

for purposes of determining whether the Segregated Asset Account is adequately diversified. Because the value of Fund 1's investment in Fund 2 is greater than 55 percent of the value of the total assets of Fund 1, however, the Segregated Asset Account is not adequately diversified unless its investment in Fund 1 is treated as including an investment in a *pro rata* portion of each of the assets of Fund 2.

In order for the look-through rule to apply to a beneficial interest in a regulated investment company, all the beneficial interests in the investment company must be held by one or more segregated asset accounts of one or more insurance companies (except as otherwise permitted pursuant to § 1.817-5(f)(3) of the regulations), and public access to the investment company must be available solely through the purchase of a variable contract. These two requirements are met with respect to both Fund 1 and Fund 2. Except as otherwise permitted under § 1.817-5(f)(3), all the beneficial interests in Fund 1 are held by segregated asset accounts that invested directly in Fund 1; all the beneficial interests in Fund 2 are held either by segregated asset accounts that invested directly in Fund 2, or by segregated asset accounts that invested directly in Fund 1 (and thus indirectly in Fund 2). Likewise, except as otherwise permitted under § 1.817-5(f)(3), public access to both Fund 1 and Fund 2 is available exclusively through the purchase of a variable contract funded by a segregated asset account that invests in Fund 1 or Fund 2. Accordingly, under the look-through rule of § 817(h), the Segregated Asset Account is treated as owning a *pro rata* portion of each asset of Fund 1,

including a *pro rata* portion of each asset of Fund 2.

HOLDING

Under the facts set forth above, the look-through rule of § 817(h)(4) and § 1.817-5(f) of the regulations requires that the Segregated Asset Account be treated as owning a *pro rata* portion of each asset of Fund 1 and Fund 2 for purposes of satisfying the diversification requirements of § 817(h).

DRAFTING INFORMATION

The principal author of this revenue ruling is Thomas M. Preston of the Office of Chief Counsel Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue ruling, contact Mr. Preston 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 2005. See Rev. Rul. 2005-8, page 466.

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 February 2005.

Rev. Rul. 2005-8

This revenue ruling provides various prescribed rates for federal income tax purposes for February 2005 (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. 2005-8 TABLE 1

Applicable Federal Rates (AFR) for February 2005

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-Term</i>				
AFR	2.92%	2.90%	2.89%	2.88%
110% AFR	3.22%	3.19%	3.18%	3.17%
120% AFR	3.51%	3.48%	3.46%	3.46%
130% AFR	3.81%	3.77%	3.75%	3.74%
<i>Mid-Term</i>				
AFR	3.83%	3.79%	3.77%	3.76%
110% AFR	4.21%	4.17%	4.15%	4.13%
120% AFR	4.60%	4.55%	4.52%	4.51%
130% AFR	4.99%	4.93%	4.90%	4.88%
150% AFR	5.77%	5.69%	5.65%	5.62%
175% AFR	6.74%	6.63%	6.58%	6.54%
<i>Long-Term</i>				
AFR	4.72%	4.67%	4.64%	4.63%
110% AFR	5.21%	5.14%	5.11%	5.09%
120% AFR	5.68%	5.60%	5.56%	5.54%
130% AFR	6.16%	6.07%	6.02%	5.99%

REV. RUL. 2005-8 TABLE 2

Adjusted AFR for February 2005

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	2.11%	2.10%	2.09%	2.09%
Mid-term adjusted AFR	2.89%	2.87%	2.86%	2.85%
Long-term adjusted AFR	4.20%	4.16%	4.14%	4.12%

REV. RUL. 2005-8 TABLE 3

Rates Under Section 382 for February 2005

Adjusted federal long-term rate for the current month	4.20%
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.)	4.27%

REV. RUL. 2005-8 TABLE 4

Appropriate Percentages Under Section 42(b)(2) for February 2005

Appropriate percentage for the 70% present value low-income housing credit	7.99%
Appropriate percentage for the 30% present value low-income housing credit	3.43%

Rate Under Section 7520 for February 2005

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

4.60%

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 February 2005. See Rev. Rul. 2005-8, page 466.

