

Noncumulative Perpetual Preferred Stock

Under the federal banking agencies' capital standards, noncumulative perpetual preferred stock is a component of Tier 1 capital. The capital standards of the OCC, the FRB, and the FDIC require noncumulative perpetual preferred stock to give the issuer the option to waive the payment of dividends and to provide that waived dividends neither accumulate to future periods nor represent a contingent claim on the issuer.

As a result of these requirements, if a bank supervised by the OCC, the FRB, or the FDIC issues perpetual preferred stock and is required to pay dividends in a form other than cash, e.g., stock, when cash dividends are not or cannot be paid, the bank does not have the option to waive or eliminate dividends, and the stock would not qualify as noncumulative. If an OTS-supervised savings association issues perpetual preferred stock that requires the payment of dividends in the form of stock when cash dividends are not paid, the stock may, subject to supervisory approval, qualify as noncumulative.

Equity Securities of Government-Sponsored Enterprises

The FRB, the FDIC, and the OTS apply a 100 percent risk weight to equity securities of government-sponsored enterprises (GSEs), other than the 20 percent risk weighting of Federal Home Loan Bank stock held by banking organizations as a condition of membership. The OCC applies a 20 percent risk weight to all GSE equity securities.

Limitation on Subordinated Debt and Limited-Life Preferred Stock

The OCC, the FRB, and the FDIC limit the amount of subordinated debt and intermediate-term preferred stock that may be treated as part of Tier 2 capital to 50 percent of Tier 1 capital. The OTS does not prescribe such a restriction. The OTS does, however, limit the amount of Tier 2 capital to 100 percent of Tier 1 capital, as do the other agencies.

In addition, for banking organizations supervised by the OCC, the FRB, and the FDIC, at the beginning of each of the last five years of the life of a subordinated debt or limited-life preferred stock instrument, the amount that is eligible for inclusion in Tier 2 capital is reduced by 20 percent of the original amount of that instrument (net of redemptions). The OTS provides thrifts the option of using either the discounting approach used by the other

federal banking agencies, or an approach which, during the last seven years of the instrument's life, allows for the full inclusion of all such instruments, provided that the aggregate amount of such instruments maturing in any one year does not exceed 20 percent of the thrift's total capital.

Tangible Capital Requirement

Savings associations supervised by the OTS, by statute, must satisfy a 1.5 percent minimum tangible capital requirement. Other subsequent statutory and regulatory changes, however, imposed higher capital standards rendering it unlikely, if not impossible, for the 1.5 percent tangible capital requirement to function as a meaningful regulatory trigger. This statutory tangible capital requirement does not apply to institutions supervised by the OCC, the FRB, or the FDIC.

Market Risk Rules

In 1996, the OCC, the FRB, and the FDIC adopted rules requiring banks and bank holding companies with significant exposure to market risk to measure and maintain capital to support that risk. The OTS did not adopt a market risk rule because no OTS-supervised savings association engaged in the threshold level of trading activity addressed by the other agencies' rules. As the nature of many savings associations' activities has changed since 1996, market risk has become an increasingly more significant risk factor to consider in the capital management process. Accordingly, the OTS has joined the other agencies in proposing a revised market risk rule.⁶

Differences in Accounting Standards Among the Federal Banking Agencies

Push-Down Accounting

Push-down accounting is the establishment of a new accounting basis for a depository institution in its separate financial statements as a result of the institution becoming substantially wholly owned. Under push-down accounting, when a depository institution is acquired in a purchase, yet retains its separate corporate existence, the assets and liabilities of the acquired institution are restated to their fair values as of the acquisition date. These values, including any goodwill, are reflected in the separate financial statements of the acquired institution, as well as in any consolidated financial statements of the institution's parent.

The OCC, the FRB, and the FDIC require the use of push-down accounting for regulatory reporting

purposes when an institution's voting stock becomes at least 95 percent owned by an investor or a group of investors acting collaboratively. This approach is generally consistent with accounting interpretations issued by the staff of the Securities and Exchange Commission. The OTS requires the use of push-down accounting when an institution's voting stock becomes at least 90 percent owned by an investor or investor group.

Dated: April 9, 2007.

John C. Dugan,
Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, April 9, 2007.

Jennifer J. Johnson,
Secretary of the Board.

Dated at Washington, DC, this 11th day of April, 2007.

Federal Deposit Insurance Corporation.

Robert E. Feldman,
Executive Secretary.

Dated: April 16, 2007.

By the Office of Thrift Supervision.

John M. Reich,
Director.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Revenue Procedure 2004-29]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2004-29, Statistical Sampling in § 274 Context.

DATES: Written comments should be received on or before June 22, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

⁶ 71 FR 55958 (September 25, 2006).

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622-3179, or through the internet at (Larnice.Mack@irs.gov).

SUPPLEMENTARY INFORMATION:

Title: Statistical Sampling in § 274 Contest.

OMB Number: 1545-1847.

Revenue Procedure 2004-29.

Abstract: Revenue Procedure 2004-29 prescribes the statistical sampling methodology by which taxpayers under examination, making claims for refunds or filing original returns may establish the amounts of substantiated meal and entertainment expenses that are excepted from the 50% deduction disallowance of section 274(n)(1) under section 274(n)(2)(A),(C),(D), or (E).

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 400.

Estimated Average Time per Respondent: 8 hours.

Estimated Total Annual Burden Hours: 3,200.

The following paragraph applies to all the collections of information covered by this notice.

The following paragraph applies to all of the collections of information covered by this notice:

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. 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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments Are Invited On: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the

collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 12, 2007.

Glenn Kirkland,

IRS Reports Clearance Officer.

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BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****Proposed Collection; Comment Request for Revenue Procedure 98-32**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 98-32, Electronic Federal Tax Payment System (EFTPS) Programs for Reporting Agents.

DATES: Written comments should be received on or before June 22, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202)622-3179, or through the Internet at (Larnice.Mack@irs.gov).

SUPPLEMENTARY INFORMATION:

Title: Electronic Federal Tax Payment System (EFTPS) Programs for Reporting Agents.

OMB Number: 1545-1601.

Revenue Procedure Number: Revenue Procedure 98-32.

Abstract: This revenue procedure provides information about the Electronic Federal Tax Payment System (EFTPS) programs for Batch Filers and Bulk Filers (Filers). EFTPS is an electronic remittance processing system for making federal tax deposits (FTDs) and federal tax payments (FTPs). The Batch Filer and Bulk Filer programs are used by Filers for electronically submitting enrollments, FTDs, and FTPs on behalf of multiple taxpayers.

Current Actions: There are no changes being made to this revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,500.

Estimated Average Time per Respondent: 82 hrs, 23 min.

Estimated Total Annual Burden Hours: 123,567.

The following paragraph applies to all the collections of information covered by this notice:

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. 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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments Are Invited On: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.