2015 Standard Mileage Rates

Notice 2014–79

SECTION 1. PURPOSE

This notice provides the optional 2015 standard mileage rates for taxpayers to use in computing the deductible costs of operating an automobile for business, charitable, medical, or moving expense purposes. This notice also provides the amount taxpayers must use in calculating reductions to basis for depreciation taken under the business standard mileage rate, and the maximum standard automobile cost that may be used in computing the allowance under a fixed and variable rate (FAVR) plan.

SECTION 2. BACKGROUND

Rev. Proc. 2010–51, 2010–51 I.R.B. 883, provides rules for computing the deductible costs of operating an automobile for business, charitable, medical, or moving expense purposes, and for substantiating, under § 274(d) of the Internal Revenue Code and § 1.274–5 of the Income Tax Regulations, the amount of ordinary and necessary business expenses of local transportation or travel away from home. Taxpayers using the standard mileage rates must comply with Rev. Proc. 2010–51. However, a taxpayer is not required to use the substantiation methods described in Rev. Proc. 2010–51, but instead may substantiate using actual allowable expense amounts if the taxpayer maintains adequate records or other sufficient evidence.

An independent contractor conducts an annual study for the Internal Revenue Service of the fixed and variable costs of operating an automobile to determine the standard mileage rates for business, medical, and moving use reflected in this notice. The standard mileage rate for charitable use is set by § 170(i).

SECTION 3. STANDARD MILEAGE RATES

The standard mileage rate for transportation or travel expenses is 57.5 cents per mile for all miles of business use (business standard mileage rate). See section 4 of Rev. Proc. 2010–51.

The standard mileage rate is 14 cents per mile for use of an automobile in rendering gratuitous services to a charitable organization under § 170. See section 5 of Rev. Proc. 2010–51.

The standard mileage rate is 23 cents per mile for use of an automobile (1) for medical care described in § 213, or (2) as part of a move for which the expenses are deductible under § 217. See section 5 of Rev. Proc. 2010–51.

SECTION 4. BASIS REDUCTION AMOUNT

For automobiles a taxpayer uses for business purposes, the portion of the business standard mileage rate treated as depreciation is 22 cents per mile for 2011, 23 cents per mile for 2012, 23 cents per mile for 2013, 22 cents per mile for 2014, and 24 cents for 2015. See section 4.04 of Rev. Proc. 2010–51.

SECTION 5. MAXIMUM STANDARD AUTOMOBILE COST

For purposes of computing the allowance under a FAVR plan, the standard automobile cost may not exceed $28,200 for automobiles (excluding trucks and vans) or $30,800 for trucks and vans. See section 6.02(6) of Rev. Proc. 2010–51.

SECTION 6. EFFECTIVE DATE

This notice is effective for (1) deductible transportation expenses paid or incurred on or after January 1, 2015, and (2) mileage allowances or reimbursements paid to an employee or to a charitable volunteer (a) on or after January 1, 2015, and (b) for transportation expenses the employee or charitable volunteer pays or incurs on or after January 1, 2015.

SECTION 7. EFFECT ON OTHER DOCUMENTS

Notice 2013–80 is superseded.

DRAFTING INFORMATION

The principal author of this notice is Bernard P. Harvey of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information on this notice contact Bernard P. Harvey on (202) 317-7005 (not a toll-free call).

Reallocation of Section 48B Credits under the Qualifying Gasification Project Program

Notice 2014–81

SECTION 1. PURPOSE

Section 48B of the Internal Revenue Code, as originally enacted by section 1307(b) of the Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 1004 (August 8, 2005), provided for the first phase of the qualifying gasification project program and authorized $350 million of credits ("the § 48B Phase I program" and "§ 48B Phase I credits"). Section 48B, as amended by section 112 of the Energy Improvement and Extension Act of 2008, Pub. L. 110–343, 122 Stat. 3824 (October 3, 2008), provided for a second phase of the qualifying gasification project program and authorized an additional $250 million of credits ("the § 48B Phase II program" and "§ 48B Phase II credits").

This notice establishes a third phase of the qualifying gasification project program ("the § 48B Phase III program") to reallocate the § 48B Phase I credits that are available for allocation after the conclusion of the § 48B Phase I program. The procedures in this notice apply only to § 48B Phase I credits that were forfeited and are available for reallocation as § 48B Phase III credits.

To be considered in the § 48B Phase III allocation round, applications must be submitted to the Department of Energy ("DOE") and to the Internal Revenue Service ("Service") on or before March 2, 2015. See section 5 of this notice for additional rules regarding these applications.

SECTION 2. BACKGROUND

.01 Section 46 provides that the amount of the investment credit for any taxable year is the sum of the credits listed in § 46. That list includes the qualifying gasification project credit under § 48B.

.02 Section 48B(d)(1) provides that the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying

gasification project program to consider and award certifications for qualified investment eligible for credits to qualifying gasification project sponsors under § 48B. The Treasury Department and the Service, in consultation with the Secretary of Energy, established the § 48B Phase I program in Notice 2006–25, 2006–1 C.B. 609, as modified and updated by Notice 2007–53, 2007–1 C.B. 1474.

.03 Under the § 48B Phase I program, the qualifying gasification project credit for a taxable year was an amount equal to 20 percent of the qualified investment (as defined in § 48B(b)) for that taxable year in qualifying gasification projects (as defined in § 48B(c)(1)) for which the credit was allocated under § 48B(d)(1)(A).

.04 The term "qualified investment" is defined in § 48B(b) as the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying gasification project (A) the construction, reconstruction, or erection of which is completed by the taxpayer, or which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and (B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable. Pursuant to § 48B(b)(2) and (3), rules regarding certain subsidized property similar to § 48(a)(4) (without regard to § 48(a)(4)(D)) and rules regarding certain qualified progress expenditures similar to § 46(c)(4) and (d) (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) apply for purposes of § 48B.

.05 The term "qualifying gasification project" is defined in § 48B(c)(1) as any project that (A) employs gasification technology, (B) will be carried out by an eligible entity (as defined in section 3.02 of this notice), and (C) includes a qualified investment of which an amount not to exceed $650 million is certified under the qualifying gasification program as eligible for credit under § 48B. Pursuant to § 48B(c)(2), gasification technology is any process that converts a solid or liquid product from coal (as defined in section 3.01 of this notice), petroleum residue (as defined in § 48B(c)(8)), biomass (as defined in § 48B(c)(4)), or other materials that are recovered for their energy or feedstock value into a synthesis gas composed primarily of carbon monoxide and hydrogen for direct use or subsequent chemical or physical conversion.

.06 Pursuant to § 48B(d)(1)(A), the § 48B Phase I program provided for $350 million of credits to be allocated to qualifying gasification projects. The § 48B Phase I program under Notice 2006–25 and Notice 2007–53 provided for annual allocation rounds. The initial allocation round was conducted in 2006. An additional allocation round was conducted in 2007–08. The entire § 48B Phase I credit amount of $350 million was allocated in these two allocation rounds.

.07 Under the § 48B Phase II program, the qualifying gasification project credit for a taxable year was an amount equal to 30 percent of the qualified investment (as defined in § 48B(b)) for that taxable year in qualifying gasification projects (as defined in § 48B(c)(1)) for which the credit is allocated under § 48B(d)(1)(B).

.08 Pursuant to § 48B(d)(1)(B), the § 48B Phase II program provided for $250 million of credits to be allocated to qualifying gasification projects that include equipment which separates and sequesters at least 75 percent of such project's total carbon dioxide (CO_2) emissions. The Service established the § 48B Phase II program in Notice 2009–23, 2009–1 C.B. 802, which provided for an allocation round in 2009–2010. The entire § 48B Phase II credit amount of $250 million was allocated in this allocation round.

.09 As originally enacted by the Energy Policy Act of 2005, § 48B(d)(1) directed the Secretary to carry out a certification program for the allocation of § 48B credits and authorized the Secretary to establish additional programs to reallocate § 48B credits by providing that allocations were to be made "under rules similar to the rules of section 48A(d)(4)." Although the Energy Improvement and Extension Act of 2008 amended § 48B(d)(1) and removed the cross-reference to § 48A(d)(4), the effective date provision of the 2008 amendment states that it "appl[ies] to credits described in Code section 48B(d)(1)(B) . . . which are allocated or reallocated after the date of enactment [October 3, 2008]." Thus, by its terms, the 2008 amendment was not intended to impact the program for the credits initially allocated as § 48B Phase I credits, and which pursuant to the statute as revised by the 2008 amendment are described in § 48B(d)(1)(A). Accordingly, the authority to reallocate § 48B Phase I credits remains effective, and the Service may review prior § 48B Phase I allocations and conduct an additional certification program for any § 48B Phase I credits that are available for reallocation. Moreover, by referring to § 48(d)(1)(B) credits that are "allocated or reallocated" after the October 3, 2008, date of enactment, the effective date provision of the 2008 amendment indicates congressional support for reallocation of § 48B credits. The Service has completed its review of the prior § 48B Phase I allocations and has determined that § 48B Phase I credits in the total amount of $ 309,337,000 are available for reallocation under the § 48B Phase III program.

.10 Pursuant to § 48B(d)(2), certificates of eligibility may be issued under the § 48B program only during the 10-year period beginning on October 1, 2005. As a result, the Service may only reallocate any available § 48B credits prior to October 1, 2015.

.11 Under the § 48B Phase III credit program, the qualifying gasification project credit for a taxable year is an amount equal to 20 percent of the qualified investment (as defined in § 48B(b)) for that taxable year in qualifying gasification projects (as defined in § 48B(c)(1)) for which the credit is allocated under § 48B(d)(1)(A).

.12 Section 48B(d)(4) provides that (A) highest priority is given to projects with the greatest separation and sequestration percentage of total CO_2 emissions, and (B) high priority is given to applicant participants who have a research partnership with an eligible educational institution (as defined in § 529(e)(5)). While the capability of a qualifying project to separate and sequester CO_2 emissions is considered in ranking projects, the § 48B Phase III program will not require a qualifying project to include equipment that separates and sequesters CO_2 emissions.

.13 Section 48A(d)(5) provides that the Secretary shall, upon making a certification under § 48B(d), publicly disclose the identity of the applicant and the amount of the credit certified with respect to such applicant.

.14 Section 48A(h) directs the Secretary to modify the terms of any competitive certification award under § 48B and any associated closing agreement where such modification (i) is consistent with the objectives of § 48B, (ii) is requested by the recipient, and (iii) involves moving the project site to improve the potential to capture and sequester CO_2 emissions, reduce costs of transporting feedstock, and serve a broader customer base. This directive does not apply if the Secretary determines that the dollar amount of tax credits available to the taxpayer under § 48B would increase as a result of the modification or such modification would result in such project not being originally certified. In addition, the Secretary is required to consult with other relevant Federal agencies, including the Department of Energy, in considering any modification under § 48A(h).

.15 The at-risk rules in § 49 and the recapture and other special rules in § 50 apply to the § 48B Phase III credit. Generally, section 49 provides that the investment credit is limited to the extent that the taxpayer is at risk with respect to the investment credit property. Section 50(a) provides for pro rata recapture of the investment tax credit if the investment credit property is disposed of, or otherwise ceases to be investment credit property, within five years after the property is placed in service.

SECTION 3. DEFINITIONS

The following definitions apply for purposes of § 48B and this notice:

.01 *Coal*. Section 48B(c)(6) defines the term "coal" as anthracite, bituminous coal, subbituminous coal, lignite, and peat. Coal includes waste coal (that is, usable material that is a byproduct of the previous processing of anthracite, bituminous coal, subbituminous coal, lignite, or peat). Examples of waste coal include fine coal of any of the listed ranks, coal of any of the listed ranks obtained from a refuse bank or slurry dam, anthracite culm, bituminous gob, and lignite waste.

.02 *Eligible entity*. Section 48B(c)(7) defines "eligible entity" as any person whose application for certification is principally intended for use in a domestic project that employs domestic gasification applications related to chemicals, fertilizers, glass, steel, petroleum residues, forest products, agriculture, including feedlots and dairy operations, and transportation grade liquid fuels (qualifying industries). For purposes of § 48B, a qualifying gasification project is carried out by an eligible entity if the project supplies more than 50 percent of the thermal output in British thermal units ("Btu") from the gasification process in the form of synthesis gas for direct use or subsequent chemical or physical conversion in an application related to one or more qualifying industries or if more than 50 percent of the fuel input in Btu to the gasification process is supplied from one or more qualifying industries.

