

sales and exchanges in taxable years beginning after May 17, 2006.

(b) *Time and manner for making the election.* An election described in this section is made separately for each musical composition (or copyright in a musical work) sold or exchanged during the taxable year. An election must be made on or before the due date (including extensions) of the income tax return for the taxable year of the sale or exchange. An election is to be made on Schedule D, “*Capital Gains and Losses*,” of the appropriate income tax form (for example, Form 1040, “*U.S. Individual Income Tax Return*,” Form 1065, “*U.S. Return of Partnership Income*,” Form 1120, “*U.S. Corporation Income Tax Return*”) by treating the sale or exchange as the sale or exchange of a capital asset, in accordance with the form and its instructions.

(c) *Revocability of election.* An election described in this section is revocable with the consent of the Commissioner. To seek consent to revoke an election, a taxpayer must submit a request for a letter ruling under the appropriate revenue procedure. See, for example, Rev. Proc. 2007-1, 2007-1 C.B. 1 (updated annually). Alternatively, an automatic extension of 6 months from the due date of the taxpayer’s income tax return (excluding extensions) is granted to revoke an election, provided the taxpayer timely filed the taxpayer’s income tax return and, within this 6-month

extension period, the taxpayer files an amended income tax return that treats the sale or exchange as the sale or exchange of property that is not a capital asset. See §601.601(d)(2)(ii)(b) of this Chapter.

(d) *Effective/applicability date.* (1) The rules of this section apply to sales and exchanges in taxable years beginning after May 17, 2006.

(2) *Expiration date.* This section expires on February 8, 2011.

Linda E. Stiff,
*Deputy Commissioner for
Services and Enforcement.*

Approved January 28, 2008.

Eric Solomon,
*Assistant Secretary of
the Treasury (Tax Policy).*

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Section 1274.—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property

(Also Sections 42, 280G, 382, 412, 467, 468, 482, 483, 642, 807, 846, 1288, 7520, 7872.)

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of

sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for April 2008.

Rev. Rul. 2008-20

This revenue ruling provides various prescribed rates for federal income tax purposes for April 2008 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described in section 42(b)(2) for buildings placed in service during the current month. Finally, Table 5 contains the federal rate for determining the present value of an annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520.

REV. RUL. 2008-20 TABLE 1
Applicable Federal Rates (AFR) for April 2008

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	1.85%	1.84%	1.84%	1.83%
110% AFR	2.03%	2.02%	2.01%	2.01%
120% AFR	2.22%	2.21%	2.20%	2.20%
130% AFR	2.40%	2.39%	2.38%	2.38%
<i>Mid-term</i>				
AFR	2.87%	2.85%	2.84%	2.83%
110% AFR	3.16%	3.14%	3.13%	3.12%
120% AFR	3.45%	3.42%	3.41%	3.40%
130% AFR	3.74%	3.71%	3.69%	3.68%
150% AFR	4.33%	4.28%	4.26%	4.24%
175% AFR	5.05%	4.99%	4.96%	4.94%
<i>Long-term</i>				
AFR	4.40%	4.35%	4.33%	4.31%
110% AFR	4.85%	4.79%	4.76%	4.74%
120% AFR	5.29%	5.22%	5.19%	5.16%
130% AFR	5.74%	5.66%	5.62%	5.59%

REV. RUL. 2008-20 TABLE 2
Adjusted AFR for April 2008

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	1.99%	1.98%	1.98%	1.97%
Mid-term adjusted AFR	3.28%	3.25%	3.24%	3.23%
Long-term adjusted AFR	4.55%	4.50%	4.47%	4.46%

REV. RUL. 2008-20 TABLE 3
Rates Under Section 382 for April 2008

Adjusted federal long-term rate for the current month	4.55%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	4.55%

REV. RUL. 2008-20 TABLE 4
Appropriate Percentages Under Section 42(b)(2) for April 2008

Appropriate percentage for the 70% present value low-income housing credit	7.84%
Appropriate percentage for the 30% present value low-income housing credit	3.36%

REV. RUL. 2008–20 TABLE 5
Rate Under Section 7520 for April 2008

Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest 3.4%

Section 1288.—Treatment of Original Issue Discount on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2008. See Rev. Rul. 2008-20, page 716.

