." Under §1.41–4(a)(3), uncertainty must relate to the capability or method for developing or improving the business component, or the appropriate design of the business component. For purposes of defining "substantial uncertainty" to determine if there is significant economic risk with respect to the high threshold of innovation test, the use of the word "substantial" indicates a higher threshold of uncertainty than that required for business components that are not internal use software.

Therefore, these proposed regulations provide that substantial uncertainty exists if, at the beginning of the taxpayer's activities, the information available to the taxpayer does not establish the capability or method for developing or improving the software. Internal use software research activities that involve only uncertainty related to appropriate design, and not capability or methodology, do not qualify as having substantial uncertainty for purposes of the high threshold of innovation test. The requirement that the uncertainty relate to the capability or method, but not the appropriate design of the business component creates the higher threshold for eligibility that Congress intended for certain internal use software, while creating a logical relationship with the general requirements under §1.41–4(a)(3). Additionally, the reference to known, previously defined terms reduces potential controversy arising from the use of new undefined terms.

There has been some controversy regarding whether the significant economic risk test concerns technical risk or economic risk. The Treasury Department and the IRS interpret the significant economic risk test to require both technical and economic risk. It requires technical risk because there must be uncertainty that is technological in nature, as defined in §1.41–4(a)(4) of the current regulations. However, it also requires economic risk because the taxpayer must devote substantial resources to the development and, by virtue of the technical risk, there must be uncertainty regarding whether the final result can be achieved within a timeframe that will allow those resources to be recovered within a reasonable period.

Commercially Available for Use

The proposed regulations reflect the 1986 legislative history and are consistent with all prior regulations regarding the commercially available for use standard. The proposed regulations provide that internal use software may only satisfy the high threshold of innovation standard if the software is not commercially available for use by the taxpayer in that the software cannot be purchased, leased, or licensed and used for the intended purpose without modifications that would satisfy the innovation and significant economic risk requirements.

Addition of Process of Experimentation Examples for Computer Software

The 2004 final regulations provide that experimentation with respect to technological uncertainty qualifies as a process of experimentation under section 41(d)(1)(C). However, none of the examples in the 2004 final regulations involved the development of computer software. These proposed regulations provide examples of how the process of experimentation test is applied to computer software. The examples also illustrate that certain types of web design and the installation of enterprise resource planning software generally do not qualify as a process of experimentation under the 2004 final regulations. Additionally, these proposed regulations illustrate computer software development that does qualify as a process of experimentation, and in particular, software development in which the taxpayer has technological uncertainty regarding the appropriate design.

Comments and Public Hearing

Comments are requested on all aspects of these proposed regulations. Specifically, the Treasury Department and the IRS invite comments that provide information on:

1. The appropriate definition and treatment of connectivity software that allows multiple processes running on one or more machines to interact across a network, sometimes referred to as bridging software, integration software, or middleware,

2. For purposes of the dual function computer software safe harbor, the administrability of measuring the reasonably anticipated use of software by taxpayers to interact with third parties and by third parties to initiate functions or review data based on reasonable methods, such as processing time, amount of data transfer, number of software user interface screens, and number of third party initiated functions, as well as other objective, reasonable methods to measure the dual function computer software's reasonably anticipated use by taxpayers to interact with third parties and by third parties to initiate functions or review data, and whether the regulations should include specific reasonable methods and examples, and

3. Facts and circumstances, other than those factors enumerated in the legislative history, to be considered in determining whether internal use software satisfies the three prongs of the high threshold of innovation test.

Proposed Effective/Applicability Date

The Treasury Department and the IRS requested comments in the 2004 ANPRM on whether final regulations relating to internal use software should be effective retroactively. Some commenters requested that the rules apply retroactively back to 1986, while other commenters requested that the regulations be prospective only. After careful consideration, and in light of the length of time that has passed since 1986, as well as the developments with respect to computer software, the Treasury Department and the IRS have decided that these proposed regulations, once finalized, will be prospective only. The rules contained in these regulations are proposed to 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**. Notwithstanding the prospective effective date, the IRS will not challenge return positions consistent with these proposed regulations for taxable years ending on or after the date these proposed regulations are published.

The rules in these proposed regulations are not, and should not be viewed as, an interpretation of prior regulatory guidance or of the 1986 legislative history. For example, software not developed for internal use under these proposed regulations, such as software developed to enable a taxpayer to interact with third parties, may or may not have been internal use software under prior law.

Withdrawal of the 2004 ANPRM

The 2004 ANPRM provides that with respect to internal use software for taxable years beginning after December 31, 1985, and until further guidance is published, taxpayers may continue to rely upon all of the provisions in the 2001 proposed regulations, or alternatively, all of the provisions in the 2001 final regulations. As a consequence of the publication of these proposed regulations, and to provide guidance with respect to the application of internal use software rules contained in regulations issued prior to these proposed regulations, the Treasury Department and the IRS withdraw the 2004 ANPRM effective for taxable years beginning on or after the date of issuance of these proposed regulations. For taxable years ending before the date these proposed regulations are published in the **Federal Register**, taxpayers may choose to follow either all of the internal use software provisions of §1.41–4(c)(6) in the 2001 final regulations or all of the internal use software provisions of §1.41–4(c)(6) in the 2001 proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. Additionally, this notice of proposed rulemaking does not impose a collection of information.