.03 *Total synthesis gas capacity*. The total synthesis gas capacity of a project is the total MMBtu (one million Btu) per hour of the synthesis gas (higher heating value (HHV)) at the gasifier outlet of the project. The synthesis gas must be composed primarily of carbon monoxide and hydrogen for direct use or subsequent chemical or physical conversion.

.04 *Fuel Input*.

(1) *In general*. The term "fuel input" means, with respect to any type of fuel, the amount of such fuel used during normal plant operations. The amounts of the fuel used are measured (i) in Btu on an energy input basis and (ii) pursuant to applicable standards prescribed by the American Society for Testing and Materials ("ASTM"). For example, § 48B(d)(3)(D) provides that the fuels identified in § 48B(c)(2) will at all times cumulatively comprise at least 90 percent of the total fuels (fuels identified in § 48B(c)(2) and any other fuel input) required by the project. This requirement is satisfied if, after completion and during normal plant operations, the fuels identified in § 48B(c)(2) will cumulatively comprise at least 90 percent of the project's total fuels measured in Btu on an energy input basis and pursuant to applicable ASTM standards.

(2) *Only normal plant operations taken into account*. Only fuel used during normal plant operations is taken into account for purposes of § 48B. Normal plant operations are operations other than during periods of initial plant certification, plant startup, plant shutdown, interconnected gasifier(s) shutdown for gasification system maintenance, or interruptions of the supply of fuels identified in § 48B(c)(2) to the project resulting from an event of force majeure (including an act of God, war, strike, or other similar event beyond the control of the taxpayer). For example, the fuel input during the initial plant certification may consist entirely of natural gas or other fuels not identified in § 48B(c)(2) because fuel used during initial plant certification is disregarded in determining whether the requirement of § 48B(d)(3)(D) to use 90 percent of the fuels identified in § 48B(c)(2) is satisfied.

.05 *Placed In Service*. For purposes of § 48B, property is placed in service in the taxable year in which the property is placed in a condition or state of readiness and availability for a specifically assigned function. *See* § 1.46–3(d)(1)(ii) of the Income Tax Regulations. Thus, a qualifying gasification project or eligible property (as defined in § 48B(c)(3)) that is a part of the project is placed in service in the taxable year in which the project is placed in a condition or state of readiness and availability for producing synthesis gas from the feedstocks identified in § 48B(c)(2).

.06 *Separation and Sequestration*. The term "separation and sequestration" refers to the separation and capture of a project's CO_2 emissions, and the placement of the captured CO_2 into a repository in which the CO_2 will remain permanently sequestered.

SECTION 4. SECTION 48B PHASE III PROGRAM

.01 *In General*. To be considered in the § 48B Phase III allocation round, applications must be submitted separately to DOE and to the Service on or before March 2, 2015 pursuant to section 5 of this notice. The Service will consider a project under the § 48B Phase III program only if DOE provides a certification ("DOE certification") and ranking (if any) for the project. Accordingly, a taxpayer must submit, for each § 48B Phase III gasification project: (i) an application for certification by DOE that the project is technically and economically feasible ("application for DOE certification"), and (ii) an application for certification by the Service under § 48B(d) ("application for § 48B certification").

.02 *Program Specifications.*

(1) The Service determines the amount of the § 48B Phase III credits allocated to a project at the time the Service accepts the application for § 48B certification for that project in accordance with section 4.02(9) of this notice (see section 5 of this notice for the requirements applicable to the application for DOE certification and the application for § 48B certification).

(2) The § 48B Phase III credit for a taxable year is an amount equal to 20 percent of the qualified investment (as defined in § 48B(b)) for that taxable year in qualifying gasification projects (as defined in § 48B(c)(1)).

(3) Section 48B Phase III credits in the amount of $ 309,337,000 are available for the § 48B Phase III allocation round. Under § 48B(c)(1)(C), the certification for a § 48B Phase III project cannot apply to more than $650 million of the qualified investment in the project. Thus, the maximum amount of the § 48B Phase III credit that will be allocated to a project is $130 million. This limitation applies to a qualifying project rather than to the taxpayer holding interests in the project. Therefore, the number or type of entities holding ownership interests in a project does not change the maximum amount of the § 48B Phase III credit that may be allocated to that project. However, a taxpayer holding interests in multiple projects may be allocated more than the maximum § 48B Phase III credit that may be allocated to a single project.

(4) A taxpayer that was allocated § 48B Phase I credits or § 48B Phase II credits for a project may submit an application for § 48B Phase III credits for the same project if the project meets the requirements for a qualifying project under the § 48B Phase III gasification program.

(a) Section 48B Phase III credits will be allocated to the taxpayer's qualified investment in the project only to the extent such investment exceeds the qualified investment with respect to which § 48B Phase I credits or § 48B Phase II credits was awarded but does not exceed $650 million. Thus, if the qualified investment in a project is $700 million and § 48B Phase I credits were allocated with respect to $500 million of the qualified investment, § 48B Phase III credits may be allocated with respect to only $150 million ($650 million − $500 million) of the qualified investment. Any § 48B Phase I or Phase II credits allocated to a project are not taken into account for purposes of determining the $650 million qualified investment limitation to the extent the right to claim such credit has been irrevocably waived in such manner as the Commissioner may require.

(b) Section 48B Phase III credits allocated to a project will be forfeited if the taxpayer fails to place the project in service within 7 years of the date of acceptance of the application for § 48B certification under section 4.02(9) of this notice. The allocation of § 48B Phase III credits does not delay the taxpayer's placed in service obligations with respect to any § 48B Phase I credits or § 48B Phase II credits previously allocated to the project. Accordingly, any § 48B Phase I credits or § 48B Phase II credits allocated to the project will be forfeited if the taxpayer fails to place the project in service within 7 years of the date of acceptance of the application for § 48B certification under the applicable program.

(5) For § 48B Phase III credits, DOE will determine the technical and economic feasibility of the project and, if the project is determined to be feasible, will provide a DOE certification for the project to the Service. DOE will rank the certified projects based on the Program Policy Factors specified in Appendix B, and the Service will allocate the credits as follows:

(a) If the requested allocation of credit for projects that DOE has certified does not exceed the amount available for allocation, each certified project will be allocated the full amount of credit requested.

(b) If the requested allocation of credit for projects that DOE has certified exceeds the amount available for allocation, the amount available for allocation will be allocated as follows:

(i) The project receiving the highest ranking (that is, first) will be allocated the full amount of credit requested (but not exceeding the amount available for allocation) before any credit is allocated to a lower-ranked project. The amount available for allocation is reduced by the amount of credit so allocated and only the remainder is available for allocation to a lower-ranked project.

(ii) Second and lower-ranked projects will be entitled to similar priority in the allocation of credit and allocations to such projects will similarly reduce the remainder of the amount available for allocation until the amount available for allocation is exhausted.

(6) See section 5.02 of this notice and Appendix B to this notice for the information to be submitted to the DOE in an application for DOE certification. Appendix B to this notice also provides the instructions and address for filing the application for DOE certification. If an application for DOE certification is postmarked on or before March 2, 2015, DOE will determine the feasibility of the project and (for projects determined to be feasible) provide DOE certification and DOE ranking (if any) to the Service by July 1, 2015.

(7) For the § 48B Phase III allocation round, the application period for § 48B certification begins on December 29, 2014, and ends on March 2, 2015, and any completed application for § 48B certification received by the Service after December 28, 2014, and on or before March 2, 2015, will be deemed to be submitted by the taxpayer on March 2, 2015.

(8) For purposes of determining the timeliness of submission of applications the rules of § 7502 shall apply.

(9) By September 1, 2015, the Service will accept or reject the taxpayer's application for § 48B certification and will notify the taxpayer, by letter, of its decision. This acceptance letter constitutes a certificate of eligibility provided by the Service pursuant to § 48B(d)(2).

(10) If the taxpayer's application for § 48B certification is accepted, the acceptance letter will state the amount of the credit allocated to the project. If a credit is allocated to a taxpayer's project, the taxpayer will be required to execute an agreement in the form set forth in Appendix A to this notice. By November 2, 2015, the taxpayer must execute and return the agreement to the Service at the appropriate address listed in section 5.04 of this notice. The Service will execute and return the agreement to the taxpayer by February 1, 2016. The executed agreement applies only to the accepted taxpayer. The taxpayer must notify the Service within 90

days of the acquisition of the project by any other person (a successor in interest).

(11) A successor in interest that plans to claim the § 48B credit allocated to the project must request permission to execute a new agreement with the Service. If the request is granted, the new agreement must be executed no later than the due date (including extensions) of the successor in interest's Federal income tax return for the taxable year in which the transfer occurs. If the successor in interest does not execute a new agreement, the following rules apply:

(a) In the case of an interest acquired at or before the time the qualifying gasification project is placed in service, any credit allocated to the project will be fully forfeited (and rules similar to the recapture rules of § 50(a) apply with respect to qualified progress expenditures); and

(b) In the case of an interest acquired after the qualifying gasification project is placed in service, the project ceases to be investment credit property and the recapture rules of § 50(a) (and similar rules with respect to qualified progress expenditures) apply.

(12) The site of the qualifying gasification project relating to a credit allocation may be changed only if the change is consistent with the objectives of the qualifying gasification project program, is requested by the taxpayer that received the credit allocation, and involves moving the project site to improve the potential to capture and sequester CO_2 emissions, reduce costs of transporting feedstock, and serve a broader customer base. The Service will not agree to a project site change if the dollar amount of tax credits allocated to the taxpayer under § 48B would increase as a result of the site change or if the project would not have been originally certified had such modification been included in the taxpayer's application. In considering such modification, the Service will consult with DOE and any other relevant Federal agency.

(13) The § 48B Phase III credit allocated to the project will be forfeited if the taxpayer fails to place the project in service within 7 years from the date of the acceptance letter under section 4.02(9) of this notice.

(14) The taxpayer must notify the Service by letter of the date the project is placed in service within 90 days of that date.

SECTION 5. APPLICATIONS FOR CERTIFICATIONS

.01 *In General*. An application for § 48B certification and a separate application for DOE certification must be submitted for each qualifying gasification project. If an application for DOE certification does not include all of the information required by section 5.02 of this notice, DOE may decline to accept the application. If an application for § 48B certification does not include all of the information listed in section 5.03 of this notice the Service may decline to accept the application.

.02 *Information Required in the Application for DOE Certification*. An application for DOE certification must be sent to the address specified in Section C of Appendix B. The application must include all of the information requested in Appendix B to this notice and all of the following:

(1) The name, address, and taxpayer identification number of the taxpayer. If the taxpayer is a member of an affiliated group filing consolidated returns, also provide the name, address, and taxpayer identification number of the common parent of the group.

(2) The name and telephone number of a contact person.

(3) The name and address (or other unique identifying designation) of the qualifying gasification project.

(4) A statement specifying the projected placed in service date of the qualifying gasification project.

(5) The estimated total cost of the project and the estimated total qualified investment in the eligible property that will be part of the project.

(6) The amount of the qualifying gasification project credit requested for the project. The amount requested must not exceed $130 million (the amount permitted under § 48B(a) and (c)(1)(C)).

(7) The exact total synthesis gas capacity (as defined in section 3.03 of this notice) of the project.

(8) A statement specifying whether the project is entitled to highest priority for the percentage of total CO_2 emissions that the project will separate and sequester.

(9) A statement specifying whether the project is entitled to high priority for having a research partnership with an eligible educational institution (as defined in § 529(e)(5)) and, if entitled to priority, a statement identifying the eligible educational institution, stating the name(s) of the eligible institution.

(10) The following declaration: "Under penalties of perjury, I declare that I have examined this submission, including accompanying documents, and, to the best of my knowledge and belief, all of the facts contained herein are true, correct, and complete."

(11) The taxpayer's signature. The taxpayer must sign and date the application, including the perjury declaration. A stamped, faxed, or electronic signature will not be accepted. The person signing for the taxpayer must have personal knowledge of the facts. Further, the application, including the perjury declaration, must be signed by a person authorized under state law to bind the taxpayer, such as an officer on behalf of a corporation, a general partner on behalf of a state-law partnership, a member-manager on behalf of a limited liability company, a trustee on behalf of a trust, or the proprietor in the case of a sole proprietorship. If the taxpayer is a member of an affiliated group filing consolidated returns, the application, including the perjury declaration, must be signed by a duly authorized officer of the common parent of the group.

