

Annual Report Inspector of Funeral Directors

July 2017 – 18

August 2018

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ANNUAL REPORT - INSPECTOR OF FUNERAL DIRECTORS JULY 2017-18



Natalie McKail, Inspector of Funeral Directors

1. Introduction

Section 89 of the Burial and Cremation (Scotland) Act 2016 introduces the role of Inspector of Funeral Directors for the first time in Scotland, and I was privileged to be appointed to the post in July 2017. Ministers have requested that, over a two year period, I carry out a critical appraisal of the work of funeral directors, to understand the application of the Infant Cremation Guidance produced by the National Committee on Infant Cremation, and to make recommendations as to a future regulatory landscape at the end of this year, including whether licensing should be introduced in the sector.

I'd like to take this opportunity to thank Ministers for asking me to carry out this unique work on their behalf, to thank colleagues in Scottish Government for guiding and supporting me, and to representatives and key stakeholders within the sector for their participation. This open and robust dialogue has very much aided my understanding of the work of these businesses, and will inform the development of future regulatory approaches.

The moral and ethical imperative for this work is clear, and with an average of 55,000 deaths per annum over the last few years, and the majority of bereaved families choosing to access support from funeral directors. There is a collective responsibility therefore to ensure that good standards of care for the deceased, and support for the bereaved, are an on-going and recognisable feature of this sector for many years to come.

I'd like to reflect on the progress and milestone events of the last year in Scotland, specifically in relation to funeral directors. I am told that the pace of change in recent years has increased significantly, indeed in one case I was told by a funeral director that it was like nothing he'd seen in thirty years. I reference this in my introduction as it is important for us all to have an understanding of the links, interdependencies and impacts of these overarching review, self-analysis and scrutiny processes. It is also vital that we work collaboratively to create a culture of support and empowerment so that changes are understood and embedded, and ultimately improves the way in which we all support the bereaved, and care for the deceased, in Scotland.

- **Understanding the implications and phased commencement of the new [Burial and Cremation \(Scotland\) Act 2016](#).**
- **Appointment of Inspector of Funeral Directors**
- **Continuing to implement membership requirements for existing trade organisations**
- **Implementing membership requirements for mandatory refrigeration**
- **Scottish Government consultation and engagement on Inspection and Cremation Regulations as set out in the 2016 Act – [Link](#)**
- **Scottish Government Funeral Expenses Assistance and Funeral Poverty/Affordability programme – [Link](#)**
- **Publication of the Mortuary Review Group report February 2018 – [Link](#)**
- **Competition and Markets Authority (CMA) market study into the UK funeral market – [Link](#)**
- **UK Government’s call for evidence over regulation of the pre-paid funeral planning market – [Link](#)**
- **New businesses, new business models including simple funerals, direct cremation, social enterprise models and Local Authority partnerships. Developing online platforms for customer interface.**
- **Sector/cost analysis reports by [Citizens Advice Scotland](#) and [Fairer Finance](#) in partnership with Dignity.**
- **Development of customer needs and expectations research programmes**

I’ve highlighted some of the key milestones as I understand them from last year in the box above, but I’m sure there are many more which I’ve not noted for individual businesses. Many funeral directors in recent years have embarked on transformational change programmes, are making improvements to services and facilities and are trying new approaches to engage with, or provide services to, their customers. These efforts are to be recognised and commended, and the need to further develop these approaches in a new landscape should be supported.

