of the transfers described in paragraph (a)(2) of this section. See section 302 for rules relating to the tax consequences of certain stock redemptions.

(c) *Special rule*. Notwithstanding applicable tax law, a transferor spouse's receipt of property in respect of redeemed stock will be treated as resulting in a constructive distribution to the nontransferor spouse for purposes of paragraph (a)(1) of this section if a divorce or separation instrument, or a written agreement between the transferor spouse and the nontransferor spouse, requires the transferor spouse and the nontransferor spouse to file their Federal income tax returns in a manner that reflects that the transferor spouse transferred the redeemed stock to the nontransferor spouse in exchange for the redemption proceeds and the corporation redeemed the stock from the nontransferor spouse in exchange for the redemption proceeds. Such divorce or separation instrument must be effective, or written agreement must be executed by both spouses or former spouses, prior to the date on which the nontransferor spouse files such spouse's first timely filed Federal income tax return for the year that includes the date of the stock redemption, but no later than the date such return is due (including extensions).

(d) *Limited scope*. Paragraphs (a) and (c) of this section shall apply only to stock redemptions where, either immediately before or immediately after the stock redemption, the nontransferor spouse owns directly stock of the redeeming corporation.

(e) *Examples*. The provisions of this section may be illustrated by the following examples:

Example 1. Corporation X has 100 shares outstanding. A and B each own 50 shares. A and B divorce. The divorce instrument requires B to purchase A's shares, and A to sell A's shares to B, in exchange for $100x. Corporation X redeems A's shares for $100x. Assume that, under applicable tax law, the stock redemption results in a constructive distribution to B. Paragraph (a)(1) of this section applies to the transfers of stock and redemption proceeds in connection with the redemption transaction. Accordingly, A will be treated as transferring A's stock of Corporation X to B in a transfer to which section 1041 applies (assuming the requirements of section 1041 are otherwise satisfied). B will be treated as transferring the Corporation X stock B is deemed to have received from A to Corporation X in exchange for $100x in an exchange to which section 1041 does not apply and sections 302(d) and 301 apply, and B will be treated as transferring the $100x to A in a transfer to which section 1041 applies.

Example 2. Assume the same facts as *Example 1*, except that the divorce instrument requires A to sell A's shares to Corporation X in exchange for a note. B guarantees Corporation X's payment of the note. Assume that, under applicable tax law, B does not have a primary and unconditional obligation to purchase A's stock. Also assume that the special rule of paragraph (c) of this section does not apply to the transfer of stock and redemption proceeds in connection with the redemption transaction. Under applicable tax law, the stock redemption does not result in a constructive distribution to B, because B does not have a primary and unconditional obligation to purchase A's stock. Paragraph (a)(1) of this section does not apply to the transfers of stock and redemption proceeds in connection with the redemption transaction. Accordingly, under paragraphs (a)(2) and (b)(2) of this section, the tax consequences of the redemption will be determined in accordance with its form as a redemption of A's shares by Corporation X. See section 302.

Example 3. Assume the same facts as *Example 2*, except that the divorce instrument provides as follows: "A and B agree that A's Federal income tax return for the year that includes the date of the redemption will reflect that A transferred A's shares of Corporation X to B in exchange for the redemption proceeds of $100x and B's Federal income tax return for such year will reflect that Corporation X redeemed such shares from B in exchange for such proceeds." By virtue of the special rule of paragraph (c) of this section, the redemption is treated as resulting in a constructive distribution to B. Accordingly, A will be treated as transferring A's stock of Corporation X to B in a transfer to which section 1041 applies (assuming the requirements of section 1041 are otherwise satisfied). B will be treated as transferring the Corporation X stock B is deemed to have received from A to Corporation X in exchange for $100x in an exchange to which section 1041 does not apply and sections 302(d) and 301 apply, and B will be treated as transferring the $100x to A in a transfer to which section 1041 applies.

(f) *Effective date*. Except as otherwise provided in this paragraph, this section is applicable to redemptions of stock on or after the date these regulations are published as final regulations in the **Federal Register**, except for redemptions of stock that are pursuant to instruments in effect before the date these regulations are published as final regulations in the **Federal Register**. For redemptions of stock before the date these regulations are published as final regulations in the **Federal Register** and redemptions of stock that are pursuant to instruments in effect before the date these regulations are published as final regulations in the **Federal Register**, see § 1.1041–1T(c), A-9. However, these regulations will be applicable to redemptions described in the preceding sentence of this paragraph (f) if the spouses or former spouses execute a written agreement on or after August 3, 2001, that satisfies the requirements of paragraph (c) of this section with respect to such redemption.

Robert E. Wenzel,
Deputy Commissioner
of Internal Revenue.

(Filed by the Office of the Federal Register on August 2, 2001, 8:45 a.m., and published in the issue of the Federal Register for August 3, 2001, 66 F.R. 40659)

Disaster Relief for Issuers of Tax-Exempt Bonds Affected by the September 11, 2001, Terrorist Attack

Announcement 2001–101

PURPOSE

The purpose of this announcement is to inform issuers of tax-exempt bonds that, effective immediately, the Internal Revenue Service will put into effect procedures to provide relief to issuers affected by the September 11, 2001, Terrorist Attack.

BACKGROUND

In connection with the September 11, 2001, Terrorist Attack, the President issued federal disaster declarations with respect to certain counties and may issue additional declarations with respect to other counties (such counties are collectively referred to herein as, the "covered counties").