Section 2032.—Alternate Valuation

26 CFR 20.2032-1: *Alternate valuation.*

T.D. 9172

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Parts 20 and 301

Gross Estate; Election to Value on Alternate Valuation Date

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that amend §20.2032-1(b) to reflect the change made to section 2032 of the Internal Revenue Code by the Deficit Reduction Act of 1984 and the technical change to that section made by the Tax Reform Act of 1986. In addition, the final regulations remove temporary regulation §301.9100-6T(b) of the Procedure and Administration Regulations so that estates that fail to make the alternate valuation election on the last estate tax return filed before the due date of the return, or on the first estate tax return filed after the due date of the return may request an extension of time to make the election under the provisions of §§301.9100-1 and 301.9100-3. The final regulations affect estates that are required to file Form 706, *United States Estate (and Generation-Skipping Transfer) Tax Return*.

DATES: *Effective Date:* These regulations are effective on January 4, 2005.

Applicability Date: For dates of applicability, see §20.2032-1(h).

FOR FURTHER INFORMATION CONTACT: Theresa M. Melchiorre at (202) 622-7830 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 24, 2003, proposed regulations (REG-139845-02, 2004-5 I.R.B. 397) were published in the **Federal Register** [68 FR 74534]. The proposed regulations contained proposed amendments to the Estate Tax Regulations [26 CFR part 20] and the Procedure and Administration Regulations [26 CFR part 301] relating to the election under section 2032 to value a decedent's gross estate on the alternate valuation date. The proposed regulations reflected changes that were made to section 2032 by the Deficit Reduction Act of 1984, Public Law 98-369 (98 Stat. 494). Written comments were received on the proposed regulations, and a public hearing was held on June 3, 2004. The proposed regulations, with certain changes in response to the written and oral comments, are adopted as final regulations.

Summary of Comments and Explanation of Provisions

Determination of Eligibility to make the Alternate Valuation Election

The proposed regulations provided that the alternate valuation election may be made only if the election results in a decrease both in the value of the gross estate and in the sum of the estate tax and generation-skipping transfer tax liability (reduced by credits allowable against these taxes). One commentator noted that it may not be possible to determine whether the election will reduce the sum of estate tax and generation-skipping transfer tax if the

generation-skipping transfer tax will not be imposed until a later time, as in the case of a later taxable termination or taxable distribution. In response to this comment, the final regulations provide that the determination of whether there has been a decrease in the sum of the estate tax and generation-skipping transfer tax liability (reduced by credits allowable against these taxes) is made with reference to the estate tax and generation-skipping transfer tax payable by reason of the decedent's death.

Availability of Relief under §§301.9100-1 and 301.9100-3

In view of the 1-year limitation imposed under section 2032(d)(2), the proposed regulations provided that no request for an extension of time to make the alternate valuation election under the provisions of §§301.9100-1 and 301.9100-3 will be granted if the request is submitted to the IRS more than 1 year after the due date of the return of tax imposed by section 2001 (including extensions of time actually granted). One commentator argued that the 1-year limitation in section 2032(d)(2) applies only to late-filed returns, and therefore should not limit the availability of relief under §§301.9100-1 and 301.9100-3 to make a late alternate valuation election if the taxpayer timely filed its return, but failed to make the election on the return. After considering the language and intent of section 2032 and §§301.9100-1 and 301.9100-3, the IRS and Treasury Department have determined that taxpayers may request relief under §§301.9100-1 and 301.9100-3, even after the expiration of the 1-year period, and that such relief may be granted (subject to the requirements of §§301.9100-1 and 301.9100-3) provided that the return of tax is filed no later than 1 year after the due date of the return (including extensions of time actually granted). This rule also will apply to requests under §§301.9100-1 and 301.9100-3 for an extension of time to make a protective election under section 2032.