.03 *Information to be Included in the Application for § 48B Certification*. An application for § 48B certification must include all of the following:

(1) The name, address, and taxpayer identification number of the taxpayer. If the taxpayer is a member of an affiliated group filing consolidated returns, also provide the name, address, and taxpayer identification number of the common parent of the group.

(2) The name and/or number of the IRS form that the taxpayer uses to file its Federal income tax return (*e.g.*, Forms 1120, 1065) and the ending month of the taxpayer's tax year.

(3) The name, telephone number, and fax number of a contact person. For such person, attach a properly executed power of attorney, preferably on Form 2848,

Power of Attorney and Declaration of Representative.

(4) One electronic version on a USB flash drive or a CD of the completed application for DOE certification submitted with respect to the project in accordance with section 5.02 of this notice.

(5) If § 48B Phase I credits or § 48B Phase II credits were allocated to the project, the estimated total cost and estimated total qualifying investment of the project as represented in the application for the § 48B Phase I credits or § 48B Phase II credits, and the amount of the allocated § 48B Phase I credits or § 48B Phase II credits.

(6) The following declaration: "Under penalties of perjury, I declare that I have examined this submission, including accompanying documents, and, to the best of my knowledge and belief, all of the facts contained herein are true, correct, and complete."

(7) The taxpayer's signature. The taxpayer must sign and date the application, including the perjury declaration. A stamped, faxed, or electronic signature will not be accepted. The person signing for the taxpayer must have personal knowledge of the facts. Further, the application, including the perjury declaration, must be signed by an officer on behalf of a corporation, a general partner on behalf of a state-law partnership, a member-manager on behalf of a limited liability company, a trustee on behalf of a trust, or the proprietor in the case of a sole proprietorship. If the taxpayer is a member of an affiliated group filing consolidated returns, the application, including the perjury declaration, must be signed by a duly authorized officer of the common parent of the group.

.04 *Instructions and Address for Filing § 48B Application*. There is no user fee for these applications. The application for § 48B certification meeting the requirements of section 5.03 of this notice should be marked: "SECTION 48B APPLICATION FOR CERTIFICATION." A taxpayer may submit the application to:

Internal Revenue Service
Industry Director, Natural Resources and Construction
Attn: Executive Assistant (Technical)
1919 Smith Street, Floor P2
Stop 1000-HOU
Houston, TX 77002

If hand delivered, the application may be delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. central time.

SECTION 6. OTHER REQUIREMENTS

.01 *Significant Change in Plans*. The Service must be informed if the plans for the project change in any significant respect from the plans set forth in the applications for § 48B and DOE certification. Except as otherwise provided under § 48A(h) and section 2.14 of this notice, any significant change to the plans set forth in the applications will have the following effects if the Service is informed of the change after the date on which the application for DOE certification was due for the § 48B Phase III allocation round under section 4.02(6) of this notice:

(1) The Service will give no further consideration to the project if acceptance has not yet been granted; and

(2) Any acceptance provided by the Service and any allocation or certification based on that acceptance will be void.

.02 *Recapture of § 48B Phase III credits*. Section 48B Phase III credits are subject to the recapture rules of § 50. Section 50(a)(1) provides, generally, for recapture of the investment credit if, during any taxable year, investment tax credit property is disposed of or otherwise ceases to be investment credit property with respect to the taxpayer before the close of the recapture period. The recapture period under § 50(a) is the 5-year period beginning on the date the property is placed in service.

.03 *Effect of an Acceptance, Allocation, or Certification*. An acceptance, allocation, or certification by the Service under this notice is not a determination that a project qualifies for the qualifying gasification project credit under § 48B. The Service may, upon examination, determine that the project does not qualify for this credit.

.04 *No Right to a Conference or Appeal*. A taxpayer does not have a right to a conference relating to, or a right of appeal with respect to, any decision made under this notice (including the acceptance or rejection of the application for DOE or § 48B certification, the amount of credit allocated to a project, or whether or not to certify a project) to any official of the Service.

.05 *DOE Debriefings*. Although a taxpayer does not have a right to a conference relating to any matters under this notice, DOE will offer debriefings to all applicants that submitted an application for DOE certification. This debriefing will be held by DOE after the Service has accepted the applications for § 48B certification (as determined under this notice). The sole purpose of the debriefing is to enable applicants to develop better proposals in future allocation rounds, if any, by providing DOE's assessment of the strengths and weaknesses of their applications for DOE certification. All requests for debriefings must be submitted to DOE within 30 days of receipt of the Service's decision to accept or reject the application.

SECTION 7. REDUCTION OR FORFEITURE OF ALLOCATED CREDITS

Under the provisions of this notice and the agreement set forth in Appendix A to this notice, the § 48B Phase III credits allocated under section 4 of this notice will be reduced or forfeited in certain situations. A taxpayer must notify the Service of the amount of any required reduction or forfeiture required under the agreement. This notification must be sent to the appropriate address listed in section 5.04 of this notice.

SECTION 8. QUALIFIED PROGRESS EXPENDITURES

.01 Section 48B(b)(3) provides that rules similar to the rules of § 46(c)(4) and (d) (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of § 48B. Former §§ 46(c)(4) and 46(d) provided the rules for claiming the investment credit on qualified progress expenditures (as defined in former § 46(d)(3)) made by a taxpayer during the taxable year for the construction of progress expenditure property (as defined in former § 46(d)(2)).

.02 In the case of self-constructed property (as defined in former § 46(d)(5)(A)), former § 46(d)(3)(A) defined qualified prog-

ress expenditures to mean the amount that is properly chargeable (during the taxable year) to capital account with respect to that property. With respect to a qualifying gasification project that is self-constructed property, amounts paid or incurred are chargeable to capital account at the time and to the extent they are properly includible in computing basis under the taxpayer's method of accounting (for example, after applying the requirements of § 461, including the economic performance requirement of § 461(h)).

.03 To claim the qualifying gasification project credit for the qualified progress expenditures paid or incurred by a taxpayer during the taxable year for construction of a qualifying gasification project, the taxpayer must make an election under the rules set forth in § 1.46–5(o) of the Income Tax Regulations. The taxpayer may not make the qualified progress expenditures election for a qualifying gasification project until the taxpayer has received an acceptance letter for the project under section 4.02(9) of this notice.

.04 If a taxpayer makes the qualified progress expenditures election pursuant to section 8.03 of this notice, rules similar to the recapture rules in § 50(a)(2)(A)–(D) apply. In addition to the cessation events listed in § 50(a)(2)(A), examples of other events that will cause the project to cease being a qualifying gasification project are:

(1) Failure to place the project in service within 7 years from the date of the acceptance letter under section 4.02(9) of this notice; or

(2) A significant change to the plans for the project as set forth in the applications for § 48B and DOE certification if, under section 6.01 of this notice, the Service's acceptance of the project is void as a result of the change.

SECTION 9. DISCLOSURE OF INFORMATION

.01 *Announcement*. Section 48A(d)(5) provides that the Secretary shall, upon making a certification under § 48A(d) and § 48B(d), publicly disclose the identity of the applicant and the amount of the credit allocated to such applicant. Accordingly, the Service intends to publish the results of the allocation process, and disclose the following return information in the event § 48B Phase III credits are allocated to the taxpayer's project: (i) the name of the taxpayer and (ii) the amount of § 48B Phase III credits allocated to the project.

.02 *In general*. Any taxpayer associated information provided to or received, recorded, collected or prepared by the Service as part of this process is return information under § 6103. Unless authorized under the Internal Revenue Code, such as the authorization under § 48A(d)(5), return information may not be disclosed. This prohibition on disclosure, in conjunction with 5 U.S.C. § 552(b)(3), exempts return information from being provided under the Freedom of Information Act ("FOIA"). Other FOIA exemptions may also apply. For example, FOIA includes exemptions for trade secrets and commercial or financial information under 5 U.S.C. § 552(b)(4) and exempts personal information under 5 U.S.C. § 552(b)(6).

.03 *FOIA requests*. Anyone interested in submitting a request for records under the FOIA with respect to the qualifying gasification project program under § 48B should direct a request that conforms to the Service's FOIA regulations found at 26 C.F.R. § 601.702, to the following address:

IRS FOIA Request
Baltimore Disclosure Office
Room 940
31 Hopkins Plaza
Baltimore, MD 21201

SECTION 10. EFFECT ON OTHER DOCUMENTS

Notice 2009–23 is amplified.

SECTION 11. EFFECTIVE DATE

This notice is effective on December 29, 2014.

SECTION 12. 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 1545-2002.

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 notice are in sections 4, 5, 6, 7, and 8 and Appendix B of this notice. This information is required to obtain an allocation of the qualifying gasification project credit. This information will be used by the Service to verify that the taxpayer is eligible for the qualifying gasification project credit. The collection of information is required to obtain a benefit. The likely respondents are business or other for-profit institutions.

The estimated total annual reporting burden is 1,700 hours.

The estimated annual burden per respondent varies from 50 to 125 hours, depending on individual circumstances, with an estimated average of 85 hours. The estimated number of respondents is 20.

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 § 6103.

SECTION 13. DRAFTING INFORMATION

The principal author of this notice is Jennifer C. Bernardini of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice contact Ms. Bernardini on (202) 317-6853 (not a toll-free call).

APPENDIX A

AGREEMENT

[Insert taxpayer's name, address, and identifying number] ("Taxpayer") and the Commissioner of Internal Revenue ("Commissioner") make the following Agreement:

WHEREAS:

1. On or before [insert date and year], Taxpayer submitted to the Internal Revenue Service ("Service"), an application for certification under the § 48B Phase III

program described in Notice 2014–81 ("Application for § 48B Certification");

2. Taxpayer's application for § 48B certification is for the qualifying gasification project (the "Project") described below—

(a) The name of the Project is [insert name as provided in Taxpayer's application];

(b) The Project will be located in or near [insert city and state];

(c) The Project site in subsection (b) above may be changed only if the change is consistent with the objectives of the qualifying gasification project program, is requested by the taxpayer that received the credit allocation (or a successor in interest that has timely entered into an Agreement regarding the Project with the Service), and involves moving the Project site to improve the potential to capture and sequester CO_2 emissions (if applicable), reduce costs of transporting feedstock, and serve a broader customer base. The Service will not agree to a project site change if the dollar amount of tax credits allocated to the taxpayer under § 48B would increase as a result of the site change or if the Project would not have been originally certified had such modification been included in the taxpayer's application;

(d) The Project will have a total synthesis gas capacity (as defined in section 3.03 of Notice 2014–81) of at least [insert number] total MMBtu per hour of synthesis gas. The synthesis gas is composed primarily of carbon monoxide and hydrogen for direct use or subsequent chemical or physical conversion; and

(e) The fuels identified in § 48B(c)(2) will at all times cumulatively comprise at least 90 percent of the total fuel input (as defined in section 3.04 of Notice 2014–81 and including fuels identified in § 48B(c)(2) and any other fuel input) required by the Project for normal plant operations (as defined in section 3.04(2) of Notice 2014–81) for the production of chemical feedstocks, liquid transportation fuels, or co-production of electricity.

3. On [insert date of acceptance letter issued under section 4.02(9) of Notice 2014–81], the Service accepted Taxpayer's application for § 48B certification for the Project and allocated qualifying gasification project credit under § 48B Phase III in the amount of $[insert number] to the Project.

4. Taxpayer understands that if the Project is not placed in service by Taxpayer within 7 years of [insert the date in WHEREAS clause 3] as determined under section 3.05 of Notice 2014–81, the § 48B Phase III credit in the amount allocated to the Project as specified in WHEREAS clause 3 is fully forfeited. Taxpayer must provide evidence to the Service that the Project has been timely placed in service.

5. Taxpayer understands that if the plans for the Project change in any significant respect from the plans set forth in the application for DOE certification (as defined in section 5.02 of Notice 2014–81) and the application for § 48B certification (as defined in section 5.03 of Notice 2014–81), other than a project site change agreed to by the Service as described in WHEREAS clause 2(c), the acceptance of Taxpayer's application for § 48B certification on the date specified in WHEREAS clause 3 is void and the § 48B Phase III credit in the amount allocated to the Project as specified in WHEREAS clause 3 is fully forfeited.

6. Taxpayer understands that if the Project fails to satisfy any of the requirements in § 48B for a qualifying gasification project—

(a) at the time the Project is placed in service, the § 48B Phase III credit allocated to the Project as specified in WHEREAS clause 3 is fully forfeited; and

(b) after the Project is placed in service (and after satisfying all such requirements at the time the Project is placed in service), the Project ceases to be investment credit property and the recapture rules of § 50(a) apply.