An initial regulatory flexibility analysis has been prepared for this notice of proposed rulemaking under 5 U.S.C. 603. The analysis is set forth under the heading "Initial Regulatory Flexibility Analysis." Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Initial Regulatory Flexibility Analysis

These proposed regulations affect taxpayers engaged in research activities involving computer software. The reasons for promulgation of these regulations, and their legal basis, are set forth in this preamble under the heading "Summary of Comments and Explanation of Provisions." Section 41(d)(4)(E) provides that, except to the extent provided by regulations, research with respect to computer software that is developed by (or for the benefit of) the taxpayer primarily for internal use by the taxpayer is excluded from the definition of qualified research under section 41(d). The objective of these proposed regulations is to provide a narrower exclusion of software from qualified research than provided in prior regulatory guidance.

The types of small entities to which these regulations may apply are small corporations and partnerships, and other small businesses, covering all areas of industry. Therefore, the Treasury Department and the IRS have determined that these proposed regulations will have an impact on a substantial number of small entities. Because these proposed regulations provide a narrower definition of internal use software, the research credit will be available to a greater number of small entities than was previously available under prior guidance. Therefore, the Treasury Department and the IRS have determined that these proposed regulations will have a positive economic impact on a substantial number of small entities.

These proposed regulations do not impose any additional reporting, recordkeeping, or other compliance requirements aside from the record keeping requirements under §1.6001–1 that are generally applicable to all persons subject to tax. Section 1.6001–1 requires the keeping of records "sufficient to establish the amount of * * * credits * * * required to be shown * * * in any return of such tax * * *." The Treasury Department and the IRS determined that the rules generally applicable under section 6001 provide sufficient detail about required documentary substantiation for purposes of the research credit, and thus no additional record keeping or reporting is required.

Comments are requested on the nature and extent of the economic burden imposed on small entities by these proposed regulations and on alternatives that would be less burdensome to small entities.

The Treasury Department and the IRS are not aware of any duplicative, overlapping, or conflicting federal rules.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. Comments are requested on all aspects of these proposed regulations. All comments will be available at *www.regulations.gov* for public inspection and copying.

A public hearing has been scheduled for April 17, 2015, beginning at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the "**FOR FURTHER INFORMATION CONTACT**" section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by March 23, 2015. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Martha M. Garcia, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the Treasury Department and the IRS participated in their development.

*****

Withdrawal of Advance Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, the advance notice of proposed rulemaking that was published in the **Federal Register** on January 2, 2004 (69 FR 43) is withdrawn.

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 is amended by adding entries in numerical order to read as follows:

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

Section 1.41–4 also issued under 26 U.S.C. 41(d)(4)(E). * * *

Par. 2. Section 1.41–4 is amended by:

1. Adding *Example 5* through *Example 10* at the end of paragraph (a)(8).

2. Revising paragraphs (c)(6) and (e).

The additions and revisions read as follows:

§1.41–4 Qualified research for expenditures paid or incurred in taxable years ending on or after December 31, 2003.

(a) * * *

(8) * * *

Example 5. (i) *Facts*. X, a retail and distribution company, wants to upgrade its warehouse management software. X evaluates several of the alternative warehouse management software products available from vendors in the marketplace to determine which product will best serve X's technical requirements. X selects vendor V's software.

(ii) *Conclusion*. X's activities to select the software are not qualified research under section 41(d)(1) and paragraph (a)(5) of this section. X did not conduct a process of evaluating alternatives in order to eliminate uncertainty regarding the development of a business component. X's evaluation of products available from vendors is not a process of experimentation.

Example 6. (i) *Facts*. X wants to develop a new web application to allow customers to purchase its products online. X, after reviewing commercial software offered by various vendors, purchases a commercial software package of object-oriented functions from vendor Z that X can use in its web application (for example, a shopping cart). X evaluates the various object-oriented functions included in vendor Z's software package to determine which functions it can use. X then incorporates the selected software functions in its new web application software.

(ii) *Conclusion*. X's activities related to selecting the commercial software vendor with the object-oriented functions it wanted, and then selecting which functions to use, are not qualified research under section 41(d)(1) and paragraph (a)(5) of this section. In addition, incorporating the selected object-oriented functions into the new web application software being developed by X did not involve conducting a process of evaluating alternatives in order to eliminate uncertainty regarding the development of software. X's evaluation of products available from vendors and selection of software functions are not a process of experimentation.

Example 7. (i) *Facts*. In order to be more responsive to user online requests, X wants to develop software to balance the incoming processing requests across multiple web servers that run the same set of software applications. Without evaluating or testing any alternatives, X decides that a separate server will be used to distribute the workload across each of the web servers and that a round robin workload distribution algorithm is appropriate for its needs.

(ii) *Conclusion*. X's activities to develop the software are activities relating to the development of a separate business component under section 41(d)(2)(A). X's activities to develop the load distribution function are not qualified research under section 41(d)(1) and paragraph (a)(5) of this section. X did not conduct a process of evaluating different load distribution alternatives in order to eliminate uncertainty regarding the development of software. X's selection of a separate server and a round robin distribution algorithm is not a process of experimentation.

Example 8. (i) *Facts*. X must develop load balancing software across a server cluster supporting multiple web applications. X's web applications have high concurrency demands because of a dynamic, highly volatile environment. X is uncertain of the appropriate design of the load balancing algorithm, given that the existing evolutionary algorithms did not meet the demands of their highly volatile web environment. Therefore, X designs and systematically tests and evaluates several different algorithms that perform the load distribution functions.

(ii) *Conclusion*. X's activities to develop software are activities to develop a separate business component under section 41(d)(2)(A). X's activities involving the design, evaluation, and systematic testing of several new load balancing algorithms meet the requirements as set forth in paragraph (a)(5) of this section. X's activities constitute elements of a process of experimentation because X identified uncertainties related to the development of a business component, identified alternatives intended to eliminate those uncertainties, and evaluated one or more alternatives to achieve a result where the appropriate design was uncertain at the beginning of X's research activities.

