

of this notice as well as the requirements of section 423(b)(5).

III. Effective Date

The proposed rules are not effective until a subsequent notice is issued with final rules. Treasury and the Service anticipate issuing such a notice to accompany the issuance of final regulations addressing the application of FICA tax, FUTA tax, and income tax withholding to statutory stock options.

IV. Request for Comments

Comments are requested regarding the proposed rules of administrative convenience described in this notice. All comments will be available for public inspection and copying. Comments must be submitted by February 14, 2002. Comments should reference Notice 2001-73, and be addressed to:

Associate Chief Counsel
(Tax Exempt and Government
Entities)
CC:TEGE
ATTN: Employment Taxes, Statutory
Stock Options and Proposed Rules of
Administrative Convenience
Room 5214
Internal Revenue Service
1111 Constitution Ave., NW
Washington, DC 20224

V. Paperwork Reduction Act

Before final rules of administrative convenience are published, the collection of information contained in the proposed rules of administrative convenience described in this notice will be submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act (44 U.S.C. 3507(c)).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collection of information in the proposed rules of administrative convenience is in section B, requiring employers who choose the special accounting rule to notify employees of the application of the rule. This information is required to inform employees that for purposes of FICA and FUTA, certain

wage payments made in December of a calendar year will be deemed paid during some specified period in the first quarter of the following calendar year. This information will be used to explain the wage reporting on the Forms W-2 that the employee receives. The collection of information is required if the employer chooses to use the special accounting rule. The likely respondents are business or other for-profit institutions.

The estimated total annual reporting and/or recordkeeping burden is 17,010 hours.

The estimated annual burden per respondent/recordkeeper varies from 1 to 10 hours, depending on individual circumstances, with an estimated average of 3 hours. The estimated number of respondents and/or recordkeepers is 5,670.

The estimated annual frequency of responses (used for reporting requirements only) is once per calendar year.

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

VI. Drafting Information

The principal author of this notice is Stephen Tackney of the Office of Chief Counsel. However, other personnel from Treasury and the Service participated in their development. For further information regarding this notice, contact Stephen Tackney at (202) 622-6040 (not a toll-free call).

Expansion of Notice 2001-70 — Additional Disaster Relief for Taxpayers Following the September 11, 2001, Terrorist Attack — Mid- Quarter Convention Relief

Notice 2001-74

This notice supplements the tax relief granted in Notice 2001-70 (2001-45 I.R.B. 437) published November 5, 2001, by expanding the class of taxpayers entitled to the relief and clarifying the

instructions for making the election provided under Notice 2001-70.

In Notice 2001-70, the Treasury Department and the Internal Revenue Service announced their intention to issue regulations permitting taxpayers to elect not to apply the mid-quarter convention rules contained in § 168(d)(3) of the Internal Revenue Code to certain property placed in service in the taxable year that includes September 11, 2001, if the third quarter of the taxpayer's 2001 taxable year includes September 11, 2001. Notice 2001-70 also provided that an eligible taxpayer that wishes to make the election must write "Election Pursuant to Notice 2001-70" across the top of the taxpayer's Form 4562, *Depreciation and Amortization*, for the taxpayer's taxable year that includes September 11, 2001.

Section 168(d)(3) generally provides that, except as provided in regulations, if the aggregate basis of property placed in service during the last three months of the taxable year exceeds 40 percent of the aggregate basis of property (other than property described in § 168(d)(3)(B)) placed in service during the taxable year, the applicable depreciation convention for all property (other than property described in § 168(d)(2)) to which § 168 applies placed in service during the taxable year is the mid-quarter convention.

Treasury and the Service have been made aware that certain taxpayers that are not entitled to relief under Notice 2001-70 because the third quarter of their 2001 taxable year does not include September 11, 2001, are purchasing property to replace property destroyed in the September 11, 2001, terrorist attack. As a result of these purchases, some of these taxpayers would be required to apply the mid-quarter convention. Such a result may place these taxpayers at a competitive disadvantage because other similarly situated taxpayers have received relief under Notice 2001-70.

Accordingly, Notice 2001-70 is expanded to provide that if the fourth quarter of a taxpayer's taxable year includes September 11, 2001, then the taxpayer may elect, for purposes of § 168(d), to apply the half-year convention to all property (other than property described in § 168(d)(2)) placed in service during the taxpayer's taxable year that includes September 11, 2001. The

election is made in the same manner provided in Notice 2001-70.

In addition, certain taxpayers are required to file Form 2106, *Employee Business Expenses*, rather than Form 4562, *Depreciation and Amortization*, to report certain depreciation expenses. Accordingly, these taxpayers may make the election provided under Notice 2001-70, as supplemented by this notice, by writing "Election Pursuant to Notice 2001-70" across the top of the taxpayer's Form 2106. Taxpayers filing their returns electronically may make the election provided under Notice 2001-70, as supplemented by this notice, by typing "Election Pursuant to Notice 2001-70" in the Election Explanation (ELC) record when filing the Form 4562 or Form 2106.