7. Taxpayer understands that, if the Project fails to use gasification technology as defined in § 48B(c)(2) or is not carried out by an eligible entity (as defined in section 3.02 of Notice 2014–81), the § 48B Phase III credit in the amount of allocated to the Project as specified in WHEREAS clause 3 is fully forfeited.

8. Taxpayer understands that if, at any time, the fuels identified in § 48B(c)(2) with respect to gasification technology do not cumulatively comprise at least 90 percent of the total fuel input (as defined in section 3.04 of Notice 2014–81 and including fuels identified in § 48B(c)(2) and any other fuel input) required by the Project for normal plant operations (as defined in section 3.04(2) of Notice 2014–81) for the production of chemical feedstocks, liquid transportation fuels, or co-production of electricity, the Project ceases to be investment credit property and the recapture rules of § 50(a) apply.

9. Taxpayer understands that it cannot claim the qualifying advanced coal project credit under § 48A for any qualified investment for which the qualifying gasification project credit is allowed under § 48B.

10. Taxpayer understands that if Taxpayer elects to claim the qualifying gasification project credit on the qualified expenditures paid or incurred by Taxpayer during the taxable year(s) during which the Project is under construction and the Project ceases to be a qualifying gasification project (whether before, at the time, or after the Project is placed in service), rules similar to the recapture rules in § 50(a)(2)(A) through (D) apply.

11. This Agreement applies only to Taxpayer. Taxpayer must notify the Service within 90 days of the acquisition of the Project by any other person (a successor in interest). A successor in interest that plans to claim the § 48B credit allocated to the Project must request permission to execute a new Agreement with the Service. If the request is granted, the new Agreement must be executed no later than the due date (including extensions) of the successor in interest's Federal income tax return for the taxable year in which the transfer occurs. If the interest is acquired at or before the time the Project is placed in service and the successor in interest fails to execute a new Agreement, the § 48B Phase III credit in the amount allocated to the Project as specified in WHEREAS clause 3 is fully forfeited. If the interest is acquired after the time the Project is placed in service and the successor in interest fails to execute a new Agreement, the Project ceases to be investment credit property and the recapture rules of § 50(a) apply.

NOW IT IS HEREBY DETERMINED AND AGREED FOR FEDERAL INCOME TAX PURPOSES THAT:

1. The total amount of the § 48B Phase III credit that Taxpayer will claim for the Project under this Agreement on account of the acceptance of Taxpayer's application for § 48B certification cannot exceed the amount specified in WHEREAS clause 3;

2. This Agreement does not express whether the Taxpayer has met any of the requirements to receive tax credits under § 48B; and

3. This Agreement is limited and applies only to Taxpayer. A successor in interest that plans to claim § 48B credit allocated to the Project must request permission to execute a new Agreement with the Service.

THIS AGREEMENT IS FINAL AND CONCLUSIVE EXCEPT:

1. The matter it relates to may be reopened in the event of fraud, malfeasance, or misrepresentation of a material fact;

2. It is subject to the Internal Revenue Code sections that expressly provide that effect be given to their provisions notwithstanding any law or rule of law; and

3. If it relates to a tax period ending after the date of this Agreement, it is subject to any law enacted after such date, which applies to the tax period.

By signing, the parties certify that they have read and agreed to the terms of this Agreement.

Taxpayer: [insert name and identifying number]

By: _____ Date Signed: _____
[insert name]
Title: [insert title]
[insert taxpayer's name]

Commissioner of Internal Revenue

By: _____ Date Signed: _____
Kathy J. Robbins
Title: Industry Director, Natural Resources & Construction

APPENDIX B

APPLICATION FOR DOE CERTIFICATION

REQUEST FOR SUPPLEMENTAL APPLICATION INFORMATION FOR DOE

The Internal Revenue Service ("Service") and the Department of Energy ("DOE") seek to certify applications that demonstrate a high likelihood of being successfully implemented by the applicants. To qualify, projects must be technically and economically feasible and use the appropriate gasification technology.

This request for submission of supplemental application information:

- Describes the information to be provided by the applicant seeking a DOE certification of feasibility, and
- Lists the evaluation criteria and Program Policy Factors that are to be used by DOE in the evaluation of applications.

If, after review by DOE, a project is determined to be feasible, DOE will provide a DOE certification of feasibility to the Service. The Service will then accept or reject the taxpayer's application for certification of the tax credits.

In conducting this evaluation, DOE may utilize assistance and advice from qualified personnel from other Federal agencies and/or non-conflicted contractors. DOE will obtain assurances in advance from all evaluators that application information shall be kept confidential and used only for evaluation purposes. DOE reserves the right to request clarifications and/or supplemental information from some or all applicants through written submissions and/or oral presentations, but is not required to do so.

Notice is given that DOE may determine whether or not to provide a certification to the Service at any time after the application has been received, without further exchanges or discussions. Therefore, all applicants are advised to submit their most complete and responsive application.

Applications will not be returned.

INFORMATION TO BE SUBMITTED IN AN APPLICATION FOR DOE CERTIFICATION

A. General

This request, together with the information in relevant sections of Notice 2014–81 includes all the information needed to complete an application for DOE certification. All applications shall be prepared in accordance with this request in order to provide a standard basis for evaluation and to ensure that each application will be uniform as to format and sequence.

Each application should clearly demonstrate the applicant's capability, knowledge, and experience regarding the requirements described herein.

Applicants should fully address the requirements of Notice 2014–81 and this request and *not* rely on the presumed background knowledge of reviewers. DOE may reject an application that does not follow the instructions regarding the organization and content of the application when the nature of the deviation

and/or omission precludes meaningful review of the application.

B. Unnecessarily Elaborate Applications

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective application are not desired. Elaborate art work, graphics and pictures are neither required nor encouraged.

C. Application Submission for DOE Certification

The application submission to DOE must include the information and documentation required by relevant sections of Notice 2009–23.

An application to DOE will not be considered in the § 48B Phase III allocation round unless it is postmarked by March 2, 2015. One electronic version on a USB flash drive or a CD of the application must be submitted to:

Gina Mick
National Energy Technology Laboratory
3610 Collins Ferry Road
Morgantown, WV 26507

Note that under section 5.03(4) of Notice 2014–81, one electronic version of the Application for DOE certification must be sent to the Service as part of the application for § 48B certification. The application for § 48B certification will not be considered in the § 48B Phase III allocation round under this notice unless it is submitted to the Service by March 2, 2015.

THE INFORMATION REQUIRED BY THIS REQUEST MUST BE SUBMITTED USING THE FORMAT AND THE HEADINGS OF THE PROJECT INFORMATION MEMORANDUM AS DESCRIBED BELOW.

To aid in evaluation, applications shall be clearly and concisely written and logically assembled. All pages of each part shall be appropriately numbered and identified with the name of the applicant and the date.

The application, including the Project Information Memorandum, MUST be formatted in one of the following software applications:

- Microsoft Word^{tm} 2010 or later edition
- Microsoft Excel^{tm} 2010 or later edition
- Adobe Acrobat^{tm} PDF 7.0 or later edition

Financial models should be submitted using the Excel^{tm} spreadsheet and must include working calculation formulas and clearly identified assumptions.

The applicant is responsible for the integrity and structure of the electronic files. DOE will not be responsible for reformatting, restructuring or converting any files submitted in response to this request.

The Project Information Memorandum, *excluding Appendices*, shall not exceed seventy-five (75) pages. Pages in excess of the page limitation will not be considered for evaluation. All text shall be typed, single spaced, using 12 point font, 1 inch margins, and unreduced 8-1/2-inch by 11-inch pages. Illustrations and charts shall be legible with all text in legible font. Pages shall be sequentially numbered. Except as otherwise noted herein the page guidelines previously set forth constitute a limitation on the total amount of material that may be submitted for evaluation. No material may be incorporated in any application by reference as a means to circumvent the page limitation.

D. Project Information Memorandum

1. Summary and Introduction

- Description of the Project
- Financing and Ownership Structure
  - Include a list of all IRC section 48B tax credit allocations
- Description of the main parties to the project, including background, ownership and related experience
- Current Project Status and Schedule to Beginning of Construction

2. Technology and Technical Information

Provide a description of the proposed technology, including sufficient supporting information (such as vendor guarantees, process flow diagrams, equipment descriptions, information on each major process unit and the total plant, compositions of major streams, and the technical plan for achieving the goals proposed for the project) as would be needed to allow DOE to confirm that the technical requirements of § 48B are met. Specifically, the applicant should:

- Provide evidence sufficient to demonstrate that the proposed technology will employ gasification technology as defined in § 48B(c)(2).
- Present information sufficient to justify the total amount of synthesis gas (as defined in § 48B(c)(2)) to be produced by the project (synthesis gas capacity).
- Provide the total MMBtu/hr of the synthesis gas (HHV) at the gasifier outlet.
- Provide evidence sufficient to ensure that fuels identified in § 48B(c)(2) will comprise 90 percent of the total fuel input (fuels identified in § 48B(c)(2) and any other fuel input) for the project. Provide the total quantities of CO, H2, CH4, CO_2, and water in the synthesis gas.
- Identify the domestic industry for which the proposed project is intended to be used.
- Identify the specific products and quantities produced by the proposed project, providing sufficient evidence to support claims.
- Provide evidence that indicates, for projects using nonrenewable fuels, the gasification technology design reflects reasonable consideration for, and if applicable, is capable of, accommodating equipment necessary to capture CO_2 for later use or sequestration. Include the project status and relevant information from ongoing engineering activities. Also include in an appendix any engineering report or reports used by the applicant to develop the project and to estimate costs and operating performance.
- If applicable, provide evidence sufficient to demonstrate that the project includes equipment which separates and permanently sequesters CO_2 emissions and provide the percentage of the project's total CO_2 emissions that are separated and permanently sequestered. The CO_2 separation and sequestration percentage shall be calculated based on the amount of CO_2 sent for permanent sequestration and the total CO_2 which would otherwise

be released into the atmosphere as industrial emission of greenhouse gas. Also provide CO_2 separation, capture, sequestration, and emission quantities on a metric tons per hour basis and on a metric tons per year basis, both under normal plant operating conditions.

3. Applicant's Capability to Accomplish the Technical Objectives

Provide a narrative supporting the applicant's capability to accomplish the technical objectives of the proposed project, including supporting documentation demonstrating that the applicant has assembled a team that is formally committed to participate in the proposed project.

Provide information to support that the applicant has assembled a team with the skills and resources needed to implement the project as proposed.

Provide signed agreements or letters from team members demonstrating that the proposed team members are fully committed to the project.

Provide information, including examples of prior similar projects completed by applicant, engineering-procurement-construction ("EPC") contractor, and suppliers of major subsystems or equipment, which support the capabilities of the applicant and its team members to design, construct, permit, and operate the facility. The applicant should demonstrate that the team members have a corporate history of successful completion of similar projects.

Provide information to support that key personnel of the applicant and its team members have knowledge, experience, and adequate degree of involvement to successfully implement the project.

Include the project status and relevant information from ongoing engineering activities. Also include in an appendix any engineering report or reports used by the applicant to develop the project and to estimate costs and operating performance. Include copies of any signed agreements to support project status claims regarding preliminary design studies, front-end engineering design ("FEED") and EPC-type agreements.

4. Site Control and Ownership

Provide evidence that demonstrates the overall feasibility of implementing the project at the proposed site.

Provide evidence that the applicant owns or controls a site in the United States of sufficient size to allow the proposed project to be constructed and operated on a long-term basis. Documentation such as a deed demonstrating the applicant owns the project site, a signed option to purchase the site from the site owner, or a letter of intent signed by the site owner and stating the site owner's intent to sell the site to the applicant should be provided.

Describe the current infrastructure at the site available to meet the needs of the project.

Provide documentation supporting applicant's conclusion that the proposed site can fully meet all environmental, feedstock supply, water supply, transmission interconnect and public policy requirements. Such documentation may include signed agreements, letters of intent, or term sheets relating to feedstock supply, water supply, and product (e.g. CO_2) transportation etc., and regulatory approvals supporting the key claims.

Provide detailed plans, schedules and status updates, particularly for sites with pre-existing conditions that could impact the proposed project. Pre-existing conditions may include, but are not limited to, sites with mandated environmental remediation efforts; brown-field sites that will require building demolition; or sites requiring substantial rerouting of existing roads, railroads, transmission lines, or pipelines prior to the start of the project.