Example 9. (i) *Facts*. X, a multinational manufacturer, wants to install an enterprise resource planning (ERP) system that runs off a single database so that X could track orders more easily, and coordinate manufacturing, inventory, and shipping among many different locations at the same time. In order to successfully install and implement ERP software, X evaluates its business needs and the technical requirements of the software, such as processing power, memory, storage, and network resources. X devotes the majority of its resources in implementing the ERP system to evaluating the available templates, reports, and other standard programs and choosing among these alternatives in configuring the system to match its business process and reengineering its business process to match the available alternatives in the ERP system. X also performs some data transfer from its old system, involving routine programming and one-to-one mapping of data to be exchanged between each system.

(ii) *Conclusion*. X's activities related to the ERP software including the data transfer are not qualified research under section 41(d)(1) and paragraph (a)(5) of this section. X did not conduct a process of evaluating alternatives in order to eliminate uncertainty regarding the development of software. X's activities in choosing between available templates, reports, and other standard programs and conducting data transfer are not elements of a process of experimentation.

Example 10. (i) *Facts*. Same facts as *Example 9* except that X determines that it must interface part of its legacy software with the new ERP software because the ERP software does not provide a particular function that X requires for its business. As a result, X must develop an interface between its legacy software and the ERP software, and X evaluates several data exchange software applications and chooses one of the available alternatives. X is uncertain as to how to keep the data synchronized between the legacy and ERP systems. Thus, X engages in systematic trial and error testing of several newly designed data caching algorithms to eliminate synchronization problems.

(ii) *Conclusion*. Substantially all of X's activities of this ERP project do not satisfy the requirements for a process of experimentation. However, when the shrinking-back rule is applied, a subset of X's activities do satisfy the requirements for a process of experimentation. X's activities to develop the data caching software and keeping the data on the legacy and ERP systems synchronized meet the requirements of qualified research as set forth in paragraph (a)(2) of this section. Substantially all of X's activities to develop the specialized data caching and synchronization software constitute elements of a process of experimentation because X identified uncertainties related to the development of a business component, identified alternatives intended to eliminate those uncertainties, and evaluated alternatives to achieve a result where the appropriate design of that result was uncertain as of the beginning of the taxpayer's research activities.

* * * * *

(c) * * *

(6) *Internal use software*—(i) *General rule*. Research with respect to computer software that is developed by (or for the benefit of) the taxpayer primarily for the taxpayer's internal use is eligible for the research credit only if—

(A) The software satisfies the requirements of section 41(d)(1);

(B) The software is not otherwise excluded under section 41(d)(4) (other than section 41(d)(4)(E)); and

(C) One of the following conditions is met—

(*1*) The taxpayer develops the software for use in an activity that constitutes qualified research (other than the development of the internal use software itself);

(*2*) The taxpayer develops the software for use in a production process to which the requirements of section 41(d)(1) are met; or

(*3*) The software satisfies the high threshold of innovation test of paragraph (c)(6)(v) of this section.

(ii) *Computer software and hardware developed as a single product*. This paragraph (c)(6) does not apply to the development costs of a new or improved package of computer software and hardware developed together by the taxpayer as a single product (or to the costs to modify an acquired computer software and hardware package), of which the software is an integral part, that is used directly by the taxpayer in providing services in its trade or business. In these cases, eligibility for the research credit is to be determined by examining the combined hardware-software product as a single product.

(iii) *Software developed primarily for internal use*—(A) *In general*. Computer software is developed by (or for the benefit of) the taxpayer primarily for the taxpayer's internal use if the software is developed for use in general and administrative functions that facilitate or support the conduct of the taxpayer's trade or business. Software that the taxpayer develops primarily for a related party's internal use will be considered internal use software. A related party is any corporation, trade or business, or other person that is treated as a single taxpayer with the taxpayer pursuant to section 41(f).

(B) *General and administrative functions*. General and administrative functions are:

(*1*) *Financial management*. Financial management functions are functions that involve the financial management of the taxpayer and the supporting recordkeeping. Financial management functions include, but are not limited to, functions such as accounts payable, accounts receivable, inventory management, budgeting, cash management, cost accounting, disbursements, economic analysis and forecasting, financial reporting, finance, fixed asset accounting, general ledger bookkeeping, internal audit, management accounting, risk management, strategic business planning, and tax.

(*2*) *Human resources management*. Human resources management functions are functions that manage the taxpayer's workforce. Human resources management functions include, but are not limited to, functions such as recruiting, hiring, training, assigning personnel, and maintaining personnel records, payroll, and benefits.

(*3*) *Support services*. Support services are other functions that support the day-to-day operations of the taxpayer. Support services include, but are not limited to, functions such as data processing, facility services (for example, grounds keeping, housekeeping, janitorial, and logistics), graphic services, marketing, legal services, government compliance services, printing and publication services, and security services (for example, video surveillance and physical asset protection from fire and theft).

(iv) *Software not developed primarily for internal use*—(A) *In general*. Computer software is not developed primarily for the taxpayer's internal use if either—

(*1*) The software is developed to be commercially sold, leased, licensed, or otherwise marketed to third parties; or

(*2*) The software is developed to enable a taxpayer to interact with third parties or to allow third parties to initiate functions or review data on the taxpayer's system.

