

Section 424.—Definitions and Special Rules

Final regulations clarify the shareholder approval requirements related to incentive stock options under section 422. See T.D. 9471, page 722.

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 December 2009. See Rev. Rul. 2009-38, page 736.

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 December 2009. See Rev. Rul. 2009-38, page 736.

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 December 2009. See Rev. Rul. 2009-38, page 736.

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 December 2009. See Rev. Rul. 2009-38, page 736.

Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of December 2009. See Rev. Rul. 2009-38, page 736.

Section 807.—Rules for Certain Reserves

The adjusted federal short-term, mid-term, and long-term rates are set forth for the month of December 2009. See Rev. Rul. 2009-38, page 736.

Section 810.—Operations Loss Deduction

Guidance is provided for taxpayers to elect a 4 or 5 year carryback of losses from operations under section 13 of the Worker, Homeownership, and Business Assistance Act of 2009. See Rev. Proc. 2009-52, page 744.

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 December 2009. See Rev. Rul. 2009-38, page 736.

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 December 2009.

Rev. Rul. 2009-38

This revenue ruling provides various prescribed rates for federal income tax purposes for December 2009 (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)(1) for buildings placed in service during the current month. However, under section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, and before December 31, 2013, shall not be less than 9%. 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. Finally, Table 6 contains the 2010 interest rate for sections 846 and 807.

REV. RUL. 2009-38 TABLE 1

Applicable Federal Rates (AFR) for December 2009

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	.69%	.69%	.69%	.69%
110% AFR	.76%	.76%	.76%	.76%
120% AFR	.83%	.83%	.83%	.83%
130% AFR	.90%	.90%	.90%	.90%
<i>Mid-term</i>				
AFR	2.64%	2.62%	2.61%	2.61%
110% AFR	2.90%	2.88%	2.87%	2.86%
120% AFR	3.16%	3.14%	3.13%	3.12%
130% AFR	3.44%	3.41%	3.40%	3.39%
150% AFR	3.97%	3.93%	3.91%	3.90%
175% AFR	4.64%	4.59%	4.56%	4.55%
<i>Long-term</i>				
AFR	4.17%	4.13%	4.11%	4.09%
110% AFR	4.59%	4.54%	4.51%	4.50%
120% AFR	5.02%	4.96%	4.93%	4.91%
130% AFR	5.44%	5.37%	5.33%	5.31%

REV. RUL. 2009-38 TABLE 2

Adjusted AFR for December 2009

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	.86%	.86%	.86%	.86%
Mid-term adjusted AFR	2.25%	2.24%	2.23%	2.23%
Long-term adjusted AFR	4.14%	4.10%	4.08%	4.07%

REV. RUL. 2009-38 TABLE 3

Rates Under Section 382 for December 2009

Adjusted federal long-term rate for the current month	4.14%
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.)	4.16%

REV. RUL. 2009-38 TABLE 4

Appropriate Percentages Under Section 42(b)(1) for December 2009

Note: Under Section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, and before December 31, 2013, shall not be less than 9%.

Appropriate percentage for the 70% present value low-income housing credit	7.79%
Appropriate percentage for the 30% present value low-income housing credit	3.34%

REV. RUL. 2009-38 TABLE 5
Rate Under Section 7520 for December 2009

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 3.2%

REV. RUL. 2009-38 TABLE 6
Rates Under Sections 846 and 807

Applicable rate of interest for 2010 for purposes of sections 846 and 807 3.81%

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 December 2009. See Rev. Rul. 2009-38, page 736.

Section 6039.—Returns Required in Connection With Certain Options

Final regulations provide guidance to assist corporations that issue statutory stock options in complying with the return and information statement requirements under section 6039. See T.D. 9470, page 738.

26 CFR 1.6039-1: Returns required in connection with certain options.

T.D. 9470

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR part 1

Information Reporting Requirements Under Internal Revenue Code Section 6039

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains the final regulations relating to the return and information statement requirements under section 6039 of the Internal Revenue Code (Code). These regulations reflect changes to section 6039 made by section 403 of the

Tax Relief and Health Care Act of 2006. These regulations affect corporations that issue statutory stock options and provide guidance to assist corporations in complying with the return and information statement requirements under section 6039.

DATES: Effective Date: These regulations are effective on November 17, 2009.

Applicability Date: For dates of applicability, see §§1.6039-1(f) and 1.6039-2(e).

FOR FURTHER INFORMATION CONTACT: Thomas Scholz or Ilya Enkishev at (202) 622-6030 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these regulations has been reviewed and approved by the **Office of Management and Budget** in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 (d)) under control number 1545-2129. Responses to this collection of information are required to assist taxpayers with the completion of their income tax returns for the taxable year in which a disposition of stock acquired under a statutory option occurs.

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 control number assigned by the Office of Management and Budget.

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.

Background

Section 403 of the Tax Relief and Health Care Act of 2006 (Act) amended the information reporting requirements of section 6039. Prior to its amendment, section 6039 required corporations to furnish a written statement to each employee, in a manner prescribed by the Secretary in the regulations, regarding: (i) the corporation's transfer of stock pursuant to the employee's exercise of an incentive stock option described in section 422(b); and (ii) the transfer of stock by the employee where the stock was acquired pursuant to the exercise of an option described in section 423(c). Corporations must furnish employees with the information statements required by section 6039 on or before January 31 of the year following the year for which the statement is required. Prior to the amendment of section 6039 made by the Act, the regulations under section 6039 were last updated in 2004. See T.D. 9144, 2004-2 C.B. 413 (69 FR 46401).

As amended by the Act, section 6039 requires corporations to file an information return with the IRS, in addition to providing employees with an information statement, following a stock transfer. Section 6039, as amended by the Act, applies to stock transfers occurring on or after January 1, 2007. However, in Notice 2008-8, 2008-3 I.R.B. 276 (December 19, 2007) (see §601.601(d)(2)(ii)(b)), the IRS waived the obligation to file an information return for 2007 stock transfers governed by section 6039.

On July 17, 2008, the Department of Treasury published a notice of proposed rulemaking (REG-103146-08,