As a consequence of the September 11, 2001, Terrorist Attack, an affected issuer (as defined below), may not be able to comply with certain requirements of section 103 and related provisions of the Internal Revenue Code, including, but not limited to, the requirements set forth in sections 148(f) and 149(e) of the Code, with respect to certain of its bond issues.

PROCEDURES FOR REQUESTING RELIEF

(a) An affected issuer is an issuer that meets one or more of the following:

(i) It is located in one of the covered counties;

(ii) It is not located in any of the covered counties, but its records necessary to meet a fil-

ing or paying deadline for the issue are maintained in one of the covered counties;

(iii) The facilities financed with the proceeds of the issue are located in one of the covered counties;

(iv) The conduit borrower for the issue is located in one of the covered counties;

(v) The counsel to the issuer or the conduit borrower, or bond counsel for the issue, is located in one of the covered counties;

(vi) The professional on whom the issuer relies for compliance with the relevant provision of the Code is located in one of the covered counties. For example, the issuer may need to rely on one or more of the following persons in order to comply with the rebate requirement of section 148(f): the bond trustee, a financial advisor or a rebate consultant.

(b) With respect to the requirements under sections 149(e) and 148(f), an affected issuer has an additional 6 months plus 120 days to file Form 8038, Form 8038-G, Form 8038-GC, or Form 8038-T for an issue for which such form is otherwise required to be filed in accordance with an original due date that occurs on or after September 11, 2001, and on or before November 30, 2001. In the case of a Form 8038-T, the Service will not impose a penalty, including any interest portion thereof, under section 148 of the Code, on rebate payments, yield reduction payments and penalties in lieu of rebate that are originally due on or after September 11, 2001, and on or before November 30, 2001, provided such payments are made within 6 months and 120 days of the original due date of the payment. For computation purposes, such payments will be treated as paid on the last day of the computation or spending period to which they relate.

(c) When filing a form described in subsection (b) above, the affected issuer should add the following designation in red ink at the top of the form, "September 11, 2001 – Terrorist Attack, See Announcement 2001–101."

(d) In addition to the relief granted in subsection (b) above, other relief may also be granted under appropriate circumstances for affected issuers (for example, affected issuers unable to redeem their current refunded issue within 90 days of issuance of the current refunding issue). An affected issuer may request relief by contacting the Tax Exempt Bonds, Outreach, Planning and Review ("TEB OPR") function of Tax Exempt/Government Entities at (202) 283-9798, contact person: Cliff Gannett.

DRAFTING INFORMATION

The principal author of this announcement is Sunita Lough of Tax Exempt Bonds Outreach, Planning and Review of the Office of the Director, Tax Exempt Bonds, Tax Exempt/Government Entities. For further information regarding this announcement or comments as to how additional relief may be provided to affected issuers, contact Sunita Lough at (202) 283-9774 (not a toll-free call).

Filing of Certain Forms 5500

Announcement 2001–103

The Internal Revenue Service (IRS), the Department of Labor's Pension and Welfare Benefits Administration (PWBA), and the Pension Benefit Guaranty Corporation (PBGC) provide relief from certain penalties relating to Forms 5500 for defined benefit and money purchase pension plans that are required to be filed on or before October 15, 2001. This announcement also includes PBGC's statement of relief from penalties relating to premiums, reporting and disclosure, and certifications.

Background

Section 412(a) of the Internal Revenue Code (Code) and § 302(a) of the Employee Retirement Income Security Act of 1974 (ERISA) provide that a plan meets the minimum funding standards of the Code and ERISA for a plan year if the plan does not have an accumulated funding deficiency as of the end of the plan year. Section 412(c)(10) of the Code and § 302(c)(10) of ERISA provide that, for purposes of satisfying the minimum funding requirements of the Code and ERISA, any contributions for a plan year made by an employer by the end of the 8 1/2 month period following the end of such plan year are deemed to have been made on the last day of the plan year.

Section 6058 of the Code and § 104 of ERISA require plan administrators to file an annual return/report of employee benefit plan within a specified period of time after the end of the plan year. The annual return/report of employee benefit plan is Form 5500 and Form 5500–EZ (hereinafter Form 5500). For defined benefit pension plans subject to the minimum funding standard, § 6059 of the Code requires that a periodic report of the actuary be filed with the annual return. Under § 301.6059–1 of the Procedure and Administration Regulations, the periodic report is the Schedule B, which must be signed by an enrolled actuary. In order to properly complete the Schedule B, the enrolled actuary must know whether a contribution for a plan year was made within the period specified by § 412(c)(10) of the Code and § 302(c)(10) of ERISA.

Under section 502(c)(2) of ERISA, a penalty of up to $1,100 a day may be assessed for each day a plan administrator fails or refuses to file a complete and accurate annual report and accompanying schedules. Similarly, § 6652(e) of the Code imposes a penalty of $25 a day (up to $15,000) for not filing returns for certain deferred compensation plans. Section 6692 of the Code imposes a penalty of $1,000 for not filing an actuarial report described in § 6059. Under § 301.6692–1(a) of the regulations, a failure to provide a material item of information is considered as a failure to file an actuarial report.

Because of the disruption of the financial markets caused by the events of September 11, 2001, many employers have stated they were not able to make required contributions to their pension plans on or before September 15, 2001, to satisfy the minimum funding standards.

Grant of Relief

The IRS, the PWBA, and the PBGC provide the following relief. In the case of a defined benefit or money purchase pension plan with a plan year ending on or after December 27, 2000, and on or