(B) *Time and manner of determination*. For purposes of paragraph (c)(6)(iv)(A) of this section, whether software is developed to be commercially sold, leased, or licensed, or to enable a taxpayer to interact with third parties or to allow third parties to initiate functions or review data depends on the intent of the taxpayer and the facts and circumstances at the beginning of the software development. Software will not be considered internal use software solely because it is used internally for purposes of testing prior to commercial sale, lease, or license. If a taxpayer originally develops software primarily for internal use, but later makes improvements to the software with the intent to hold the improved software for commercial sale, lease, or license, or to allow third parties to initiate functions or review data using the improved software, the improvements will be considered separate from the existing software and will not be considered internal use. Alternatively, if a taxpayer originally develops software for commercial sale, lease, or license, or to interact with third parties or to allow third parties to initiate functions or review data, but later makes improvements to the software with the intent to use the software in general and administrative functions, the improvements will be considered separate from the existing software and will be considered developed primarily for internal use.

(C) *Computer software developed for both internal use and to enable interaction with third parties*—(*1*) *Presumption of development primarily for internal use*. Unless paragraph (c)(6)(iv)(C)(*2*) or (*3*) of this section applies, computer software developed by (or for the benefit of) the taxpayer both for use in general and administrative functions that facilitate or support the conduct of the taxpayer's trade or business and to enable a taxpayer to interact with third parties or to allow third parties to initiate functions or review data (dual function computer software) is presumed to be developed primarily for a taxpayer's internal use.

(*2*) *Identification of a subset of elements of computer software that only enables interaction with third parties.* To the extent that a taxpayer can identify a subset of elements of dual function computer software that only enables a taxpayer to interact with third parties or allows third parties to initiate functions or review data (third party subset), the presumption under paragraph (c)(6)(iv)(C)(*1*) of this section does not apply to such third party subset, and such third party subset is not developed primarily for internal use under paragraph (c)(6)(iv)(A)(*2*).

(*3*) *Safe harbor for expenditures related to computer software developed for both internal use and to enable interaction with third parties*. If, after the application of paragraph (c)(6)(iv)(C)(*2*) of this section, there remains a subset of elements of dual function computer software (dual function subset), a taxpayer may include 25 percent of the qualified research expenditures of such dual function subset in computing the amount of the taxpayer's credit. This paragraph (c)(6)(iv)(C)(*3*) applies only if the taxpayer's research activities related to the development or improvement of the dual function computer software constitute qualified research under section 41(d), without regard to section 41(d)(4)(E), and the dual function subset's use by third parties or by the taxpayer to interact with third parties is reasonably anticipated to constitute at least 10 percent of the dual function subset's use. An objective, reasonable method must be used to estimate the dual function subset's use by third parties or by the taxpayer to interact with third parties and such use is estimated at the beginning of the computer software development.

(*4*) *Illustration*. The following examples illustrate provisions contained in this paragraph (c)(6)(iv)(C):

Example 1. Dual function computer software; identification of a third party subset—(i) *Facts*. Taxpayer develops computer software that Taxpayer uses in general and administrative functions that facilitate or support the conduct of Taxpayer's trade or business and that allows third parties to initiate functions. Taxpayer is able to identify the third party subset. Taxpayer incurs $50,000 of research expenditures for the computer software, 50% of which is allocable to the third party subset.

(ii) *Conclusion*. The computer software developed by Taxpayer is dual function computer software. Because Taxpayer is able to identify the third party subset, such third party subset is not presumed to be internal use software under paragraph (c)(6)(iv)(C)(*1*) of this section. If Taxpayer's research activities related to the third party subset constitute qualified research under section 41(d), and the allocable expenditures are qualified research expenditures under section 41(b), the $25,000 of the computer software research expenditures allocable to the third party subset may be included in computing the amount of Taxpayer's credit, pursuant to paragraph (c)(6)(iv)(C)(*2*) of this section. If, after the application of paragraph (c)(6)(iv)(C)(*2*) of this section, there remains a dual function subset, the Taxpayer may determine whether paragraph (c)(6)(iv)(C)(*3*) of this section applies.

Example 2. Dual function computer software; application of the safe harbor—(i) *Facts*. The facts are the same as in *Example 1*, except that Taxpayer is unable to identify a third party subset. Taxpayer uses an objective, reasonable method at the beginning of the computer software development to determine that the dual function computer software's use by third parties to initiate functions is reasonably anticipated to constitute 75% of the dual function computer software's use.

(ii) *Conclusion*. The computer software developed by Taxpayer is dual function computer software. The computer software is presumed to be developed primarily for internal use under paragraph (c)(6)(iv)(C)(*1*) of this section. Although Taxpayer is unable to identify a third party subset, Taxpayer reasonably anticipates that the dual function computer software's use by third parties is at least 10% of the dual function computer software's use. If Taxpayer's research activities related to the development or improvement of the dual function computer software constitute qualified research under section 41(d), without regard to section 41(d)(4)(E), and the allocable expenditures are qualified research expenditures under section 41(b), Taxpayer may include $12,500 of the computer software research expenditures of the dual function computer software in computing the amount of Taxpayer's credit pursuant to paragraph (c)(6)(iv)(C)(*3*) of this section.

Example 3. Dual function computer software; safe harbor inapplicable—(i) *Facts*. The facts are the same as in *Example 1*, except Taxpayer is unable to identify a third party subset. Taxpayer uses an objective, reasonable method at the beginning of the computer software development to determine that the dual function computer software's use by third parties to initiate functions is reasonably anticipated to constitute 5% of the dual function computer software's use.

(ii) *Conclusion*. The computer software developed by Taxpayer is dual function computer software. The computer software is presumed to be developed primarily for Taxpayer's internal use under paragraph (c)(6)(iv)(C)(*1*) of this section because Taxpayer is unable to identify a third party subset, and Taxpayer reasonably anticipates that the dual function computer software's use by third parties is less than 10% of the dual function computer software's use. Taxpayer may not include any of the computer software research expenditures of the dual function computer software in computing the amount of Taxpayer's credit unless Taxpayer's research activities related to the dual function computer software meet the requirements of paragraph (c)(6)(i) of this section.