Applicants must select one "proposed site." However, projects with key physical or logistical elements that require close integration with another system for the project to succeed should provide information on all integrated systems regardless of where they are located. Example 1: a gasification plant designed to operate exclusively on coal from a to-be-opened mine should provide supporting documentation for the new mine. Example 2: an oxygen-blown gasification plant planning to purchase oxygen from a third party who will construct a plant exclusively for this project should provide documentation for the oxygen supplier. Example 3: an industrial gasification plant planning to sell CO_2 for enhanced oil recovery ("EOR") should provide an agreement for such a transaction indicating the annual CO_2 purchase quantity, expected project lifetime sales, CO_2 capacity of the site for EOR, and EOR site ownership.

5. Utilization of Project Output

Provide evidence that demonstrates that a majority of the proposed project output is reasonably expected to be acquired or utilized.

Provide a projection of the anticipated costs of electricity and other marketable by-products produced by the plant.

Provide documentation establishing that a majority of the output of the plant is reasonably expected to be acquired or utilized. Such documentation should be signed by authorizing officials of both the buyer and seller, and may include: Sales Agreements, Letters of Intent, Memoranda of Understanding, Option Agreements, and Power Purchase Agreements.

Describe any energy sales arrangements that exist or that may be contemplated (*e.g.*, a Power Purchase Agreement or Energy Sales Agreement) and summarize their key terms and conditions.

Include as an appendix any independent Energy Price Market Study that has been done in connection with this project, or if no independent market study has been completed, provide a copy of the applicant-prepared market study.

Identify and describe any firm arrangements to sell non-power output, such as CO_2, and provide any evidence of such arrangements. If the project produces a product in addition to power, include as an appendix any related market study of price and volume of sales expected for that product.

6. Project Economics

Describe the project economics and provide satisfactory evidence of economic feasibility as demonstrated through the financial forecast and the underlying project assumptions. The project economic and financial assumptions should be clearly stated and explained.

Show calculation of the amount of tax credit applied for based on allowable cost and any existing IRC Section 48B tax credit allocations.

7. Project Development and Financial Plan

Provide the total project budget and major plant costs (*e.g.*, development, operating, capital, construction, and financing costs). Provide the estimated annual budget for and source of project development costs from the time of the application until the beginning of construction, including legal, engineering, financial, environmental, overhead, and other development costs. Describe the overall approach to project development and financing sufficient to demonstrate project viability. Provide a complete explanation of the source and amount of project equity. Provide a complete explanation of the source and amount of project debt. Provide the audited financial statements for the most recently ended three fiscal years and quarterly interim financial statements for the current fiscal year for (a) the applicant, (b) for any of the project parties providing funding, and (c) for any third party funding source. If the applicant or another party does not have audited financial statements, the applicant or the party should provide equivalent financial statements prepared by the applicant or the party, in accordance with Generally Accepted Accounting Principles, and certified as to accuracy and completeness by the Chief Financial Officer of the party providing the statements.

For internally financed projects, provide evidence that the applicant has sufficient assets to fund the project with its own resources. Identify any internal approvals required to commit such assets. Include in an appendix copies of any board resolution or other approval authorizing the applicant to commit funds and proceed with the project.

For projects financed through debt instruments either unsecured or secured by assets other than the project, provide evidence that the applicant has sufficient creditworthiness to obtain such financing along with a discussion of the status of such instruments. Identify any internal approvals required to commit the applicant to pursue such financing. Include in an appendix, copies of any board resolution or other approval authorizing the applicant to commit to such financing.

For projects financed through investor equity contributions, describe the source and status of each contribution. Discuss each investor's financial capability to meet its commitments. Include in an appendix copies of any executed investment agreements.

If financing through a public offering or private placement of either debt or equity is planned for the project, provide the expected debt rating for the issue and an explanation of applicant's justification for the rating. Describe the status of any discussions with prospective investment bankers or other financial advisors.

Include as an appendix copies of any existing funding commitments or expressions of interest from funding sources for the project.

For projects employing nonrecourse or limited recourse debt financing, provide a complete discussion of the approach to, and status of, such financing. In an appendix: (1) provide an Excel based financial model of the project, with formulas, so that review of the model calculations and assumptions may be facilitated; and (2) provide pro-forma project financial, economic, capital cost, and operating assumptions, including detail of all project capital costs, development costs, interest during construction, transmission interconnection costs, other operating expenses, and all other costs and expenses.

8. Project Contract Structure

Describe the current status of each of the agreements set forth below. Include as an appendix copies of the contracts or summaries of the key provisions of each of the following agreements:

- Power Purchase Agreement (if not fully explained in section 5 above).
- Raw Material Input: describe the source and price of raw material inputs for the project. Include as an appendix any studies of price and amount of raw materials that have been prepared. Include a summary of any supply contracts and a signed copy of the contracts.
- Transportation: explain the arrangements for transporting project inputs and outputs, including costs.
- Operations & Maintenance Agreement: include a summary of the terms and conditions of the contract and a copy of the contract.
- Shareholders Agreement: summarize key terms and include the agreement as an appendix.
- Engineering, Procurement and Construction Agreement: describe the key terms of the existing or expected EPC contract arrangement, including firm price, liquidated damages, hold-backs, performance guarantees, etc.
- Water Supply Agreement: confirm the amount, source, and cost of water supply.
- Transmission Interconnection Agreement: explain the requirements to connect to the system and the current status of negotiations in this respect.
- If CO_2 is separated by the project and is to be sold to a third party for sequestration, provide a Sales Agreement and provide specifics, such as CO_2 sales (metric tons per year), expected project lifetime sales (metric tons), potential CO_2 capacity of the site for sequestration (metric tons), technology and site suitability for sequestration, and sequestration site ownership and operation.

9. Permits Including Environmental Authorizations

Provide a complete list of all Federal, state, and local permits, including environmental authorizations or reviews, necessary to commence construction of the project.

Explain what actions have been taken to date to satisfy the required authorizations and reviews, and the status of each.

Provide a description of the applicant's plan to obtain and complete all necessary permits, and environmental authorizations and reviews.

10. Project Schedule

Provide an overall project schedule which includes technical, business, financial, permitting and other factors to sub-

stantiate that the project will meet the 7 year placed-in-service requirement.

The project schedule should be comprehensive and provide sufficient detail to demonstrate how applicant will meet the placed-in-service requirement. The schedule should demonstrate that the applicant understands the required tasks, and has allowed realistic times for accomplishing the technical and financial tasks. The schedule should include the milestone accomplishments needed to obtain the financing for the project.

11. Appendices

- Copy of internal or external engineering reports.
- Copy of site plan, together with evidence that applicant owns or controls a site. Examples of evidence would include a deed, or an executed contract to purchase or lease the site.
- Information supporting applicant's conclusion that the site is fully acceptable as the project site with respect to environment, raw material supply, water supply, transmission interconnect, and public policy reasons.
- Power Purchase or Energy Sales Agreement
- Energy Market Study.
- Financial Model of project.
- Financial statements for the applicant and other project funding sources for the most recently ended three fiscal years, and quarterly interim financial statements for the current fiscal year.
- Expressions of interest or commitment letters from funding sources.
- Copies of executed project contracts. If no contract currently exists, provide a summary of the expected terms and conditions.
- List of all Federal, state, and local permits, including environmental authorizations or reviews, necessary to commence construction.

E. Supplemental Technical and Financial Guidance for Project Information Memorandum

Technology and Technical Information

It is important that the applicant select a specific gasification system for the project. Without that decision, it is difficult to provide the necessary specific design information needed for DOE to evaluate the project feasibility with respect to performance, emissions, outputs of major streams as well as capital and operating costs.

Project Economics

Applicants should demonstrate the project's economic feasibility and financial viability by providing a clear statement and explanation of the economic and financial assumptions made by the applicant, and a financial forecast for the project. The financial forecast should flow logically from the applicant's assumptions and be consistent with them. Applicants should include assumptions regarding financial and economic issues that may not be included in the project costs but have a direct impact on the project. The examples given in the "Site Control and Ownership" section are relevant here and their impact on the project economics should be discussed here.

Project Development and Financial Plan

The information provided by the applicant in this section should demonstrate that the applicant's financial plan for developing the project is feasible and that the applicant will have access to necessary financing. The applicant should explain the source and timing for obtaining all financing, including the project development costs. It is important that the applicant explain and provide evidence that it has the capacity to fund the preconstruction project development costs, together with a budget for and description of those costs. Note that financial information is required for the applicant and for any other funding source.

Project Contract Structure

This section requires that the applicant demonstrate an understanding of the commercial contracting process and show progress in establishing the framework of contracts and agreements that a project typically requires. Applicants should show that their intended contract structure is reasonable and that their assumptions relative to price, terms, and conditions are consistent with current market conditions. Evidence of final agreements, agreements in principle, or summaries of terms and conditions between the applicant and contract counterparties should be provided, if available.

EVALUATION CRITERIA

A. Criteria of § 48B

Gasification projects will be evaluated on whether they meet all the requirements of § 48B including:

Technical: whether the applicant has demonstrated the capability to accomplish the technical objectives.

Site: whether the site requirement for ownership or control has been met, and that the site is suitable for the proposed project.

Economic: whether the project has demonstrated economic feasibility, taking into consideration the submitted financial and project development, structural information, and financial plan.

Schedule: the applicant's ability to meet the 7 year placed-in-service requirement.

B. Program Policy Factors to Be Used by DOE in the Evaluation of Applications

Section 48B identifies minimum requirements for consideration for the qualifying gasification project credit, including the project's technical feasibility, cost, and applicant's ability. In the event that there are more qualified (certifiable) applications than there are available amount of tax credits, DOE will apply additional factors to rank eligible projects based on their ability to advance gasification technology beyond its current state.

If there are more certified applications than available amount of § 48B Phase III credits, DOE will rank the certified projects based on evaluation of the following Program Policy Factors. In ranking certified projects, highest priority will be given to the Primary Ranking Factor. Secondary and Tertiary Ranking Factors will be taken into account to rank projects that are not clearly differentiated on the basis of the Primary Ranking Factor, with higher priority given to the Secondary Ranking Factors than to Tertiary Ranking Factors.

Primary Ranking Factor:

- Capacity to separate and sequester CO_2 emissions. Among the certified projects, highest rankings will be given to projects with the greatest separation and sequestration percentage of total CO_2emissions.

Secondary Ranking Factor:

- Research partnership with an eligible educational institution as defined in § 48B(d)(4)(B).

Tertiary Ranking Factors:

- Presentation of other environmental, economic, or performance benefits.
- Higher plant efficiency.
- Geographic distribution of potential markets.
- The ratio of total synthesis gas capacity (as defined in section 3.03 of Notice 2014–81) to requested tax credit.
- Diversity of technology approaches and methods.

[26 CFR 601.106]: [Appeals Functions]
(Also: §§ 601.202, 601.203; and Part I, § 7123(b))

Rev. Proc. 2014–63

SECTION 1. PURPOSE

This revenue procedure updates Revenue Procedure 2009–44, 2009–2 C.B. 462, incorporating provisions of Announcements 2008–111 and 2011–6 relating to mediation, to expand and clarify the types of examination and collection cases and issues in the Appeals administrative process that are eligible for mediation pursuant to section 7123(b)(1) of the Internal Revenue Code (Code).[1] Generally, mediation is available for examination cases and certain collection cases in which a limited number of legal and factual issues remain unresolved following settlement discussions in Appeals.

SECTION 2. BACKGROUND

Section 7123(b)(1) of the Code, as enacted by section 3465 of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105–206, 112 Stat. 685, provides the statutory authority for the Appeals mediation program. Section 7123(b)(1)(A) provides that mediation will be available on any issue unresolved at the conclusion of Appeals procedures. Section 7123(b)(1)(B) provides that mediation will be available on any issue unresolved at the conclusion of unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

In announcements issued in 1995 and 1997, the IRS established procedures for taxpayers to request mediation in Coordination Examination Program cases assigned to Appeals Team Chiefs. See Announcement 95–86, 1995–44 I.R.B. 27, and Announcement 97–1, 1997–2 I.R.B. 62. In 1998, the IRS announced that it would begin a two-year pilot of an expanded mediation program that would encompass factual issues arising from examination, involving adjustments of $1 million or more. See Announcement 98–99, 1998–2 C.B. 652. In 2001, that pilot program was extended for an additional year. See Announcement 2001–9, 2001–1 C.B. 357. On July 1, 2002, the IRS published Rev. Proc. 2002–44, 2002–2 C.B. 10, which superseded Announcement 98–99 and Announcement 2001–9, formally established the Appeals mediation program, and further expanded the types of cases for which mediation would be available, including cases where there was an unsuccessful attempt to enter into a closing agreement.