Section 6020.—Returns Prepared for or Executed by Secretary

26 CFR 301.6020–1: Returns prepared or executed by the Commissioner or other Internal Revenue Officers.

T.D. 9380

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 301

Substitute for Return

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to returns prepared or signed by the Commissioner or other Internal Revenue Officers or employees under section 6020 of the Internal Revenue Code. These final regulations provide guidance for preparing a substitute for return under section 6020(b). Absent the existence of a return under section 6020(b), the addition to tax under section 6651(a)(2) does not apply to a nonfiler. These final regulations affect any person who fails to file a required return.

DATES: *Effective Date:* These regulations are effective on February 20, 2008.

Applicability Date: For dates of applicability, see §301.6020–1(d).

FOR FURTHER INFORMATION CONTACT: Alicia E. Goldstein at (202) 622–3630 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations relating to substitutes for returns. These final regulations reflect amendments to 26 CFR part 301 under section 6020 of the Internal Revenue Code. Section 301.6020–1 of the Procedure and Administration Regulations provides for the preparation or execution of returns by authorized Internal Revenue Officers or employees. Section 1301(a) of the Taxpayer Bill of Rights Act of 1996, Public Law 104–168 (110 Stat. 1452), amended section 6651 to add subsection (g)(2), which provides that, for returns due after July 30, 1996 (determined without regard to extensions), a return made under section 6020(b) shall be treated as a return filed by the taxpayer for purposes of determining the amount of the additions to tax under section 6651(a)(2) and (a)(3). Absent the existence of a return under section 6020(b), the addition to tax under section 6651(a)(2) does not apply to a nonfiler.

In *Cabirac v. Commissioner*, 120 T.C. 163 (2003), *aff'd in an unpublished opinion*, No. 03–3157 (3rd Cir. Feb. 10, 2004), and *Spurlock v. Commissioner*, T.C. Memo. 2003–124, the Tax Court found that the Service did not establish that it had prepared and signed a return in accordance with section 6020(b). In *Spurlock*, the Tax Court held that a return for section 6020(b) purposes must be subscribed, contain sufficient information from which to compute the taxpayer's tax liability, and the return and any attachments must "purport to be a return." *Spurlock*, T.C. Memo. 2003–124 at 27. These decisions prompted the Service and the Treasury Department to revise its rules for the preparation or execution of returns by authorized Internal Revenue Officer or employees. Temporary regulations and a notice of proposed rulemaking

(REG–131739–03, 2005–2 C.B. 494) were published in the **Federal Register** on July 18, 2005 [70 FR 41165].

The Service and the Treasury Department received written public comments responding to the proposed regulations. After consideration of the comments received, the proposed regulations are adopted as revised by this Treasury decision. These final regulations generally retain the provisions of the proposed regulations with one minor change as explained in more detail in the preamble.

Explanation of Provisions and Summary of Comments

The regulations provide that a document (or set of documents) signed by an authorized Internal Revenue Officer or employee is a return under section 6020(b) if the document (or set of documents) identifies the taxpayer by name and taxpayer identification number, contains sufficient information from which to compute the taxpayer's tax liability, and the document (or set of documents) purports to be a return under section 6020(b). A Form 13496, "*IRC Section 6020(b) Certification*," or any other form that an authorized Internal Revenue Officer or employee signs and uses to identify a document (or set of documents) containing the information set forth in this preamble as a section 6020(b) return, and the documents identified, constitute a valid section 6020(b) return.

Further, because the Service prepares and signs section 6020(b) returns both by hand and through automated means, these regulations provide that a name or title of an Internal Revenue Officer or employee appearing upon a return made in accordance with section 6020(b) is sufficient as a subscription by that officer or employee to adopt the document as a return for the taxpayer without regard to whether the name or title is handwritten, stamped, typed, printed or otherwise mechanically affixed to the document. The document or