Example 4. Dual function computer software; identification of a third party subset and the safe harbor—(i) *Facts*. Taxpayer develops computer software that Taxpayer uses in general and administrative functions that facilitate or support the conduct of Taxpayer's trade or business and that allows third parties to initiate functions and review data. Taxpayer is able to identify a third party subset (Subset A). The remaining dual function subset of the computer software (Subset B) allows third parties to review data and provides Taxpayer with data used in its general and administrative functions. Taxpayer is unable to identify a third party subset of Subset B. Taxpayer incurs $50,000 of research expenditures for the computer software, 50% of which is allocable to Subset A and 50% of which is allocable to Subset B. Taxpayer uses an objective reasonable method at the beginning of the computer software development to determine that the third party use of Subset B is reasonably anticipated to account for 50% of the use of Subset B.

(ii) *Conclusion*. The computer software developed by Taxpayer is dual function computer software. Because Taxpayer is able to identify a third party subset, such third party subset (Subset A) is not presumed to be internal use software under paragraph (c)(6)(iv)(C)(*1*) of this section. If Taxpayer's research activities related to the development or improvement of Subset A constitute qualified research under section 41(d), and the allocable expenditures are qualified research expenditures under section 41(b), the $25,000 of the computer software research expenditures allocable to Subset A may be included in computing the amount of Taxpayer's credit pursuant to paragraph (c)(6)(iv)(C)(*2*) of this section. Although Taxpayer is unable to identify a third party subset of Subset B, 50% of Subset B's use is reasonably anticipated to be attributable to the use of Subset B by third parties. If Taxpayer's research activities related to the development or improvement of Subset B constitute qualified research under section 41(d), without regard to section 41(d)(4)(E), and the allocable expenditures are qualified research expenditures under 41(b), Taxpayer may include $6,250 (25% x $25,000) of the computer software research expenditures of Subset B in computing the amount of Taxpayer's credit, pursuant to paragraph (c)(6)(iv)(C)(*3*) of this section.

(D) *Third party*. For purposes of paragraph (c)(6)(iv) of this section, the term *third party* means any corporation, trade or business, or other person that is not treated as a single taxpayer with the taxpayer pursuant to section 41(f). Additionally, for purposes of paragraph (c)(6)(iv)(A)(*2*) of this section, third parties do not include any persons that use the software to support the general and administrative functions of the taxpayer.

(v) *High threshold of innovation test*—

(A) *In general*. Computer software satisfies this paragraph (c)(6)(v) only if the taxpayer can establish that—

(*1*) The software is innovative;

(*2*) The software development involves significant economic risk; and

(*3*) The software is not commercially available for use by the taxpayer in that the software cannot be purchased, leased, or licensed and used for the intended purpose without modifications that would satisfy the requirements of paragraphs (c)(6)(v)(A)(*1*) and (*2*) of this section.

(B) *Innovative*. Software is innovative if the software would result in a reduction in cost or improvement in speed or other measurable improvement, that is substantial and economically significant, if the development is or would have been successful. This is a measurable objective standard, not a determination of the unique or novel nature of the software or the software development process.

(C) *Significant economic risk*. The software development involves significant economic risk if the taxpayer commits substantial resources to the development and if there is substantial uncertainty, because of technical risk, that such resources would be recovered within a reasonable period. This standard does not require technical uncertainty regarding whether the final result can ever be achieved, but rather whether the final result can be achieved within a timeframe that will allow the substantial resources committed to the development to be recovered within a reasonable period. Substantial uncertainty exists if, at the beginning of the taxpayer's activities, the information available to the taxpayer does not establish the capability or method for developing or improving the software. Technical risk arises from uncertainty that is technological in nature, as defined in §1.41–4(a)(4).

(D) *Application of high threshold of innovation test*. The high threshold of innovation test of this paragraph (c)(6)(v) of this section takes into account only the results attributable to the development of new or improved software independent of the effect of any modifications to related hardware or other software. It is not always necessary to have a revolutionary discovery or creation of new technologies such as a new programming language, operating system, architecture, or algorithm to satisfy the high threshold of innovation test. Although the implementation of existing technology, no matter how complex, is not evidence, by itself, of innovation, the use of existing technologies in new ways could be evidence of a high threshold of innovation if it resolves substantial uncertainty as defined in paragraph (c)(6)(v)(C) of this section.

(vi) *Illustrations*. The following examples illustrate provisions contained in this paragraph (c)(6). No inference should be drawn from these examples concerning the application of section 41(d)(1) and paragraph (a) of this section to these facts.

Example 1. Internal use software; financial management—(i) *Facts*. X, a manufacturer, self-insures its liabilities for employee health benefits. X develops its own software to administer its self-insurance reserves related to employee health benefits. At the beginning of the development, X does not intend to develop the software for sale. The software does not enable X to interact with third parties or allow third parties to initiate functions or review data.

(ii) *Conclusion*. The software is developed primarily for use in a general and administrative function because reserve valuation is a financial management function under paragraph (c)(6)(iii)(B)(*1*) of this section. Accordingly, the software is internal use software because it is developed primarily for use in a general and administrative function.

Example 2. Internal use software; human resources management—(i) *Facts*. X, a manufacturer, develops a software module that interacts with X's existing payroll software to allow X's employees to print pay stubs and make certain changes related to payroll deductions over the internet. At the beginning of the development, X does not intend to develop the software module for sale. The software module does not enable X to interact with third parties or allow third parties to initiate functions or review data.