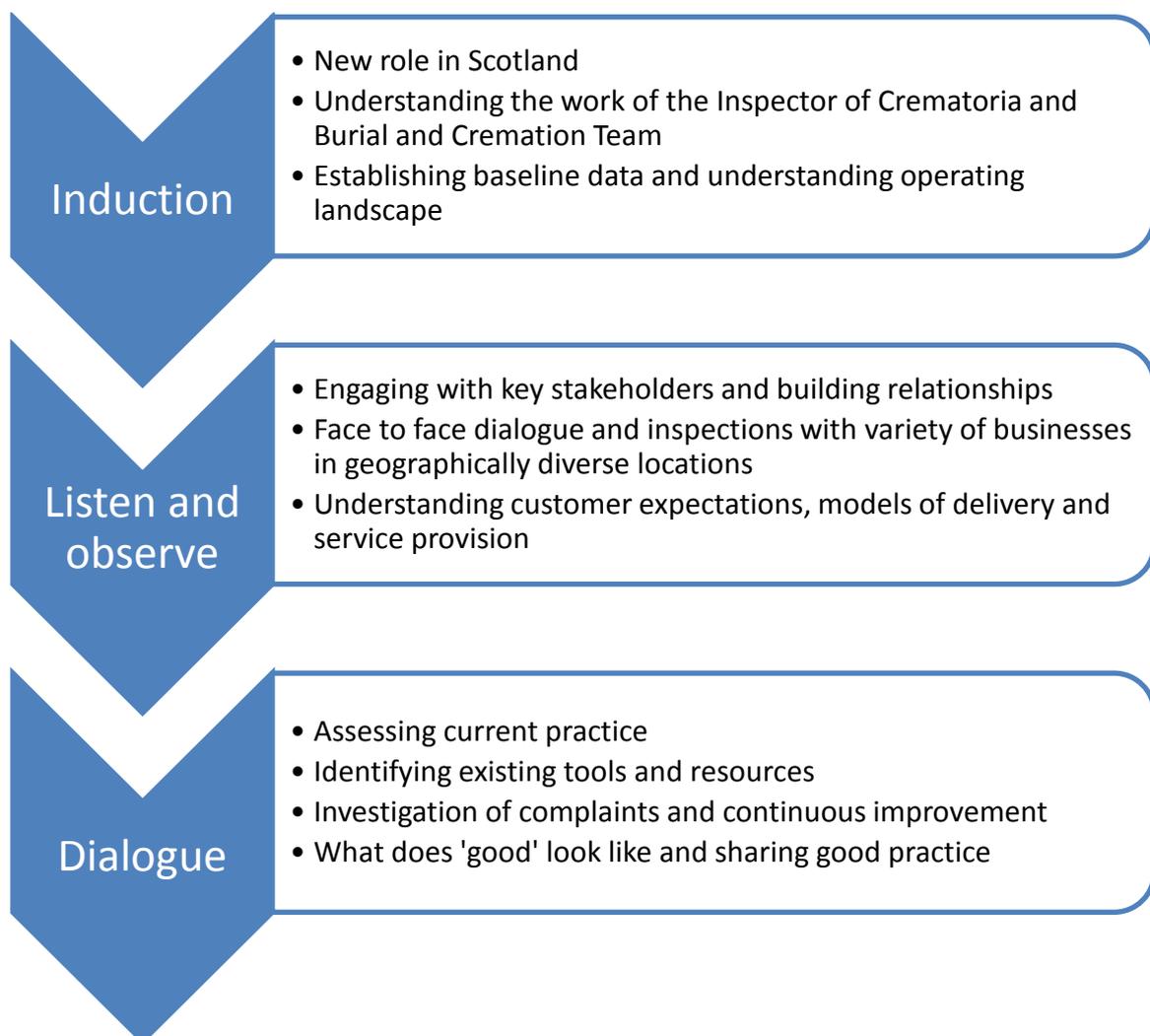
In summary, I observe that there has been a significant drive amongst many funeral directors to understand the future requirements and needs of the public in terms of providing funeral services in modern times, to continue to be responsive to choices and to provide options to customers, but to do this at a time where the future regulatory landscape is unknown. We are also developing new approaches to our collaboration efforts to create an evolved regulatory landscape in a traditionally unregulated sphere of work. We have embarked on a significant journey of exploration and improvement, and I’m pleased to take up this role at time of high levels of participation and debate.

2. Inspector of Funeral Directors work programme update - period July 2017- June 2018

Phased programme of activity over the twelve month period.

The first few months were spent establishing a new network within the sector, meeting with key stakeholders to hear their views on the role and to the current challenges and opportunities that regulation may bring. It was also a time for me to develop my thinking as to how to approach my own work alongside current interventions, such as the existing trade organisation inspections, and to understand how to do this with the limited information the Government had available on a traditionally unregulated sector.

I'd like to thank Scottish Government colleagues, the Inspector of Crematoria Robert Swanson QPM (copy of [annual report](#)), trade organisations and a number of stakeholder colleagues for their forbearance as I orientated myself as to the work of the sector, legal processes and how individual good practice is developed and shared.