Treasury and the Service intend to amend the regulations under § 168 to incorporate the guidance set forth in this notice. Until the regulations are amended, taxpayers may rely on the guidance set forth in this notice.

The principal author of this notice is Bernard P. Harvey of the Office of Associate Chief Counsel, Passthroughs and Special Industries. For further information regarding this notice, contact Mr. Harvey at (202) 622-3110 (not a toll-free call).

26 CFR 601.201: Rulings and determination letters
(Also, Part I, §§ 401; 1.401(b)-1.)

Rev. Proc. 2001-55

SECTION 1. PURPOSE

This revenue procedure extends the GUST¹ remedial amendment period under § 401(b) of the Code for qualified retirement plans. First, the revenue procedure extends the GUST remedial amendment period for all plans to February 28, 2002, if the period would otherwise end before then. Second, the revenue procedure provides an additional extension to June 30, 2002, for plans that were directly affected by the September 11, 2001, ter-

rorist attack on the United States (the "Terrorist Attack"). Finally, the revenue procedure provides that in cases of substantial hardship resulting from the Terrorist Attack the Service may, in its discretion, grant additional extensions of the GUST remedial amendment period to particular plans up to December 31, 2002.

SECTION 2. BACKGROUND

.01 Under § 401(b), plan sponsors have a remedial amendment period in which to adopt plan amendments for GUST. The end of the GUST remedial amendment period is the deadline for making all GUST plan amendments and other plan amendments specifically enumerated in Rev. Proc. 99-23 (1999-1 C.B. 920). The GUST remedial amendment period also applies with respect to all disqualifying provisions of new plans adopted or effective after December 7, 1994, and with respect to all plan amendments adopted after December 7, 1994, that would cause an existing plan to fail to be qualified.

.02 Rev. Proc. 2000-27 (2000-26 I.R.B. 1272) provides that the GUST remedial amendment period for nongovernmental plans ends on the last day of the first plan year beginning on or after January 1, 2001. This is also the end of the remedial amendment period for the Tax Reform Act of 1986 (TRA '86) for nonelecting church plans. The GUST remedial amendment period for governmental plans, as defined in § 414(d), ends on the later of (i) the last day of the first plan year beginning on or after January 1, 2001, or (ii) the last day of the first plan year beginning on or after the "2000 legislative date" (that is, the 90th day after the opening of the first legislative session beginning after December 31, 1999, of the governing body with authority to amend the plan, if that body does not meet continuously). This is also the end of the TRA '86 remedial amendment period for governmental plans.

.03 Rev. Proc. 2000-20 (2000-6 I.R.B. 553), as modified by Rev. Proc. 2000-27

and Notice 2001-42 (2001-30 I.R.B. 70), provides an extension of the GUST remedial amendment period for employers who, by the end of the GUST remedial amendment period (determined without regard to the extension), have adopted a pre-approved plan (that is, a master or prototype or volume submitter plan) or certified their intent to adopt such a plan. If the requirements for the extension are satisfied, the GUST remedial amendment period for the employer's plan will not end before the later of December 31, 2002, or the end of the 12th month beginning after the date on which the Service issues a GUST opinion or advisory letter for the pre-approved plan.

.04 Rev. Proc. 2001-6 (2001-1 I.R.B. 194) contains the Service's procedures for issuing determination letters on the qualified status of employee plans under §§ 401(a), 403(a), 409, and 4975(e)(7) of the Code and the exempt status of related trusts or custodial accounts under § 501(a).

.05 Section 1.401(b)-1(f) of the Income Tax Regulations provides that, at his discretion, the Commissioner may extend the remedial amendment period or may allow a particular plan to be amended after the expiration of its remedial amendment period and any applicable extension of such period. In determining whether such an extension will be granted, the Commissioner shall consider, among other factors, whether substantial hardship to the employer would result if such an extension were not granted, whether such an extension is in the best interest of plan participants, and whether the granting of the extension is adverse to the interests of the government.

SECTION 3. GENERAL EXTENSION OF REMEDIAL AMENDMENT PERIOD TO FEBRUARY 28, 2002

.01 The GUST remedial amendment period is extended to February 28, 2002, if the period would otherwise end before then. This extension applies to all GUST plan amendments, including all those plan

¹ "GUST" refers to the following:

- the Uruguay Round Agreements Act, Pub. L. 103-465;
- the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub. L. 103-353;
- the Small Business Job Protection Act of 1996, Pub. L. 104-188;
- the Taxpayer Relief Act of 1997, Pub. L. 105-34;
- the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206; and
- the Community Renewal Tax Relief Act of 2000, Pub. L. 106-554.