(ii) *Conclusion*. The employee access software module is developed primarily for use in a general and administrative function because employee access software is a human resources management function under paragraph (c)(6)(iii)(B)(*2*) of this section. Accordingly, the software module is internal use software because it is developed primarily for use in a general and administrative function.

Example 3. Internal use software; support services—(i) *Facts*. X, a restaurant, develops software for a website that provides general information about the restaurant such as items served, price, location, phone number, and hours of operation. At the beginning of the development, X does not intend to develop the website software for sale. The software does not enable X to interact with third parties or allow third parties to initiate functions or review data.

(ii) *Conclusion*. The software is developed primarily for use in a general and administrative function because the software was developed to be used by X for marketing which is a support services function under paragraph (c)(6)(iii)(B)(*3*) of this section. Accordingly, the software is internal use software because it is developed primarily for use in a general and administrative function.

Example 4. Not internal use software—(i) *Facts*. X, a manufacturer of various products, develops software for a website that allows third parties to order X's products and track the status of their orders online. At the beginning of the development, X does not intend to develop the website software for sale.

(ii) *Conclusion*. The software is not developed primarily for internal use because the software allows third parties to initiate functions or review data as provided under paragraph (c)(6)(iv)(A)(*2*) of this section.

Example 5. Internal use software; third party interaction exclusion—(i) *Facts*. X develops software to interact electronically with its vendors to improve X's inventory management. The software enables X to interact with vendors and to allow vendors to initiate functions or review data. X defines the electronic messages that will be exchanged between X and the vendors. X's software allows a vendor to request X's current inventory of the vendor's product, and allows a vendor to send a message to X which informs X that the vendor has just made a new shipment of the vendor's product to replenish X's inventory. At the beginning of development, X does not intend to develop the software for sale.

(ii) *Conclusion*. Under paragraph (c)(6)(iv)(D) of this section, X's vendors are not third parties for purposes of paragraph (c)(6)(iv)(A) of this section. While X's software allows vendors to initiate functions or review data, the software is not excluded from internal use software as set forth in paragraph (c)(6)(iv)(A)(*2*) of this section because vendors use the software to support X's inventory management which is a general and administrative function of X.

Example 6. Internal use software; third party interaction exclusion—(i) *Facts*. X is a popular web destination that offers various free services to users. X developed software that allows its users to upload and modify photographs at no charge. X earns revenue by selling advertisements that are displayed while users enjoy the services that X offers for free. X also developed software that has interfaces through which advertisers can bid for the best position in placing their ads, set prices for the ads, or develop advertisement campaign budgets. At the beginning of development, X does not intend to develop either software for sale.

(ii) *Conclusion*. The users of free services and the advertisers are third parties for purposes of paragraph (c)(6)(iv)(A) of this section. Both the software for uploading and modifying photographs and the advertising software are excluded from internal use software under paragraph (c)(6)(iv)(A)(*2*) of this section, because the software allows third parties to initiate functions.

Example 7. Internal use software—(i) *Facts*. X, a multinational manufacturer with different business and financial systems in each of its divisions, undertakes a software development project aimed at integrating the majority of the functional areas of its major software systems (Existing Software) into a single enterprise resource management system supporting centralized financial systems, human resources, inventory, and sales. X purchases software (New Software) upon which to base its enterprise-wide system. X has to develop software (Developed Software) that transfers data from X's legacy financial, human resources, inventory, and sales systems to the New Software. At the beginning of the development, X does not intend to develop the software for sale. The software does not enable X to interact with third parties or allow third parties to initiate functions or review data.

(ii) *Conclusion*. The financial systems, human resource systems, inventory and sales systems are general and administrative functions under paragraph (c)(6)(iii)(B) of this section. Accordingly, the Developed Software is internal use software because it is developed primarily for use in general and administrative functions.

Example 8. Computer hardware and software developed as a single product—(i) *Facts*. X is a telecommunications company that developed high technology telephone switching hardware. In addition, X developed software that interfaces directly with the hardware, such as the ability to initiate and terminate a call, along with other functions. X designed and developed the hardware and software together.

(ii) *Conclusion*. The telecommunications software that interfaces directly with the hardware is part of a package of computer software and hardware developed together by the taxpayer that is used by the taxpayer in providing services in its trade or business. Accordingly, this paragraph (c)(6) does not apply to the software that interfaces directly with the hardware, and eligibility for the research credit is determined by examining the combined software-hardware product as a single product.

Example 9. Improvements to existing internal use software—(i) *Facts*. X has branches throughout the country and develops its own facilities services software to coordinate moves and to track maintenance requests for all locations. At the beginning of the development, X does not intend to develop the software for sale. The software does not enable X to interact with third parties or allow third parties to initiate functions or review data. Several years after completing the development and using the software, X consults its business development department, which assesses the market for the software. X determines that the software could be sold at a profit if certain technical and functional enhancements are made. X develops the improvements to the software, and sells the improved software to third parties.

(ii) *Conclusion*. Support services, which include facility services, are general and administrative functions under paragraph (c)(6)(iii)(B) of this section. Accordingly, the original software is developed primarily for use in general and administrative functions. However, the improvements to the software are not developed primarily for internal use because the improved software was developed to be commercially sold, leased, licensed, or otherwise marketed to third parties under paragraph (c)(6)(iv)(A)(*1*) and (c)(6)(iv)(B) of this section.

