

same as or substantially similar to the transaction for which the material advisor has filed a Form 8264.

Questions also have arisen regarding whether the tolling provisions of § 1.6011-4(f) would apply to requests from a potential material advisor for a letter ruling. Until further guidance is issued, if the advisor submits a request for a letter ruling on or before the date the return under § 6111 is due and fully discloses all relevant facts relating to the transaction, the obligation of the potential material advisor to disclose the transaction will be suspended as provided in § 1.6011-4(f). However, a request for a letter ruling by a potential material advisor will not toll the disclosure provisions of § 1.6011-4 for taxpayers who participate in the transaction. See § 1.6011-4(f) for tolling provisions applicable to material advisors and taxpayers.

Finally, questions have arisen regarding the nature of the statement relating to the financial accounting treatment of the item(s) giving rise to a significant book-tax difference described in § 1.6011-4(b)(6). In addition, some practitioners have erroneously concluded that Notice 2004-80 was intended to exclude persons who do not provide accounting advice. The financial accounting statement described in Notice 2004-80 includes statements made by any material advisor, including accountants, lawyers, or investment advisors.

### 3. *Effective Date of Notice 2004-80*

Notice 2004-80 is effective for transactions with respect to which material aid, assistance, or advice is provided after October 22, 2004. Questions have arisen regarding the definition of material aid, assistance, or advice provided after October 22, 2004. For purposes of the disclosure required by § 6111, disclosure is required for reportable transactions with respect to which a material advisor makes a tax statement (other than post-filing advice described in § 301.6112-1(c)(2)(iv)(A)) after October 22, 2004, regardless of whether any portion of the fee was received before October 22, 2004, or whether the transaction was entered into before October 22, 2004. (For the timing of the disclosure, see Section 2 of this notice, above.)

## EFFECTIVE DATE

This notice is effective February 24, 2005, the date this notice was released to the public.

## EFFECT ON OTHER DOCUMENTS

This document clarifies and modifies Notice 2004-80 and Notice 2005-17.

## DRAFTING INFORMATION

The principal author of this notice is Tara P. Volungis of the Office of the Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, contact Ms. Volungis at (202) 622-3080 (not a toll-free call).

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## Modification of Notice 2005-4 Notice 2005-24

### Section 1. PURPOSE

This notice modifies Notice 2005-4, 2005-2 I.R.B. 289, by extending the transitional rule related to sales of gasoline on oil company credit cards and by making several corrections to Notice 2005-4. Notice 2005-4 provides guidance on certain excise tax provisions in the Internal Revenue Code that were added or affected by the American Jobs Creation Act of 2004 (Pub. L. 108-357) (Act).

### Section 2. GASOLINE; SALES ON OIL COMPANY CREDIT CARDS

Section 7 of Notice 2005-4 provides guidance on § 6416(a)(4), as amended by the Act. Section 7(a)(1)(ii) provides that the pre-2005 rules relating to sales of gasoline to state and local governments and nonprofit educational organizations on oil company credit cards issued to those entities will generally apply to sales before March 1, 2005. The notice also states that Congress may wish to address this issue before March 1, 2005, and that Treasury and the Service would assist Congress in designing an administrable alternative.

In a February 25, 2005, letter to Treasury, the chairman and ranking member

of the Finance Committee and the chairman of the Ways and Means Committee noted that the conferees to the Act removed language from the bill that would have changed the administration of refund claims for gasoline sales charged on a credit card. They further noted that the intent of the conferees in removing this language was “to retain the pre-JOBS Act treatment of these claims and not to effect any changes with respect to sales on oil company credit cards.” The letter also notes that, if Treasury concludes that a technical correction is needed to preserve the rules in effect prior to 2005, the signatories “will facilitate the enactment of such technical legislation at the earliest opportunity.”

Treasury and the Service believe that it would be appropriate to continue to apply the oil company credit card rule until Congress has had an opportunity to address the issue. Accordingly, the oil company credit card rule will remain in effect until modified by a statutory change or by future guidance on this issue.

### Section 3. CORRECTIONS TO NOTICE 2005-4

(a) *Aviation-grade kerosene; certificate for commercial aviation and exempt use.* In § 4(g)(2), which contains a model certificate for persons buying aviation-grade kerosene for commercial aviation or nontaxable use, “\_\_\_\_\_ for export;” is removed from the list in the certificate of possible uses of the aviation-grade kerosene to which the certificate relates.