Introductory inspections by Inspector of Funeral Directors August 2017 – June 2018

As an experienced regulator within a different field of Environmental Health, it was positive for me to see the openness and desire to engage in this new way of working. Despite having no statutory powers at this stage, I have had a positive response from colleagues across Scotland when requesting access for an inspection. As my principal role is to carry out an assessment of the work that happens on the ground, it is best informed by seeing operational practice as it occurs in communities and speaking to funeral directors and their teams, so I thank those involved for that participation and opportunity.

In developing the approach, I listened to feedback from the sector in relation to gaining an understanding of the variations across the country in terms of service delivery, scale and relationships with communities. In addition, it was vital that I take account of the expectations and needs of individual bereaved families and the way in which funerals would be provided both pre and at time of need. I drew from previous experience of regulatory models in developing my interface with the sector, and found this was a positive way to engage with individual businesses. This inspection model is set out in Figure 1.

Figure 1 – sector inspection model to interface with funeral directors



Colleagues in Scottish Government concurrently developed a baseline register of funeral directors through engagement with local authorities, Health Boards and online research allowing me to better understand who was operating in Scotland, and to form the basis of an inspection programme. Current information indicates that there are 696 funeral director branches providing services to the public (as at 1 June

2018). This figure is to be confirmed, and kept under review with further work also on-going to refine data on numbers of business and distinct premises.



In further developing my approach to inspections, it was important for me to consider the feedback I received from colleagues in the early days of my appointment, who felt that I needed to visit a variety of premises from large corporate facilities, multi-site locations to larger and small independents. To do this in geographically diverse locations was important to ensure that I understood the challenges for both urban and rural settings.

As highlighted in these photos, I've developed the first stage of the programme to take account of these comments, having carried out inspections from Skye, Shetland, Coatbridge, Rutherglen, Dundee, Edinburgh and Glasgow, and a variety of locations in between. These inspections will, and are, informing thinking on a regulatory approach which is scale-able and fit for purpose for a range of different types of businesses, in a variety of locations across Scotland.

In order to fully understand operational practices and service delivery to the bereaved, and examining in detail areas relating to care of the deceased as a stated priority, my inspection audits are developing focus within five key areas as set out below.

1. **Culture, ethos and confidence in management** – including an understanding of the business model (direct service provision, contract arrangements, informal support or business partnering arrangements – coffin supplier, conveying, care of deceased including embalming, carriage of families or deceased to funeral), assessment of in-house/contractual capacity against known business demand, investment strategy, governance and leadership arrangements, training and expertise, trade membership, internal audits/self-assessment and awareness, customer feedback, improvement appetite and continuous improvement loop.
2. **Conveyance and care of the deceased** – staffing model, 'who does what' and has what responsibility for care, logistical arrangements for carriage and care, identification process and audit and tracking arrangements, training and experience of staff, practices, premises and capacity for storage and care of the deceased, including first offices, mortuary care. Management of care practices and procedures. Suitability of equipment and vehicles – clean and well maintained.

3. **Understanding, recording and acting on the wishes of the deceased or bereaved both pre or at time of need** – provision of advice and support and a clear description of choices for funeral arrangements, estimates and invoicing as to services provided, record keeping for wishes and services that have been agreed, and authorisations sought and granted in relation to ashes, memorialisation, and care of the deceased (including embalming). Time to consider and change mind built in, with clearly defined actions flowing from instructions and permissions.
4. **Asset management** – full premises audit and inspection of all buildings used in the care of the deceased or storage of items relating to the business, including designated and restricted areas for the care of the deceased and storage of ashes, provision and maintenance of suitable and sufficient premises, equipment and vehicles which are clean, well maintained and regularly inspected, suitably trained and experienced staff across the range of duties.
5. **Audit of procedures, practice and record keeping** – identification and collection of the deceased, recording of funeral arrangements, care of the deceased including record of authorisations and permissions, delivery of funeral according to wishes and contract, opportunities for complaints and feedback informing continuous improvement, ashes retention according to permissions, storage and management, ashes release, completion of records, record storage and management and overall risk management and business continuity planning.

Knowledge and application of Infant Cremation Code of Practice as published, by the National Committee on Infant Cremation, forms part of current inspections, however application of the Code for funeral directors is initially being more widely assessed through the voluntary national survey of funeral directors.