Under these programs, mediation was not available for any collection case or issue. In Announcement 2008–111, 2008–48 I.R.B. 1224, published December 1, 2008, Appeals established a two-year pilot program to extend mediation and arbitration to certain collection cases. Under the pilot program, certain offer-in-compromise (OIC) and Trust Fund Recovery Penalty (TFRP) cases in Appeals offices in select cities were eligible for mediation.

Rev. Proc. 2009–44 updated and superseded Rev. Proc. 2002–44 to again expand and clarify the types of cases that may be mediated in Appeals. In addition, Rev. Proc. 2009–44 provided that mediation may be available for OIC and TFRP cases described in Announcement 2008–111. Announcement 2011–6, 2011–4 I.R.B. 433, published January 24, 2011, extended, without change, the mediation pilot for collection cases, through December 31, 2012.

This revenue procedure consolidates the procedures for mediation of examination cases and issues and collection cases and issues into a single revenue procedure. This revenue procedure also makes other changes to Rev. Proc. 2009–44, set forth in Section 3. Accordingly, this revenue procedure supersedes Rev. Proc. 2009–44 and Announcements 2008–111 and 2011–6.

SECTION 3. SIGNIFICANT CHANGES TO REV. PROC. 2009–44 AND ANNOUNCEMENTS 2008–111 AND 2011–6

Significant changes to Rev. Proc. 2009–44 and Announcements 2008–111 and 2011–6 in this revenue procedure include:

.01 Section 4.04(7) clarifies that "whipsaw" issues include issues on a joint return where both spouses do not agree to participate in the same mediation proceeding or where a spouse is claiming innocent spouse treatment under section 6015.

.02 The mediation process for OIC and TFRP cases is no longer limited to taxpayers in selected cities.

.03 Section 5.01 incorporates from Announcement 2008–11 and Announcement 2011–6 the scope of OIC cases and issues for which mediation is available.

.04 Section 5.02 incorporates from Announcement 2008–11 and Announcement 2011–6 the scope of OIC cases and issues for which mediation is not available.

.05 Section 5.02(6) reflects that mediation is not available at this time for OIC cases that are worked solely at Appeals Campuses/Service Center sites.

.06 Section 6.01 incorporates from Announcement 2008–11 and Announcement 2011–6 the scope of TFRP cases and issues where mediation is available.

.07 Section 6.02 clarifies a circumstance in which mediation is not available in TFRP cases. Under this provision, mediation is not available to resolve issues concerning whether a TFRP is collectible.

[1]For purposes of this revenue procedure, the term "mediation" refers only to "non-binding mediation" as set forth in section 7123(b)(1).

Announcement 2008–11 and Announcement 2011–6 did not expressly exclude this issue from the list of TFRP issues where mediation would be available.

.08 Section 9.01 clarifies that a representative from the Appeals Office of Tax Policy and Procedure may participate in the negotiations to select an Appeals mediator.

SECTION 4. SCOPE OF MEDIATION

.01 *In general.* Mediation may be used to resolve issues in cases that qualify under this revenue procedure while they are under consideration by Appeals. This procedure may be used only after Appeals settlement discussions are unsuccessful and, generally, when all other issues are resolved but for the issue(s) for which mediation is being requested.

.02 *Authority*. The mediation procedure does not create any special authority for settlement by Appeals. During the mediation process, Appeals is still subject to the procedures that would be applicable if the issue were being considered via the standard Appeals process, including procedures in the Internal Revenue Manual and existing published guidance. The mediator does not have settlement authority and cannot render a decision regarding any issue in dispute.

.03 *Applicability*. Mediation is available for:

(1) Legal issues;

(2) Factual issues;

(3) A Compliance Coordinated Issue (CCI) or an Appeals Coordinated Issue (ACI). (CCI and ACI issues are listed online at www.irs.gov/appeals). However, a CCI or ACI issue will not be eligible for mediation when the taxpayer has declined the opportunity to discuss the CCI or ACI issue with the Appeals CCI or ACI coordinator during the course of regular Appeals settlement discussions;

(4) An early referral issue when an agreement is not reached, provided the early referral issue meets the requirements for mediation. For more information on early referrals, see section 2.16 of Rev. Proc. 99–28, 1999–2 C.B. 109, or the corresponding provision of any successor guidance;

(5) Issues for which a request for competent authority assistance has not yet been filed. Taxpayers are cautioned that if they enter into a settlement with Appeals (including an Appeals settlement through the mediation process) and then request competent authority assistance, the competent authority will endeavor only to obtain a correlative adjustment with the treaty country and cannot take any actions that would otherwise change the settlement. See section 7.05 of Rev. Proc. 2006–54, 2006–2 C.B. 1035, or the corresponding provision of any successor guidance. If a taxpayer enters into the Appeals mediation program, the taxpayer may not request competent authority assistance until the mediation process is complete, unless the taxpayer demonstrates that a request for competent authority assistance is necessary to keep open a period of limitations in the treaty country. If so, competent authority assistance may be requested while mediation is pending. Where the requirements of this section have been satisfied and competent authority has been requested, and the taxpayer must notify the U.S. competent authority that the case is in mediation in Appeals, the taxpayer must notify the mediator that competent authority assistance has been requested and that the provisions of this section have been satisfied. The U.S. competent authority will suspend action on the case until mediation is completed;

(6) Unsuccessful attempts to enter into a closing agreement under section 7121;

(7) OIC issues, as provided in Section 5 of this revenue procedure; and

(8) TFRP issues, as provided in Section 6 of this revenue procedure.

.04 *Inapplicability*. Mediation is not available for:

(1) Cases in which mediation is not appropriate under either 5 U.S.C. § 572 or 5 U.S.C. § 575, which provide the general authority and guidelines for use of alternative dispute resolution in the administrative process;

(2) Issues designated for litigation;

(3) Issues docketed in any court (for the Chief Counsel mediation program involving issues in docketed cases, see Chief Counsel Directives Manual (CCDM) 35.5.5.4);

(4) Collection cases, except for certain OIC and TFRP cases as detailed in this revenue procedure;

(5) Issues for which mediation would not be consistent with sound tax administration, such as, but not limited to, issues governed by closing agreements, res judicata, or controlling Supreme Court precedent;

(6) Frivolous issues, such as, but not limited to, those identified in Rev. Proc. 2012–2, 2012–1 I.R.B. 92, or any subsequent revenue procedure;

(7) "Whipsaw" issues, or issues for which resolution with respect to one party might result in inconsistent treatment in the absence of participation of another party, such as, but not limited to, issues on a joint return where both spouses do not agree to participate in the same mediation proceeding or where one spouse is claiming innocent spouse treatment under section 6015;

(8) Cases in which the taxpayer did not act in good faith during settlement negotiations, such as, but not limited to, cases in which the taxpayer failed to timely respond to document requests or offers to settle, or failed to address arguments and precedents raised by Appeals;

(9) Cases that were previously mediated through a different alternative dispute resolution program within Appeals, such as Fast Track Settlement or Fast Track Mediation; and

(10) Issues that have been otherwise identified in subsequent guidance issued by the IRS as excluded from the mediation program.

SECTION 5. OFFER-IN-COMPROMISE CASES

.01 *In general*. Provided all facts are known by both parties, mediation in OIC cases is available for the following issues:

(1) The value of assets, including those held by a third party;

(2) The value of dissipated assets and what amount should be included in the overall determination of reasonable collection potential;

(3) A taxpayer's proportionate interest in jointly held assets;

(4) Projections of future income based on calculations that do not involve current income;

(5) The calculations of a taxpayer's future ability to pay when living expenses are shared with a non-liable person;

(6) Whether the taxpayer meets the criteria for deviating from national and/or local expense standards described in Internal Revenue Manual 5.15.1 and as set forth at *http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/National-Standards-Food-Clothing-and-Other-Items*;

(7) Other factual determinations, such as whether a taxpayer's contributions into a retirement savings account are discretionary or mandatory as a condition of employment.

.02 *Exclusions*. Mediation is not available for OIC cases in which:

(1) The taxpayer has the ability to pay in full based on the unadjusted financial information submitted by the taxpayer, except when economic hardship exists;

(2) The taxpayer declines to amend or increase the offer without stating any specific disagreement with the valuations, figures, or methodology used by Appeals in determining reasonable collection potential;

(3) The disputed issue is explicitly addressed by IRS guidance or authority, including but not limited to regulations, published guidance, the Internal Revenue Manual, forms or instructions. For example, the instructions for Form 656 explicitly state that the IRS will not consider expenses for tuition for private schools, college expenses, charitable contributions, and other unsecured debt payments as part of the OIC expense calculation. Therefore, mediation is not available with respect to whether any of these expenses will be considered in evaluating the taxpayer's offer;

(4) An OIC is submitted as an alternative to collection in a Collection Due Process or equivalent hearing case;

(5) The issue of liability was previously determined by Appeals;

(6) The case was worked solely at an Appeals Campus/Service Center site; or

(7) Delegation Order 5–1 requires a level of approval higher than that of the Appeals Team Manager, such as certain Effective Tax Administration offers or those in which a determination is made by Appeals that acceptance is not in the best interest of the government (see Policy Statement P–5–100 and IRM 5.8.7, *Return, Terminate, Withdraw, and Reject Processing*).

SECTION 6. TRUST FUND RECOVERY PENALTY CASES

.01 *In general*. Mediation is available in TFRP cases for the following issues:

(1) Whether the person was required to collect, truthfully account for, and pay over income, employment, or excise taxes;

(2) Whether a responsible person willfully failed to collect or truthfully account for and pay over income, employment, or excise taxes, or willfully attempted in any manner to evade or defeat the payment of such tax;

(3) Whether a taxpayer sufficiently designated a payment to the trust fund portion of the unpaid tax; and

(4) Whether the taxpayer provided sufficient corporate payroll tax records to establish that a corporate tax deposit was in the amount required by Treas. Reg. § 31.6302–1(c) and, therefore, was considered a designated payment to be applied to both the trust fund and non-trust fund portions of the employment taxes associated with that specific payroll. See IRM 5.7.4.3, *Investigation and Recommendation of the Trust Fund Recovery Penalty, Calculating the TFRP*.

.02 *Exclusions*. Mediation is not available to resolve issues concerning whether the penalty is collectible (see IRM 5.7.5, *Trust Fund Compliance, Collectibility Determination)*.

SECTION 7. APPLICATION PROCESS

.01 *Mediation is optional*. A taxpayer and Appeals may request mediation after consultation with each other. Mediation will not occur unless both parties agree to participate in the process.

.02 *Filing requirements*.

(1) *Where to file*. To request mediation, the taxpayer should send a written request to the appropriate Appeals Team Manager. The taxpayer should also send copies of the written request to the appropriate Appeals Area Director. (See Exhibit 1 of this revenue procedure for a listing of the addresses for each Appeals Area Director.)

(2) *Required information*. The mediation request should include:

(a) The taxpayer's name, taxpayer identification number, and address (and the name, title, address, and telephone number of a different contact person, if applicable);

(b) The name of the Team Case Leader, Appeals Officer, or Settlement Officer;

(c) The taxable period(s) involved;

(d) A description of the issue for which mediation is being requested, including the dollar amount of the adjustment or, if applicable, the OIC in dispute; and

(e) A representation that the issue is not an excluded issue listed in Section 4, Section 5, or Section 6 above.

.03 *Review of mediation request*. The Appeals Team Manager will confer with the Appeals Office of Tax Policy and Procedure before deciding to approve or deny a mediation request. Generally, the Appeals Team Manager will respond to the taxpayer and the Team Case Leader or Appeals Officer within two weeks after the Appeals Team Manager receives the request for mediation.

(1) *Request approved*. If Appeals approves the mediation request, the Appeals Team Manager will inform the taxpayer and the Team Case Leader, Appeals Officer, or Settlement Officer and will schedule a conference or conference call at a mutually agreeable time that may include a representative from the Appeals Office of Tax Policy and Procedure to discuss the mediation process.