Example 10. *Internal use software; application of the high threshold of innovation test*—(i) *Facts*. X maintained separate software applications for tracking a variety of human resource (HR) functions, including employee reviews, salary information, location within the hierarchy and physical location of employees, 401(k) plans, and insurance coverage information. X determined that improved HR efficiency could be achieved by redesigning its disparate software applications into one employee-centric system, and worked to develop that system. X also determined that commercially available database management systems did not meet all of the requirements of the proposed system. Rather than waiting several years for vendor offerings to mature and become viable for its purpose, X embarked upon the project utilizing older technology that was severely challenged with respect to data modeling capabilities. The improvements, if successful, would provide a reduction in cost and improvement in speed that is substantial and economically significant. For example, having one employee-centric system would remove the duplicative time and cost of manually entering basic employee information separately in each application because the information would only have to be entered once to be available across all applications. The limitations of the technology X was attempting to utilize required that X attempt to develop a new database architecture. X committed substantial resources to the project, but was uncertain whether it could develop the database software in the timeframe necessary so that X could recover its resources in a reasonable period. Specifically, X was uncertain regarding the capability of developing, within a reasonable period, a new database architecture using the old technology that would resolve its technological issues regarding the data modeling capabilities and the integration of the disparate systems into one system. At the beginning of the development, X did not intend to develop the software for sale. The software did not enable X to interact with third parties or allow third parties to initiate functions or review data.

(ii) *Conclusion*. The software is internal use software because it is developed primarily for use in a general and administrative function. However, the software satisfies the high threshold of innovation test set forth in paragraph (c)(6)(v) of this section. The software was intended to be innovative in that it would provide a reduction in cost or improvement in speed that is substantial and economically significant. In addition, X's development activities involved significant economic risk in that X committed substantial resources to the development and there was substantial uncertainty, because of technical risk, that the resources would be recovered within a reasonable period. Finally, at the time X undertook the development of the system, software meeting X's requirements was not commercially available for use by X.

Example 11. *Internal use software; application of the high threshold of innovation test*—(i) *Facts*. X undertook a software project to rewrite a legacy mainframe application using an object-oriented programming language, and to move the new application off the mainframe to a client/server environment. Both the object-oriented language and client/server technologies were new to X. This project was undertaken to develop a more maintainable application, which X expected would significantly reduce the cost of maintenance, and implement new features more quickly, which X expected would provide both significant improvements in speed and reduction in cost. Thus, the improvements, if successful, would provide a reduction in cost and improvement in speed that is substantial and economically significant. X also determined that commercially available systems did not meet the requirements of the proposed system. X was certain that it would be able to overcome any technological uncertainties and implement the improvements within a reasonable period. However, X was unsure of the appropriate methodology to achieve the improvements. At the beginning of the development, X does not intend to develop the software for sale. The software does not enable X to interact with third parties or allow third parties to initiate functions or review data.

(ii) *Conclusion*. The software is internal use software because it is developed primarily for use in a general and administrative function. X's activities do not satisfy the high threshold of innovation test of paragraph (c)(6)(v) of this section. Although the software meets the requirements of paragraphs (c)(6)(v)(A)(*1*) and (*3*) of this section, X's development activities did not involve significant economic risk under paragraph (c)(6)(v)(A)(*2*) of this section. X did not have substantial uncertainty, because of technical risk, that the resources committed to the project would be recovered within a reasonable period.

Example 12. *Internal use software; application of the high threshold of innovation test*—(i) *Facts*. X wants to expand its internal computing power, and is aware that its PCs and workstations are idle at night, on the weekends, and for a significant part of any business day. Because the general and administrative computations that X needs to make could be done on workstations as well as PCs, X develops a screen-saver-like application that runs on employee computers. When employees' computers have been idle for an amount of time set by each employee, X's application goes back to a central server to get a new job to execute. This job will execute on the idle employee's computer until it has either finished, or the employee resumes working on his computer. The ability to use the idle employee's computers would save X significant costs because X would not have to buy new hardware to expand the computing power. The improvements, if successful, would provide a reduction in cost that is substantial and economically significant. At the time X undertook the software development project, there was no commercial application available with such a capability. In addition, at the time X undertook the software development project, X was uncertain whether it was capable of developing a server application that could schedule and distribute the jobs across thousands of PCs and workstations, as well as handle all the error conditions that occur on a user's machine. X commits substantial resources to the project. X undertakes a process of experimentation to attempt to eliminate its uncertainty. At the beginning of the development, X does not intend to develop the software for sale. The software does not enable X to interact with third parties or allow third parties to initiate functions or review data.

(ii) *Conclusion*. The software is internal use software because it is developed primarily for use in a general and administrative function. However, the software satisfies the high threshold of innovation test as set forth in paragraph (c)(6)(v) of this section. The software was intended to be innovative because it would provide a reduction in cost or improvement in speed that is substantial and economically significant. In addition, X's development activities involved significant economic risk in that X committed substantial resources to the development and there was substantial uncertainty that because of technical risk, such resources would be recovered within a reasonable period. Finally, at the time X undertook the development of the system, software meeting X's requirements was not commercially available for use by X.

Example 13. *Internal use software; application of the high threshold of innovation test*—(i) *Facts*. X, a multinational manufacturer, wants to install enterprise resource planning (ERP) system that runs off a single database. However, to implement the ERP system, X determines that it must integrate part of its old system with the new because the ERP system does not have a particular function that X requires for its business. The two systems are general and administrative software systems. The systems have mutual incompatibilities. The integration, if successful, would provide a reduction in cost and improvement in speed that is substantial and economically significant. At the time X undertook this project, there was no commercial application available with such a capability. X is uncertain regarding the appropriate design of the interface software. However, X knows that given a reasonable period of time to experiment with various designs, X would be able to determine the appropriate design necessary to meet X's technical requirements and would recover the substantial resources that X commits to the development of the system within a reasonable period. At the beginning of the development, X does not intend to develop the software for sale. The software does not enable X to interact with third parties or allow third parties to initiate functions or review data.

