

historic business. S-1 does not perform active and substantial management functions as a partner with respect to PRS' business.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(A) by reason of section 368(a)(2)(D), is not disqualified by the transfer of T assets from S-1 to PRS because the transfer is not a distribution to shareholders, the transfer consists of part or all of the assets of the acquiring corporation, the acquiring corporation does not terminate its corporate existence for Federal income tax purposes in connection with the transfers, and the transaction satisfies the requirements of §1.368-1(d).

*Example 9. Sale of acquired assets to a member of the qualified group after a reorganization under section 368(a)(1)(C).* (i) *Facts.* Pursuant to a plan of reorganization, T transfers all of its assets to S-1 in exchange for P stock, which T distributes to its shareholders, and S-1's assumption of T's liabilities. In addition, pursuant to the plan, S-1 sells all of the T assets to S-5 for cash equal to the fair market value of those assets.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(C), is not disqualified by the sale of all of the T assets from S-1 to S-5 because the transfer is not a distribution to shareholders, the transfer consists of part or all of the assets of the acquiring corporation, the acquiring corporation does not terminate its corporate existence for Federal income tax purposes in connection with the transfer, and the transaction satisfies the requirements of §1.368-1(d).

(3) *Effective/applicability dates.* This paragraph (k) applies to transactions occurring on or after May 9, 2008, except that it does not apply to any transaction occurring pursuant to a written agreement which is binding before May 9, 2008, and at all times after that.

\* \* \* \* \*

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

Approved May 2, 2008.

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

(Filed by the Office of the Federal Register on May 8, 2008, 8:45 a.m., and published in the issue of the Federal Register for May 9, 2008, 73 F.R. 26322)

## **Section 382.—Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change**

The adjusted applicable federal long-term rate is set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

## **Section 412.—Minimum Funding Standards**

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

## **Section 467.—Certain Payments for the Use of Property or Services**

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

## **Section 468.—Special Rules for Mining and Solid Waste Reclamation and Closing Costs**

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

## **Section 482.—Allocation of Income and Deductions Among Taxpayers**

Federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

## **Section 483.—Interest on Certain Deferred Payments**

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

## **Section 642.—Special Rules for Credits and Deductions**

Federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

## **Section 807.—Rules for Certain Reserves**

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

## **Section 846.—Discounted Unpaid Losses Defined**

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

## **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 June 2008.

## **Rev. Rul. 2008-28**

This revenue ruling provides various prescribed rates for federal income tax purposes for June 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. 2008-28 TABLE 1  
Applicable Federal Rates (AFR) for June 2008

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	2.08%	2.07%	2.06%	2.06%
110% AFR	2.29%	2.28%	2.27%	2.27%
120% AFR	2.50%	2.48%	2.47%	2.47%
130% AFR	2.71%	2.69%	2.68%	2.68%
<i>Mid-term</i>				
AFR	3.20%	3.17%	3.16%	3.15%
110% AFR	3.52%	3.49%	3.47%	3.46%
120% AFR	3.84%	3.80%	3.78%	3.77%
130% AFR	4.16%	4.12%	4.10%	4.09%
150% AFR	4.82%	4.76%	4.73%	4.71%
175% AFR	5.63%	5.55%	5.51%	5.49%
<i>Long-term</i>				
AFR	4.46%	4.41%	4.39%	4.37%
110% AFR	4.91%	4.85%	4.82%	4.80%
120% AFR	5.36%	5.29%	5.26%	5.23%
130% AFR	5.81%	5.73%	5.69%	5.66%

REV. RUL. 2008-28 TABLE 2  
Adjusted AFR for June 2008

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	1.95%	1.94%	1.94%	1.93%
Mid-term adjusted AFR	3.07%	3.05%	3.04%	3.03%
Long-term adjusted AFR	4.57%	4.52%	4.49%	4.48%

REV. RUL. 2008-28 TABLE 3  
Rates Under Section 382 for June 2008

Adjusted federal long-term rate for the current month	4.57%
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.)	4.71%