(2) *Request denied*. If Appeals denies the mediation request, the Appeals Team Manager will promptly inform the taxpayer and the Team Case Leader, Appeals Officer, or Settlement Officer. Although no formal appeal procedure exists for the denial of a mediation request, a taxpayer may request a conference with the Appeals Team Manager to discuss the denial. The denial of a mediation request is not subject to judicial review.

SECTION 8. AGREEMENT TO MEDIATE

.01 *Written agreement*. Upon approval of the request to mediate, the taxpayer and Appeals will enter into a written agreement to mediate. See Exhibit 2 of this revenue procedure for a model agreement to mediate. A representative from the Appeals Office of Tax Policy and Procedure may participate in the negotiation. The agreement to mediate should:

(a) Be as concise as possible;

(b) Specify the issue(s) that the parties have agreed to mediate;

(c) Contain an initial list of witnesses, attorneys, representatives, and observers for each party;

(d) Identify the location and the proposed date of the mediation session; and

(e) Prohibit *ex parte* contacts between the mediator and the parties.

The Appeals Team Manager, in consultation with the Team Case Leader or Appeals Officer, will sign the agreement to mediate on behalf of Appeals.

Generally, it is expected that the parties will complete and execute the agreement to mediate within three weeks after being notified that Appeals has approved the mediation request, and will proceed to mediation within 60 days after signing the written agreement to mediate. A taxpayer's inability to adhere to these timeframes, without reasonable cause, may result in Appeals' withdrawal from the mediation process.

.02 *Participants*. The parties to the mediation process will be the taxpayer and Appeals. Each party must have at least one participant with decision-making authority attending the mediation session. The written agreement to mediate will set forth the procedures by which the parties inform each other and the mediator of the participants in the mediation, and will set forth any limitation on the number, identity, or participation of such participants. The parties are encouraged to include, in addition to the required decision-makers, those persons with information and expertise that will be useful to the decision-makers and the mediator. To minimize the possibility of a last minute disqualification of the mediator, each party must notify the mediator and the other party of the participants on the party's mediation team no later than two weeks before the mediation. See Exhibit 3 of this revenue procedure for a model participants list.

.03 *Disclosure*. To participate in mediation under this revenue procedure, the taxpayer must consent under section 6103(c) to the disclosure by the IRS of the taxpayer's returns and return information incident to the mediation to the mediator and any participant or observer identified in the initial list of participants and observers and to any subsequent participants and observers identified in writing by the parties. The taxpayer must execute a separate consent to disclose the taxpayer's return and return information. See Exhibit 4 of this revenue procedure for a model consent. If the agreement to mediate and consent are executed by a person pursuant to a power of attorney executed by the taxpayer, that power of attorney must clearly express the taxpayer's grant of authority to consent to disclose the taxpayer's returns and return information by the IRS to third parties, and a copy of that power of attorney must be attached to the agreement.

SECTION 9. MEDIATION PROCESS

.01 *Selection of mediator and expenses*. An Appeals employee trained as a mediator will serve as the mediator under this revenue procedure. Appeals will pay all expenses associated with the use of an Appeals mediator. A representative from the Appeals Office of Tax Policy and Procedure may participate in the negotiations to select an Appeals mediator. Pursuant to IRM 8.26.5.4.4, the taxpayer and the Appeals Team Manager will select the Appeals mediator from a list of trained employees who, generally, will be located in the same Appeals office or geographical area as the taxpayer, but will not be a member of the same team that was assigned to the case. Other criteria for selecting a mediator from Appeals may include previous mediation experience or knowledge of industry practices.

Additionally, at the taxpayer's expense, the taxpayer may elect to use a co-mediator who is not employed by the IRS. The taxpayer and the Appeals Team Manager will select the non-IRS co-mediator from any local or national organization that provides a roster of neutrals. A representative from the Appeals Office of Tax Policy and Procedure may participate in the negotiations to select a non-IRS co-mediator. Criteria for selecting a non-IRS co-mediator may include: completion of mediation training; previous mediation experience; substantive knowledge of tax law; or knowledge of industry practices. An individual is not eligible to be a non-IRS co-mediator if the individual has an official, financial, or personal conflict of interest with respect to the parties, unless such interest is fully disclosed in writing to the taxpayer and the Appeals Team Manager and they agree that the mediator may serve. See 5 U.S.C. § 573.

All mediators must be neutral. Mediators serve as facilitators, assist in defining the issues, and promote settlement negotiations between the parties. Mediators will inform and discuss with the parties the rules and procedures pertaining to the mediation process. Mediators do not have settlement authority and cannot render a decision regarding any issue in dispute. The parties will continue to have settlement authority for all issues considered under the mediation process.

.02 *Appeals personnel as mediators and conflict statement*. To address the inherent conflict arising from the Appeals mediator's status as an employee of the IRS, the Appeals mediator will provide to the taxpayer a statement confirming their proposed service as a mediator and stating that (i) they are a current employee of the IRS, (ii) a conflict results from the continued status as an IRS employee, and (iii) this conflict will not interfere in the mediator's ability to facilitate the case impartially. This statement will also be included in the written agreement to mediate.

SECTION 10. MEDIATION SESSION

.01 *Discussion summaries*. Each party will prepare a discussion summary of the issues (including the party's arguments in favor of the party's position) for consideration by the mediator. The discussion summaries should be submitted to the mediator and the other party no later than two weeks before the mediation session is scheduled to occur.

.02 *Confidentiality*. The mediation process is confidential. Therefore, all information concerning any dispute resolution communication is confidential and may not be disclosed by any party, participant, observer, or mediator except as provided by statute, such as in section 6103 of the Internal Revenue Code, relating to confidentiality of taxpayer information, and 5 U.S.C. § 574, relating to confidentiality in federal administrative alternative dispute resolution proceedings. A dispute resolution communication includes all oral or written communications prepared for the purposes of a dispute resolution proceeding. See 5 U.S.C. § 571(5).

.03 *Ex Parte Contacts With Mediator Prohibited*. To ensure that one party is not in a position to exert undue influence on the mediator, *ex parte* contacts with the mediator outside the mediation session are prohibited.

The prohibition against *ex parte* communications with the mediator is intended to apply only to unsolicited contacts from one of the parties with the mediator that occur outside the mediation session. The prohibition prevents the mediator from receiving information or evidence from one party that the other party is unaware of and is unable to respond to or rebut. This provision does not prevent the mediator from contacting a party outside the mediation session, or a party from answering a question or request posed by the mediator outside of the mediation session provided that the information furnished to the mediator is made available to both parties so that no party is unaware of or unable to respond to or rebut the information.

.04 *Withdrawal*. Either party may withdraw from the process at any time before reaching a settlement of the issue(s) being mediated by notifying the other party and the mediator in writing.

SECTION 11. POST-SESSION PROCEDURES

.01 *Mediator's report.* At the conclusion of the mediation process, the mediator will prepare a brief written report and submit a copy to each party. See Exhibit 5 of this revenue procedure for a model mediator's report.

.02 *Closing procedures*. If the parties reach an agreement on all or some of the issues through the mediation process, Appeals will use established procedures to close the case, including preparation of a Form 906, *Closing Agreement on Final Determination Covering Specific Matters*. See Statement of Procedural Rules, 26 C.F.R. § 601.106, Delegation Order 236 (Rev. 3) (addressing settlement authority for issues in a Coordinated Examination Program), or § 7122(b) (regarding OIC cases).

If the parties do not reach an agreement on an issue being mediated, Appeals will not reconsider the mediated issue(s), and a statutory notice of deficiency will be issued with respect to all unagreed issues, or the case will be processed using established closing procedures if there is no deficiency.

.03 *Special closing procedures for certain offer-in-compromise cases*. For OIC cases with liabilities of $50,000 or more, any settlement or agreement reached through mediation must be reviewed by the Office of Chief Counsel pursuant to section 7122(b) before being finalized. When review is required, Appeals will forward the case to Area Counsel for an opinion as to the legal sufficiency of the offer. See IRM 5.8.8, *Offer in Compromise, Acceptance Processing*, and IRM 8.23.4, *Appeals Function, Offer in Compromise, Acceptance, Rejection Sustention, and Withdrawal Procedures for non-Collection Due Process (CDP) Offers*.

SECTION 12. GENERAL PROVISIONS

01.*Communication with IRS and Counsel Permitted.* Except as described in Section 10.03 with respect to mediators, Appeals has the discretion to communicate with the IRS Office of Chief Counsel, the originating IRS function, or both, in preparation for or during the mediation session. See Rev. Proc. 2012–18, 2012–10 I.R.B. 455. Appeals also has the discretion to have Counsel, the originating IRS function, or both, participate in the mediation proceeding to present the position and views of the IRS, and to rebut representations and arguments made by the taxpayer. Counsel's participation in this regard is separate from the review function outlined in Section 11.03 of this revenue procedure.

.02 *Employees*. IRS employees who participate in or observe the mediation process in any way, and any person under contract to the IRS pursuant to section 6103(n) that the IRS invites to participate or observe, will be subject to the confidentiality and disclosure provisions of the Internal Revenue Code, including sections 6103, 7213, and 7431.

.03 *Section 7214(a)(8) disclosure*. Under section 7214(a)(8), IRS employees must report information concerning violations of any revenue law to the Secretary. The agreement to mediate will state this requirement and the parties will acknowledge this duty.

.04 *Disqualification of the non-IRS co-mediator*. The non-IRS co-mediator will be disqualified from representing the taxpayer in any pending or future action that involves the transactions or issues that are the particular subject matter of the mediation. This disqualification extends to representing any other parties involved in the transactions or issues that are the particular subject matter of the mediation.

(a) Disqualification of co-mediator's firm. Moreover, except as provided in section 12.04(b), the co-mediator's firm will be disqualified from representing the taxpayer or any other parties involved in the transactions or issues that are the particular subject matter of the mediation in any action that involves the transactions or issues that are the particular subject matter of the mediation.

(b) Exception to disqualification of co-mediator's firm. The co-mediator's firm will not be disqualified from representing the taxpayer or any other parties in any future action that involves the same transactions or issues that are the particular subject matter of the mediation, provided that (i) the co-mediator disclosed the potential of such representation to the parties to the mediation conducted by the co-mediator prior to the parties' acceptance of the co-mediator, (ii) such action relates to a taxable year that is different from the taxable year that is the subject matter of the mediation, (iii) the firm's internal controls preclude the co-mediator from any form of participation in the matter, and (iv) the firm does not apportion to the co-mediator any part of the fee therefrom. In the event the co-mediator has been selected prior to the co-mediator learning of the identity of one or more of the parties involved in the mediation, requirement (i) will be deemed satisfied if the co-mediator promptly notifies the parties of the potential representation.

Although the co-mediator is prohibited from receiving a direct allocation of the fee from the taxpayer (or other party) in the matter for which the internal controls are in effect, the co-mediator will not be prohibited from receiving a salary, partnership share, or corporate distribution established by prior independent agreement. The co-mediator and

his or her firm are not disqualified from representing the taxpayer or any other parties involved in the mediation in any matters unrelated to the transactions or issues that are the particular subject matter of the mediation.

This section 12.04 only applies to representations on matters before the IRS.

The provisions of this section 12.04 are in addition to any other applicable disqualification provisions, including, for example, the rules of the United States Tax Court and applicable canons of ethics.

.05. *Recording of mediation session.* The parties to the mediation may not make a stenographic record, audio or video tape recording, or other transcript of the mediation session.

.06 *Use as precedent*. A settlement reached by the parties through mediation will not be binding on the parties (or be otherwise controlling) for taxable years not covered by the agreement. Except as provided in the agreement, no party may use such settlement as precedent.

SECTION 13. EFFECTIVE DATE

This procedure is effective December 29, 2014, the date this revenue procedure is published in the Internal Revenue Bulletin.

SECTION 14. EFFECT ON OTHER DOCUMENTS

Revenue Procedure 2009–44 and Announcements 2008–111 and 2011–6 are superseded.

DRAFTING INFORMATION

The principal authors of this revenue procedure are Debra Kohn, Office of Chief Counsel, Procedure and Administration, Charmaine Osbin, Office of Appeals, Tax Policy and Procedure for non-collection cases, and Dale Veer, Office of Appeals, Tax Policy and Procedure for OIC and TFRP cases. For further information regarding this revenue procedure, contact Ms. Kohn at (202) 317-3600, Ms. Osbin at (281) 721-7275, or Mr. Veer at (651) 726-7430 (not toll-free calls).