(ii) *Conclusion*. The software is internal use software because it is developed primarily for use in a general and administrative function. X's activities do not satisfy the high threshold of innovation test of paragraph (c)(6)(v) of this section. Although the software meets the requirements of paragraphs (c)(6)(v)(A)(*1*) and (*3*) of this section, X's development activities did not involve significant economic risk under paragraph (c)(6)(v)(A)(*2*) of this section. X did not have substantial uncertainty, because of technical risk, that the resources committed to the project would be recovered within a reasonable period.

* * * * *

(e) *Effective/applicability dates*. Other than paragraph (c)(6) of this section, this section is applicable for taxable years ending on or after December 31, 2003. Paragraph (c)(6) of this section is applicable for taxable years ending on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**. Notwithstanding the prospective effective date, the IRS will not challenge return positions consistent with these proposed regulations for taxable years ending on or after the date these proposed regulations are published. For taxable years ending before the date these proposed regulations are published in the **Federal Register**, taxpayers may choose to follow either all of the internal use software provisions of §1.41–4(c)(6) in TD 8930 or all of the internal use software provisions in the 2001 proposed regulations.

John Dalrymple
Deputy Commissioner for Services and Enforcement.

(Filed by the Office of the Federal Register on January 16, 2015, 8:45 a.m., and published in the issue of the Federal Register for January 20, 2015 F.R. 2624)

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.

Numerical Finding List[1]

Bulletin 2015–1 through 2015–5

Announcements:

2015-2, 2015-3 I.R.B. *324*
2015-3, 2015-3 I.R.B. *328*
2015-4, 2015-5 I.R.B. *565*

Proposed Regulations:

REG-109187-11, 2015-2 I.R.B. *277*
REG-132751-14, 2015-2 I.R.B. *279*
REG-145878-14, 2015-2 I.R.B. *290*
REG-153656-3, 2015-5 I.R.B. *566*

Notices:

2015-1, 2015-2 I.R.B. *249*
2015-2, 2015-4 I.R.B. *334*
2015-4, 2015-5 I.R.B. *407*
2015-5, 2015-5 I.R.B. *408*
2015-6, 2015-5 I.R.B. *412*

Revenue Procedures:

2015-1, 2015-1 I.R.B. *1*
2015-2, 2015-1 I.R.B. *105*
2015-3, 2015-1 I.R.B. *129*
2015-4, 2015-1 I.R.B. *144*
2015-5, 2015-1 I.R.B. *186*
2015-6, 2015-1 I.R.B. *194*
2015-7, 2015-1 I.R.B. *231*
2015-8, 2015-1 I.R.B. *235*
2015-9, 2015-2 I.R.B. *249*
2015-10, 2015-2 I.R.B. *261*
2015-12, 2015-2 I.R.B. *265*
2015-13, 2015-5 I.R.B. *419*
2015-14, 2015-5 I.R.B. *450*
2015-15, 2015-5 I.R.B. *564*

Revenue Rulings:

2015-1, 2015-4 I.R.B. *331*
2015-2, 2015-3 I.R.B. *321*

Treasury Decisions:

9707, 2015-2 I.R.B. *247*
9708, 2015-5 I.R.B. *337*

[1]A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2014–27 through 2014–52 is in Internal Revenue Bulletin 2014–52, dated December 28, 2014.

Finding List of Current Actions on Previously Published Items[1]

Bulletin 2015–1 through 2015–5

Announcements:

2010-3
Amplified by
Ann. 2015-3, 2015-3 I.R.B. *328*

Revenue Procedures:

2014-01
Superseded by
Rev. Proc. 2015-01, 2015-01 I.R.B. *1*

2014-02
Superseded by
Rev. Proc. 2015-02, 2015-01 I.R.B. *105*

2014-03
Superseded by
Rev. Proc. 2015-03, 2015-01 I.R.B. *129*

2014-04
Superseded by
Rev. Proc. 2015-04, 2015-01 I.R.B. *144*

2014-05
Superseded by
Rev. Proc. 2015-05, 2015-01 I.R.B. *186*

2014-06
Superseded by
Rev. Proc. 2015-06, 2015-01 I.R.B. *194*

2014-07
Superseded by
Rev. Proc. 2015-07, 2015-01 I.R.B. *231*

2014-08
Superseded by
Rev. Proc. 2015-08, 2015-01 I.R.B. *235*

2014-10
Superseded by
Rev. Proc. 2015-10, 2015-2 I.R.B. *261*

2003-63
Superseded by
Rev. Proc. 2015-12, 2015-2 I.R.B. *265*

2011-14
Modified by
Rev. Proc. 2015-12, 2015-2 I.R.B. *265*

2011-14
Modified by
Rev. Proc. 2015-13, 2015-5 I.R.B. *419*

Revenue Procedures—Continued:

2011-14
Amplified by
Rev. Proc. 2015-13, 2015-5 I.R.B. *419*

2011-14
Clarified by
Rev. Proc. 2015-13, 2015-5 I.R.B. *419*

1997-27
Clarified by
Rev. Proc. 2015-13, 2015-5 I.R.B. *419*

1997-27
Modified by
Rev. Proc. 2015-13, 2015-5 I.R.B. *419*

Revenue Rulings:

92-19
Supplemented by
Rev. Rul. 2015-02, 2015-3 I.R.B. *321*

[1]A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2014–27 through 2014–52 is in Internal Revenue Bulletin 2014–52, dated December 28, 2014.

Internal Revenue Service
Washington, DC 20224

Official Business
Penalty for Private Use, $300

INTERNAL REVENUE BULLETIN

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

We Welcome Comments About the Internal Revenue Bulletin

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