REV. RUL. 2008-28 TABLE 4  
Appropriate Percentages Under Section 42(b)(2) for June 2008

Appropriate percentage for the 70% present value low-income housing credit	7.89%
Appropriate percentage for the 30% present value low-income housing credit	3.38%

REV. RUL. 2008-28 TABLE 5

Rate Under Section 7520 for June 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

3.8%

## 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 June 2008. See Rev. Rul. 2008-28, page 1029.

## Section 7520.—Valuation Tables

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

## Section 7603.—Service of Summons

26 CFR 301.7603-2: *Third-party recordkeepers.*

### T.D. 9395

## DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 301

## Suspension of Statutes of Limitations in Third-Party and John Doe Summons Disputes and Expansion of Taxpayers' Rights to Receive Notice and Seek Judicial Review of Third-Party Summonses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final Regulations.

SUMMARY: This document contains final regulations relating to third-party and John Doe summonses. These final regulations reflect amendments to sections 7603 and 7609 of the Internal Revenue Code of 1986 made by the Internal Revenue Service Restructuring and Reform Act of 1998, the Omnibus Budget Reconciliation

Act of 1990, the Technical and Miscellaneous Revenue Act of 1988, and the Tax Reform Act of 1986. These final regulations provide guidance relating to the manner by which summonses may be served on third-party recordkeepers, the expanded class of third-party summonses subject to notice requirements and other procedures, and the suspension of periods of limitations if a court proceeding is brought involving a challenge to a third-party summons, or if a third party's response to a summons is not finally resolved within six months after service. These final regulations affect third parties who are served with a summons, taxpayers identified in a third-party summons, and other persons entitled to notice of a third-party summons.

**DATES: *Effective Date:*** These regulations are effective April 30, 2008.

***Applicability Date:*** For the date of applicability, see §§301.7603-1(f); 301.7603-2(c); 301.7609-1(d); 301.7609-2(c); 301.7609-3(e); 301.7609-4(d); and 301.7609-5(f).

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Rawlins at (202) 622-3630 (not a toll-free number).

### SUPPLEMENTARY INFORMATION:

#### Background

This document contains final regulations amending the Procedure and Administration Regulations (26 CFR part 301) under sections 7603 and 7609 of the Internal Revenue Code of 1986 (Code). The final regulations reflect amendments to sections 7603 and 7609 made by the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206, 112 Stat. 685) (RRA 1998), the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647, 102 Stat. 3343) (TAMRA 1988), and the Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2085) (TRA 1986). The final regulations also reflect changes made to

section 6503(j) in the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508, 104 Stat. 1388) (OBRA 1990).

On July 21, 2006, the IRS published in the **Federal Register** a notice of proposed rulemaking (REG-153037-01, 2007-15 I.R.B. 942 [71 FR 41377]) that interprets the amendments to sections 7603 and 7609. Written comments from one commentator on several of the proposed sections were received. No request for a public hearing was received, nor was one held. The proposed regulations, as revised by this Treasury decision, are substantially adopted as final regulations.

As described more fully in the preamble to the proposed regulations, these regulations provide guidance relating to the manner in which summonses may be served on third-party recordkeepers, the expanded class of third-party summonses to which the notice requirements and other procedures apply, the suspension of a taxpayer's periods of limitations if that taxpayer petitions to quash a third-party summons or intervenes in a proceeding to enforce such a summons, and the suspension of a taxpayer's periods of limitations if a summoned third party does not finally resolve its response to a summons within six months after service of a summons.

### Comments on the Proposed Regulations and Explanation of Changes

#### §301.7609-1(a)(2)—*In general*

Proposed §301.7609-1(a)(2) provides that neither section 7609 nor the regulations "limit the IRS's ability to obtain information, other than by summons, through formal or informal procedures authorized by sections 7601 and 7602." The commentator suggested that this provision be prefaced with the phrase "[e]xcept as provided in Section 7609 or Treasury Regulations" and further explained that section 7609 does contain provisions, such as section 7609(d), that limit the IRS's ability to obtain information when a summons has been served.