Exhibit 1: **Addresses for Appeals Area Directors**

Director, Area 1 IRS Appeals 701 Market Street, Suite 2200 Philadelphia, PA 19106-1538
Director, Area 2 – Collection IRS Appeals 10715 David Taylor Drive Charlotte, NC 28262
Director, Area 3 IRS Appeals 810 Broadway, Suite 300 Nashville, TN 37203-3810
Director, Area 4 IRS Appeals 701 Market St., Suite 2200 Philadelphia, PA 19106-1538
Director, Area 5 – Campus IRS Appeals 5000 Corporate Drive Holtsville, NY 11742-2002
Director, Area 6 – Campus IRS Appeals 3333 Getwell Road, Stop 86E Memphis, TN 38118-7733
Director, Area 7 IRS Appeals 55 North Robinson Oklahoma City, OK 73102
Director, Area 8 IRS Appeals 100 First Street. Suite 2000 San Francisco, CA 94105
Director, Area 9 IRS Appeals 6377 Riverside Avenue Riverside, CA 92506-3124
Director, Area 10 – Campus IRS Appeals 7125 Industrial Road Florence, KY 41042-2907
Director, Area 11 – Collection IRS Appeals 100 First Street. Suite 2000 San Francisco, CA 94105
Director, Area 12 – Campus IRS Appeals 2525 Capitol Street Fresno, CA 93721-2227
Director, Area 13 – Collection IRS Appeals 810 Broadway, Suite 300 Nashville, TN 37203-3810
Director, Appeals Team Case Leaders IRS Appeals 300 North Los Angeles Street, Federal Building Los Angeles, CA 90012-3308
Director, Specialty Operations – Domestic IRS Appeals 290 Broadway, 11th Floor New York, NY 10007
Director, Specialty Operations – International IRS Appeals 300 Pearl Street Buffalo, NY 14202

Exhibit 2: **Model Agreement to Mediate**

1. The Mediation[2] Process.

The mediation will be an extension of the Appeals process to help **[NAME OF TAXPAYER]** and Internal Revenue Service (IRS)—Appeals (the PARTIES) reach a negotiated settlement of the issues to be mediated. See (2) below for the participants in the mediation process. To accomplish this goal, the mediator will act as a facilitator, assist in defining the issues, and promote settlement negotiations between the PARTIES. The mediator will inform and discuss with the PARTIES the rules and procedures pertaining to the mediation process. The mediator will not have settlement authority and will not ren-

[2]For purposes of this agreement, the term "mediation" refers only to "non-binding mediation" as set forth in section 7123(b)(1).

der a decision regarding any issue in dispute. The PARTIES will continue to have settlement authority for all issues considered under the mediation process.

2. Nature of Process, Participants, Withdrawal.

(a) The mediation process is optional.

(b) Each PARTY must have at least one participant attending the mediation session with decision-making authority. No later than two weeks before the mediation, each PARTY will submit to the other PARTY and the mediator a list of the participants who will attend the mediation session on behalf of or at the request of the PARTY, including a designation of the person with decision-making authority who will represent the PARTY at the mediation session. Each PARTY's list of participants will contain the participant's name, the participant's position with the PARTY or other affiliation (e.g., a member of XYZ law firm, counsel to the taxpayer), and the participant's address, [optional: telephone number, and fax number]. All participants attending the mediation on behalf of or at the request of a PARTY will be listed on the PARTY's list of participants, including witnesses, consultants, and attorneys.

[Insert limitations on the number or types of participants, if any.]

(c) Either PARTY may withdraw from the process at any time prior to reaching a settlement of the issues to be mediated by notifying the other PARTY and the mediator in writing.

3. Selection of Mediator and Costs.

(a) IRS Appeals will pay the costs associated with the Appeals mediator. The taxpayer will pay the cost of a non-IRS co-mediator.

(b) The taxpayer, by signing this agreement, acknowledges that (i) the Appeals mediator is a current employee of the IRS, (ii) a conflict results from his or her continued status as an IRS employee, and (iii) this conflict will not interfere with the mediator's ability to facilitate the case impartially.

4. Issues to be Mediated.

The mediation session will encompass the following issues in the IRS audit of the federal tax returns of **[NAME OF TAXPAYER]** for tax year(s)_____:

(a) Issue #1

(b) Issue #2

5. Submission of Materials.

Each PARTY will present to the mediator a separate written summation not to exceed XX pages (exclusive of exhibits consisting of pre-existing documents and reports) regarding each issue. The mediator will have the right to ask either PARTY for additional information before the mediation session if deemed necessary for a full understanding of the issues to be mediated. Each PARTY will simultaneously submit to the other PARTY a copy of any submission to the mediator.

6. Place of Mediation.

The PARTIES will attempt to select a site at or near the mediator's office, **[NAME OF TAXPAYER]**'s office, or an Appeals office.

7. Proposed Schedule.

Subject to the approval of the mediator, the mediation session will be conducted according to the following schedule:

Submission of Materials to Mediator: **A DATE NO LATER THAN TWO WEEKS BEFORE THE DATE OF MEDIATION SESSION**

Mediation Session: **By MONTH DAY, YEAR and TIME**

8. Confidentiality.

IRS employees who participate in or observe the mediation process in any way, and any person under contract to the IRS pursuant to § 6103(n) of the Internal Revenue Code (including the mediator) that the IRS invites to participate or observe, will be subject to the confidentiality and disclosure provisions of the Internal Revenue Code, including §§ 6103, 7213 and 7431. See also 5 U.S.C § 574.

9. Ex Parte Contacts Prohibited.

There will be no *ex parte* contacts from a PARTY to the mediator outside the mediation session. This provision is not intended to prevent the mediator from contacting a PARTY, or a PARTY from responding to the mediator's request for information.

10. Section 7214(a)(8) Disclosure.

The PARTIES to this agreement acknowledge that IRS employees involved in this mediation are bound by the § 7214(a)(8) disclosure requirements concerning violations of any revenue law.

11. No Record.

There will be no stenographic record, audio or video tape recording, or other transcript of the mediation session(s).

12. Report by Mediator.

At the conclusion of the mediation session, the mediator will issue a brief report to the PARTIES identifying each issue described in section 4, above, and whether the PARTIES either agreed to resolve or did not resolve the issue.

13. Appeals Procedures Apply.

If the mediation process enables the PARTIES to reach agreement on the issues, Appeals will use established procedures to close the case. Delegation Order 4–24, IRM 1.2.43.22 (addressing settlement authority for issues in a Coordinated Examination Program) or § 7122(b) (regarding offer-in-compromise cases) may apply to settlements resulting from the mediation process. Appeals will not reconsider the mediated issue(s), and a statutory notice of deficiency will be issued with respect to all unagreed issues (or the case will be processed using established closing procedures if there is no deficiency).

14. Precedential Use.

A settlement reached by the PARTIES through mediation will not be binding on the PARTIES (or be otherwise controlling) for taxable years not covered by the agreement. Except as provided in the agreement, no PARTY may use such settlement as precedent.

INTERNAL REVENUE SERVICE, APPEALS

By: _____
Name
Appeals Team Manager

Date: _____

NAME OF TAXPAYER

By: _____
Name
Title

Date: _____

Exhibit 3:

Model Mediation Participants List

Case Name: _____

Submitted By: _____

Date: _____

Please list below all participants attending the mediation, including witnesses, consultants, and attorneys. This form must be sent to the other PARTY and to the mediator(s) no later than two weeks before the mediation session. Insert an **asterisk** (*) before the name of the person who has decision-making authority at the mediation session:

NAME, POSITION AND ADDRESS
(TELEPHONE OR FAX NUMBER OPTIONAL)

Exhibit 4: **Consent to Disclose Tax Information**

Pursuant to section 6103(c) of the Internal Revenue Code of 1986 (as amended), I hereby consent to the disclosure of return information (as defined in section 6103(b)(2)) relating to the mediation session between _____ (Taxpayer) and the Commissioner of Internal Revenue to be held on _____ (date), as follows:

The Internal Revenue Service may disclose the taxpayer's return and return information incident to the mediation to the mediator and any participants or observers identified in the initial list of participants and to any subsequent participants and observers identified in writing by the parties.

This consent relates to the mediation session that is the subject of an agreement to mediate dated_____. I am aware that in the absence of this authorization, the return and return information of _____ (Taxpayer) is confidential and may not be disclosed except as authorized by the Internal Revenue Code.

I certify that I have the authority to execute this consent on behalf of Taxpayer.

Taxpayer Name: _____

Taxpayer Identification Number: _____

Taxpayer Address: _____

By**: [Name of Individual Executing Consent]** _____

Title: **[Title of Individual Executing Consent]** _____

Signature: _____

Date: _____

Exhibit 5: **Model Mediator's Report**

The parties below agreed to mediate their dispute and attended a mediation session on **MONTH DAY, YEAR** in an attempt to settle the following issue(s):

ISSUE:
SETTLEMENT: [ ] Yes [ ] No [ ] Partial

Proposed Adjustment Amount: Amount Sustained:

ISSUE:
SETTLEMENT: [ ] Yes [ ] No [ ] Partial

Proposed Adjustment Amount: Amount Sustained:

Settlement documents will be prepared under established Appeals procedures.

DATED this_____ day of _____

_____
/s/ Mediator

_____
/s/ Party

_____
/s/ Party

26 CFR 1.6049.00–00: Returns Relating to Payments of Interest
(Also: 1.3406.07–00 Exceptions to Backup Withholding)

Rev. Proc. 2014–64

SECTION 1. PURPOSE

This revenue procedure lists, in Section 3, the countries with which the United States has in effect an income tax or other convention or bilateral agreement relating to the exchange of information within the meaning of section 6103(k)(4) of the Internal Revenue Code pursuant to which the United States agrees to provide, as well as receive, information and under which the competent authority is the Secretary of the Treasury or his delegate for purposes of the reporting required of payors under §§ 1.6049–4(b)(5) and 1.6049–8(a) of the Income Tax Regulations. This revenue procedure also lists, in Section 4, the countries with which the Treasury Department and the IRS have determined that it is appropriate to have an automatic exchange relationship with respect to the information collected under §§ 1.6049–4(b)(5) and 1.6049–8. This revenue procedure updates Rev. Proc. 2012–24, 2012–20 I.R.B. 913, effective for interest paid on or after January 1, 2015, by adding additional countries to the lists set forth in Sections 3 and 4.

SECTION 2. BACKGROUND

Sections 1.6049–4(b)(5) and 1.6049–8(a), as revised by TD 9584, require the reporting of certain deposit interest paid to nonresident alien individuals on or after January 1, 2013. Section 1.6049–4(b)(5) provides that in the case of interest aggregating $10 or more paid to a nonresident alien individual (as defined in section 7701(b)(1)(B)) that is reportable under § 1.6049–8(a), the payor is required to make an information return on Form 1042–S for the calendar year in which the interest is paid. Interest that is reportable under § 1.6049–8(a) is interest described in section 871(i)(2)(A) that relates to a deposit maintained at an office within the United States and that is paid to a resident of a country that is identified, in an applicable revenue procedure (see § 601.601(d)(2)) as of December 31 prior to the calendar year in which the interest is paid, as a country with which the United States has in effect an income tax or other convention or bilateral agreement relating to the exchange of tax information within the meaning of section 6103(k)(4), under which the competent authority is the Secretary of the Treasury or his delegate and the United States agrees to provide, as well as receive, information. Rev. Proc. 2012–24 was published contemporaneously with the publication of TD 9584 to identify those countries with which the United States has in force an information exchange agreement, such that interest paid to residents of such countries must be reported by payors to the extent required under §§ 1.6049–8(a) and 1.6049–4(b)(5). This revenue procedure updates Rev. Proc. 2012–24 and will be updated by subsequent revenue procedures as appropriate. As noted in the preamble to the regulations and Rev. Proc. 2012–24, the IRS is not required to exchange information with another country, even if an information exchange agreement is in effect, if there are concerns about confidentiality, safeguarding of data exchanged, the use of the information, or other factors that would make the exchange of information inappropriate.

SECTION 3. COUNTRIES OF RESIDENCE WITH RESPECT TO WHICH THE REPORTING REQUIREMENT APPLIES

The following are the countries with which the United States has in effect an income tax or other convention or bilateral agreement relating to the exchange of tax information within the meaning of section 6103(k)(4) pursuant to which the United States agrees to provide, as well as receive, information and under which the competent authority is the Secretary of the Treasury or his delegate:

Antigua & Barbuda
Aruba
Australia
Austria
Azerbaijan
Bangladesh