3. Introductory Inspection Findings August 2017 – June 2018

Initial findings based on 55 premises inspection audits, plus revisits for monitoring and/or detailed analysis of practice. General observations are noted below;

- **Funeral directors responsive to requests for inspection audits**
- **Range of practices and premises, with baseline commonality**
- **Desire to do their best for the bereaved and deceased**
- **Overall a response of positive engagement and keen to listen to recommendations**
- **Appetite for improvement in majority of cases**
- **Business investment considerations discussed e.g. capital expenditure**
- **Recognition of changes, moving away from linear process**
- **Acknowledge the voices for regulation or licensing**
- **Commentary on changing customer needs, expectations and subsequent emerging business models**

From these visits, it is apparent that there are many areas of common practice across Scotland with a number of businesses developing areas of excellence. In these early inspection audits, however, I have also identified departures from common or good practice in relation to care of the deceased, record keeping, training and experience of staff, identity checks, authorisation and permissions.

These findings have been followed up with individual premises and actions are being taken as a result. These initial findings do reinforce the need to establish an agreed and acceptable level of good practice through regulatory intervention, and to provide an independent source of reassurance to the public.

From the inspection audits, a number of individual written recommendations have been made, from minor improvements which could be responded to more immediately, to more significant recommendations which may require additional works or investment. It should be noted that these arrangements are entirely voluntary as there is no current quality standard framework or statutory powers on inspection.

On discussing these in detail and following up in an inspection report with owners or managers, the response has been broadly positive, and the independence of the review and scrutiny has been welcomed. One service provider has now requested that unannounced visits be carried out in order for them to fully understand the delivery of operational practice in branch locations.

Scottish Government colleagues have supported me to analyse these inspection findings and a report on key themes and recommendations is available in Appendix 1. The analysis from these individual reports will both inform thinking on the introduction of regulations moving forward, specifically the statutory Code of Practice for funeral directors as set out in the 2016 Act in setting standards of care.

4. Update on complaint management, investigations or good practice discussions

Since appointment, there have been a number of complaints received regarding the behaviour or actions of funeral directors, or self-notification of incidents from businesses themselves looking for advice and support. In addition, discussions around improving links and good practice have also been held. Summary details of these are described below for reference, and are purposefully anonymous to avoid any possible distress to the bereaved.

- During bad weather and elongated recovery period in early 2018, a number of concerns raised regarding the impact on care and storage of the deceased, impact and notification of funeral cancellation, including the impact of local authority closures for cremation or burial services. Also a small number of concerns rose regarding ability of families to access registrars' services for death registration. It should be noted that the system coped with additional demand, but my observation is that was as a result of parts of the system implementing local ad-hoc solutions to overcome challenges – much to their credit. Feedback information has been provided to resilience colleagues within Scottish Government.

- Follow up on a misidentification case which was self-referred by a funeral director, where two deceased of same name in the NHS mortuary. This information was not notified to the funeral director's staff. In addition internal investigations established that identity checks were not adequately carried out. The result was the wrong deceased was prepared and coffined, when the second funeral director realised the error. Understandably, on notification, the family were deeply distressed, and had a strong desire to be reassured that this would not happen again. The funeral director involved self-reported to the Inspector with no legal requirement to do so, and initiated an internal disciplinary investigation. In liaison with myself, the funeral director also carried out a review of identification procedures and now has incorporated a three point randomised identity check as part of the company software system being developed and rolled out. The NHS team also carried out a review of the circumstances and report was produced, however were somewhat less proactive in reassuring me that the improvement actions would be followed through.
- Informal notification received from a crematorium that a funeral director had presented a coffin for cremation with leaking bodily fluids. This resulted in the crematorium catafalque being contaminated, and this impacted on the presentation of a second coffin from an unrelated funeral which was damaged as a result. Enquiries are on-going.
- Case reported by a crematorium when a funeral director was reported to have presented a damaged coffin for cremation with a marker pen name plate. Follow up initiated and funeral director admitted this was the case. They received advice in a written report that this is not acceptable. Funeral director accepted this was not an appropriate solution to the situation which had emerged in attempting to deliver the funeral.
- Current case being investigated into the manner of which a funeral director took the deceased into their care during night time hours using a procedure which would not be deemed as best practice. This situation had been informally reported to a third party funeral director, and subsequently referred to myself for investigation. Enquiries are on-going, and if this practice is substantiated, it would be deemed to be unacceptable and a formal letter will be prepared and issued.
- During the course of an introductory inspection, operational practices observed were such for the care of a deceased that should formal powers have been available then an improvement notice would have been immediately prepared. A concerted response was required and I'm pleased to say that on discussion with the funeral director involved as to the seriousness of the concerns, a scheduled revisit six weeks later evidenced a significant improvement in practice. On-going monitoring will be in place over the coming months to ensure that this is sustained.
- Discussions held with a funeral director with regard to improving practice for local authority funerals, leading to my input being provided for the Scotland Excel funeral services specification.
- Concern raised by a funeral director in relation to the condition of a body following post mortem, raised formally with the Crown Office and Scottish Government, enquiries have concluded and a formal response sent .

