

type of contract. The tax reserve method applicable to annuity contracts is the CARVM prescribed by the NAIC and in effect on the date of the issuance of the contract.

Section 807(f) provides that if the basis for determining any item referred to in § 807(c) as of the close of any taxable year differs from the basis for determining that item as of the close of the preceding taxable year, then 1/10 of the difference between— (i) the amount of the item at the close of the taxable year, computed on the new basis, and (ii) the amount of the item at the close of the taxable year, computed on the old basis, that is attributable to contracts issued before the taxable year, is taken into account (as either a deduction or an item of gross income), for each of the succeeding 10 taxable years.

AG 33 contains the statement that the guideline “does not constitute a change of method or basis from any previously used method.” This statement could lead one to conclude that taking this guideline into account in a company’s CARVM computation does not result in a change in basis. However, for purposes of determining life insurance company taxable income, any change in a company’s tax reserve method is a change in basis subject to the change in basis rules under § 807(f). See Rev. Rul. 94-74 (1994-2 C.B. 157).

Under § 807(d), IC is required to calculate the life insurance reserves for Annuity Contracts using CARVM. For taxable years 1999 and 2000, IC did not take into account several specific factors set forth in AG 33. For tax year 2001, IC modified its reserve computation to take those factors into account in computing its EOY 2001 reserves for Annuity Con-

tracts. IC’s change of reserving method is a change in basis under § 807(f).

IC’s EOY 2001 life insurance reserves for Annuity Contracts, computed on the new basis, exceed the EOY 2001 reserves for those contracts, computed on the old basis, by \$2x. Pursuant to the adjustment rules of § 807(f), IC can take 1/10 of the \$2x into account as a deduction under § 805(a)(2) in each of succeeding 10 taxable years, beginning with the 2002 tax year. In the alternative, in accordance with Rev. Rul. 94-74, IC may file amended returns for 1999 and 2000 and recalculate its tax reserves for Annuity Contracts for those years in accordance with AG 33.

HOLDING:

A change in the computation of existing life insurance reserves by IC for Annuity Contracts to take into account specific factors set forth in AG 33 is a change in basis subject to § 807(f) of the Code.

DRAFTING INFORMATION:

The principal author of this revenue ruling is Linda Boyd of the Office of Associate Chief Counsel (Financial Institutions and Products). For further information regarding this revenue ruling contact Ms. Boyd at (202) 622-3970 (not a toll-free call).

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 February 2002. See Rev. Rul. 2002-5, on this page.

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, 1274, 1288, and other sections of the Code, tables set forth the rates for February 2002.

Rev. Rul. 2002-5

This revenue ruling provides various prescribed rates for federal income tax purposes for February 2002 (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. 2002-5 TABLE 1

Applicable Federal Rates (AFR) for February 2002

Period for Compounding

	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-Term</i>				
AFR	2.74%	2.72%	2.71%	2.70%
110% AFR	3.01%	2.99%	2.98%	2.97%
120% AFR	3.29%	3.26%	3.25%	3.24%
130% AFR	3.57%	3.54%	3.52%	3.51%
<i>Mid-Term</i>				
AFR	4.63%	4.58%	4.55%	4.54%
110% AFR	5.10%	5.04%	5.01%	4.99%
120% AFR	5.58%	5.50%	5.46%	5.44%
130% AFR	6.04%	5.95%	5.91%	5.88%
150% AFR	6.99%	6.87%	6.81%	6.77%
175% AFR	8.18%	8.02%	7.94%	7.89%
<i>Long-Term</i>				
AFR	5.60%	5.52%	5.48%	5.46%
110% AFR	6.16%	6.07%	6.02%	5.99%
120% AFR	6.73%	6.62%	6.57%	6.53%
130% AFR	7.31%	7.18%	7.12%	7.07%

REV. RUL. 2002-5 TABLE 2

Adjusted AFR for February 2002

Period for Compounding

	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	2.49%	2.47%	2.46%	2.46%
Mid-term adjusted AFR	3.90%	3.86%	3.84%	3.83%
Long-term adjusted AFR	5.01%	4.95%	4.92%	4.90%

REV. RUL. 2002-5 TABLE 3

Rates Under Section 382 for February 2002

Adjusted federal long-term rate for the current month	5.01%
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.)	5.01%

REV. RUL. 2002-5 TABLE 4

Appropriate Percentages Under Section 42(b)(2) for February 2002

Appropriate percentage for the 70% present value low-income housing credit	8.19%
Appropriate percentage for the 30% present value low-income housing credit	3.51%

REV. RUL. 2002-5 TABLE 5

Rate Under Section 7520 for February 2002

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	5.6%
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Section 1288.—Treatment of Original Issue Discounts on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of February 2002. See Rev. Rul. 2002-5, page 461.

Section 1441.—Withholding of Tax on Nonresident Aliens

26 CFR 1.1441-6T: Claim of reduced withholding under an income tax treaty (temporary).

T.D. 8977

**DEPARTMENT OF THE
TREASURY
Internal Revenue Service
26 CFR Parts 1 and 301**

**Taxpayer Identification
Number Rule Where Taxpayer
Claims Treaty Rate and Is
Entitled to an Unexpected
Payment**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary regulations that provide additional guidance needed to comply with the withholding rules under section 1441 and conforming changes to the regulations under section 6109. Specifically, these temporary regulations provide rules that facilitate compliance by withholding agents where foreign individuals who are claiming reduced rates of withholding under an income tax treaty receive an unexpected payment from the withholding agent, yet do not possess the required