(b) *Aviation-grade kerosene; claims by registered ultimate vendors (nontaxable uses)*—(i) In § 4(h)(6)(ii), which contains a model waiver for ultimate purchasers of aviation-grade kerosene used in nontaxable uses, “\_\_\_\_\_ for use on a farm for farming purposes;” and “\_\_\_\_\_ for the exclusive use of a state;” are removed from the list in the waiver of possible uses of the aviation-grade kerosene to which the waiver relates. For rules relating to claims by registered ultimate vendors of kerosene (including aviation-grade kerosene) for farming and state use, see § 48.6427-9 of the Manufacturers and Retailers Excise Tax Regulations.

(ii) In § 4(h)(6)(ii), “\_\_\_\_\_ other nontaxable use (Describe nontaxable use)

\_\_\_\_\_,” is added to the waiver immediately before the last item in the list of possible uses of the aviation-grade kerosene to which the waiver relates.

(c) *Gasoline; claims by registered ultimate vendors.* In § 7(a)(1)(ii), first sentence, the language “based on a price that excludes the tax” is removed and “based on a price that includes the tax” is added in its place.

#### Section 4. EFFECT ON OTHER DOCUMENTS

Notice 2005–4 is modified as described in §§ 2 and 3 of this notice.

#### Section 5. EFFECTIVE DATE

This notice is effective January 1, 2005, the effective date of Notice 2005–4.

#### Section 6. DRAFTING INFORMATION

The principal authors of this notice are Susan Athy and Deborah Karet of the Office of the Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice, please contact Ms. Karet (concerning avi-

ation-grade kerosene) or Ms. Athy (concerning all other issues) at (202) 622–3130 (not a toll-free call).

## Weighted Average Interest Rates Update

### Notice 2005–26

This notice provides guidance as to the corporate bond weighted average interest rate and the permissible range of interest rates specified under § 412(b)(5)(B)(ii)(II) of the Internal Revenue Code. In addition, it provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II), and the weighted average interest rate and permissible ranges of interest rates based on the 30-year Treasury securities rate.

#### CORPORATE BOND WEIGHTED AVERAGE INTEREST RATE

Sections 412(b)(5)(B)(ii) and 412(l)(7)(C)(i), as amended by the Pension Funding Equity Act of 2004, provide that the interest rates used to calculate current

liability and to determine the required contribution under § 412(l) for plan years beginning in 2004 or 2005 must be within a permissible range based on the weighted average of the rates of interest on amounts invested conservatively in long term investment grade corporate bonds during the 4-year period ending on the last day before the beginning of the plan year.

Notice 2004–34, 2004–18 I.R.B. 848, provides guidelines for determining the corporate bond weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability. That notice establishes that the corporate bond weighted average is based on the monthly composite corporate bond rate derived from designated corporate bond indices.

The composite corporate bond rate for February 2005 is 5.36 percent. Pursuant to Notice 2004–34, the Service has determined this rate as the average of the monthly yields for the included corporate bond indices for that month.

The following corporate bond weighted average interest rate was determined for plan years beginning in the month shown below.

Month	For Plan Years Beginning in:	Year	Corporate Bond Weighted Average	90% to 100% Permissible Range
March		2005	6.03	5.43 to 6.03

#### 30-YEAR TREASURY SECURITIES WEIGHTED AVERAGE INTEREST RATE

Section 417(e)(3)(A)(ii)(II) defines the applicable interest rate, which must be used for purposes of determining the minimum present value of a participant’s benefit under § 417(e)(1) and (2), as the annual rate of interest on 30-year Treasury securities for the month before the date of distribution or such other time as the Secretary may by regulations prescribe. Section 1.417(e)–1(d)(3) of the Income

Tax Regulations provides that the applicable interest rate for a month is the annual interest rate on 30-year Treasury securities as specified by the Commissioner for that month in revenue rulings, notices or other guidance published in the Internal Revenue Bulletin.

Section 404(a)(1) of the Code, as amended by the Pension Funding Equity Act of 2004, permits an employer to elect to disregard subclause (II) of § 412(b)(5)(B)(ii) to determine the max-

imum amount of the deduction allowed under § 404(a)(1).

The rate of interest on 30-year Treasury securities for February 2005 is 4.55 percent. Pursuant to Notice 2002–26, 2002–1 C.B. 743, the Service has determined this rate as the monthly average of the daily determination of yield on the 30-year Treasury bond maturing in February 2031.

The following 30-year Treasury rates were determined for the plan years beginning in the month shown below.