- Informal dialogue with NHS colleagues on-going in relation to care of deceased infants who are taken home by parents until the funeral. There is a collective desire to ensure on-going strong links and communication between all professionals in these circumstances to facilitate the family wishes.
- Contact made via an MP's office from a bereaved mother who has concerns regarding the funeral service provision for her adult son. This case is in an early stage of review to establish details of the concern and enquiries are on-going.
- A small number of formal and informal complaints received regarding quality of care of deceased in a public mortuary. Locally implemented stakeholder forum in place to improve practice and joint working.

In late 2017, the Scottish Government chaired a meeting of trade bodies and the Inspector of Funeral Directors to discuss the interface between complaint management processes to ensure appropriate responses are in place for the bereaved, effective use of resources and lessons are learned and shared. These constructive discussions are on-going, and further details of the agreed model and protocol will be developed.

5. National Committee on Infant Cremation, Infant Cremation Code of Practice – Voluntary Survey of Funeral Directors

In the first engagement of its kind, the Scottish Government Burial and Cremation Team and I have written to all known funeral directors in Scotland to establish information about the composition of their business, and to understand what work has been undertaken to adopt the Infant Cremation Code of Practice.

This voluntary survey aims to support an understanding of the level of knowledge and application of the Code, and to consider supportive ways to work with funeral director colleagues to ensure on-going and sustained improvements in this area of work. A number of responses have been received and an overview of the survey results is included in Appendix 2 of this report. It is intended that these findings will form the basis of a concerted engagement strategy, and it is hoped that colleagues in the trade organisations and through wider stakeholder networks will support these on-going efforts to continue to improve industry practice across Scotland.

6. Stakeholder dialogue – working in collaboration to develop the way forward

During the reporting period, I have been invited to speak at a number of wider stakeholder meetings including the Scottish Executive meetings for the two main trade organisations – the [National Association of Funeral Directors](#) (NAFD) and the [National Society of Allied and Independent Funeral Directors](#) (SAIF), in Glasgow and Inverness. I also attended the June 2018 [Cremation Society](#) and [Federation of Burial and Cremation Authorities](#) (FBCA) - Cremation and Burial Communication and Education Event in Newcastle to present and update on my work, and as a result of these engagement sessions have met over 90 further funeral directors.

Again, a very positive response in relation to the desire for dialogue on the regulation of funeral directors from attendees, with a clear desire to understand expectations and to ensure good practice.

These sessions were helpful in setting out some suggested solutions to some of the issues which regulations may bring, so for example what level of training and experience should be required to work as a funeral director, how to ensure unlicensed premises don't operate if licensing is to be introduced. It was good to hear from those who carry out this work on a daily basis how they feel improvement could be made in overall professional practice.

In addition, I have presented to both the Parliamentary Cross Party Working Group and the Scottish Funeral Poverty Working Group to present an update on the inspection programme and my findings thus far, and to hear the views of politicians and other stakeholders as to the work of the sector and how we might regulate in the future. I have attended and presented to the Scottish Bereavement Benchmarking Group, attended the Dundee Funeral Poverty Action Group, have met with a range of political and third sector parties, and liaised with press and media colleagues on a range of different matters around my work.

It is also interesting for me to hear of, and see, the changing face of the profession, with colleagues highlighting thoughts on how their business might develop moving forward, the need for investment to do this and gaining an understanding of the differing business models which are being created and launched either by them, or being known to them.

In discussing this, it is clear that any future landscape recognises that the customer choice may not necessarily always be about what would once have been described as a traditional funeral, that there needs to be a place moving forward for a full spectrum of arrangements to be made.

It is also important to recognise that the bereaved family may wish to tailor those arrangements and that support, and in hearing from charitable groups such as Pushing up the Daisies to recognise that an environment of informed choice is vital at such a difficult time. In visiting the Masjid-E-Khazra Mosque in Glasgow to discuss faith support arrangements, with a further visit planned to the Glasgow Mosque and in dialogue with Humanist Society of Scotland and the Caledonian Humanist Association, it is also important that secular and non-secular views influence thinking on the future of funeral services in Scotland.

7. Short Life Working Group on Care of the Deceased

There are a number of key pieces of work which have been progressed collaboratively over the last few months. Significantly I am pleased to report that the first ever Scottish Working Group has concluded work on an initial mapping exercise of the journey of care for the deceased and identified resources, information and training available to funeral directors around the care of the deceased.

Four full day workshops having been designed and facilitated in the first quarter of this year, as follows:

19 February 2018 – Setting parameters, reviewing terms of reference, agreeing membership list and workshop overview and commencing work on the mapping exercise.

19 March 2018 – Workshop overview session 2 as agreed. Agreement on additional attendees for training sessions.

18 April 2018 – Dedicated training workshop.

18 May 2018 – Review of draft Code of Practice, including position statements on 'nub' issues and review of terms of reference to ensure covered all areas. Next steps agreed.

The short life working group is made up by representatives from the two main trade bodies (NAFD and SAIF), the [British Institute of Embalmers](#) (BIE), the [British Institute of Funeral Directors](#) (BIFD) and other key stakeholders, and the outputs from the group have informed thinking on the statutory Code of Practice for funeral directors required by the 2016 Act.



The agreed terms of reference, membership list, workshop overview and workshop outputs are all included in Appendix 3. As a result of these sessions, a draft Code of Practice for Funeral Directors has been circulated to the group members, and detailed explorations of key elements have been facilitated. Specifically positions statements have been requested and received in relation to views on mandatory refrigeration, embalming, retention periods for statutory and non-statutory documentation, ashes management policy requirements, premises suitability, and views on the requirements and levels of training and qualifications. Legitimately, members are keen to ensure that this Code will reflect contemporary practice, and sets the standard for 'what good looks like' on a consistent and fair basis.

The group continue to share expertise and commentary on risks and opportunities in developing the next draft of the Code, and this on-going participation is to be welcomed.

On implementing this aspect of the legislation, alongside upcoming Inspection Regulations, it is expected that bereaved families will have comfort that good and

consistent standards of care are being provided for their loved ones, irrespective of their choice of provider or the cost of the chosen funeral.

8. Next steps

There are a number of key strands of work which will be developed in the coming months, including the Scottish Government work on the Cremation Regulations (Appendix 4), to be laid before Parliament following detailed discussions with stakeholder representatives. Business and Regulatory Impact Assessment meetings will be held with input from representatives of those working in the sectors affected by the potential legislative changes, and including input from both the Inspector of Cremation and Funeral Directors.

An Inspection Regulations Working Group will thereafter be set up to further discuss the implementation of any powers for Inspectors and the potential impacts and opportunities for businesses. Further, a re-draft of the statutory Code of Practice for Funeral Directors will be developed by Scottish Government colleagues, and circulated to Short Life Working Group members in late August/early September. This will be subject to further discussion and formal consultation with wider networks thereafter.

In addition, I will be participating in both the Treasury and Competition Market Authority (CMA) reviews which have been recently announced, and like most people in the sector have been reviewing the scope and impact of this work to determine the interface with the existing programme of activity. I welcome these announcements and look forward to assisting colleagues where possible to create a fair and customer focussed operating environment for many years to come. A copy of my initial response to the CMA is included, in Appendix 5 for reference.

Finally, I will also be continuing to carry out inspections throughout Scotland, and continuing to liaise with bereaved families and colleagues on complaint investigations. As such I'm sure will be learning more about the work of funeral directors in advance of reporting to Ministers in a formal report on regulation, including recommendations as to whether licensing should be considered for the sector, at the end of this calendar year.



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