

amounts paid pursuant to the arrangement as “insurance premiums” under § 162. See Rev. Rul. 2005–40, 2005–2 C.B. 4 (arrangement lacks necessary risk distribution, and therefore does not qualify as insurance, if the issuer of the arrangement contracts with only a single policyholder); Rev. Rul. 2002–89, 2002–2 C.B. 984 (amounts paid by a domestic parent corporation to its wholly owned insurance subsidiary are not deductible as insurance premiums if the parent’s premiums are not sufficiently pooled with those of unrelated parties).

All the income, expense, assets, liabilities and capital of *Cell Y* likewise are separately accounted for, and upon liquidation, become the property of *Y*, who is the sole shareholder with respect to *Cell Y*. Under the arrangements between the 12 subsidiaries of *Y* and *Cell Y*, the subsidiaries shift to *Cell Y* their professional liability risks in exchange for premiums that are determined at arms-length. Those premiums are pooled such that a loss by one subsidiary is not in substantial part, paid from its own premiums. The subsidiaries of *Y* and *Cell Y* conduct themselves in all respects as would unrelated parties to a traditional insurance relationship. Had the subsidiaries of *Y* entered into identical arrangements with a sibling corporation that was regulated as an insurance company, the arrangements would constitute insurance and amounts paid pursuant to the arrangements would be deductible as insurance premiums under § 162. See Rev. Rul. 2002–90, 2002–2 C.B. 985. The fact that the subsidiaries’ risks were instead shifted to a cell of a protected cell company, and distributed within that cell, does not change this result. Accordingly, the arrangements between *Cell Y* and each subsidiary of *Y* are insurance contracts for federal income tax purposes; amounts paid pursuant to those arrangements are insurance premiums, deductible under § 162 if the requirements for deduction are otherwise satisfied.

HOLDINGS

In Situation 1, the annual arrangement between *Cell X* and *X* does not constitute insurance for federal income tax purposes. In Situation 2, the arrangements between *Cell Y* and each subsidiary of *Y* do constitute insurance for federal income tax

purposes; amounts paid pursuant to those arrangements are deductible as insurance premiums under § 162 if the requirements for deduction are otherwise satisfied.

ADDITIONAL GUIDANCE

The Internal Revenue Service and the Treasury Department are aware that further guidance may be needed in this area. Notice 2008–19, this Bulletin, requests comments on further guidance that addresses when a cell of a *Protected Cell Company* is treated as an insurance company for federal income tax purposes.

DRAFTING INFORMATION

The principal author of this revenue ruling is Chris Lieu of the Office of the Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue ruling, contact Mr. Lieu at (202) 622–3970 (not a toll-free call).

Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of February 2008. See Rev. Rul. 2008-9, page 342.

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 February 2008. See Rev. Rul. 2008-9, page 342.

Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of February 2008. See Rev. Rul. 2008-9, page 342.

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 February 2008. See Rev. Rul. 2008-9, page 342.

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 February 2008. See Rev. Rul. 2008-9, page 342.

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 February 2008. See Rev. Rul. 2008-9, page 342.

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 February 2008. See Rev. Rul. 2008-9, page 342.

Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of February 2008. See Rev. Rul. 2008-9, page 342.

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 February 2008. See Rev. Rul. 2008-9, page 342.

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 2008. See Rev. Rul. 2008-9, page 342.

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 January 2008.

Rev. Rul. 2008-9

This revenue ruling provides various prescribed rates for federal income tax purposes for February 2008 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable fed-

eral 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 ap-

propriate 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. 2008-9 TABLE 1				
Applicable Federal Rates (AFR) for February 2008				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	3.11%	3.09%	3.08%	3.07%
110% AFR	3.43%	3.40%	3.39%	3.38%
120% AFR	3.74%	3.71%	3.69%	3.68%
130% AFR	4.06%	4.02%	4.00%	3.99%
<i>Mid-term</i>				
AFR	3.51%	3.48%	3.46%	3.46%
110% AFR	3.87%	3.83%	3.81%	3.80%
120% AFR	4.22%	4.18%	4.16%	4.14%
130% AFR	4.57%	4.52%	4.49%	4.48%
150% AFR	5.29%	5.22%	5.19%	5.16%
175% AFR	6.18%	6.09%	6.04%	6.01%
<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. 2008-9 TABLE 2				
Adjusted AFR for February 2008				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	2.84%	2.82%	2.81%	2.80%
Mid-term adjusted AFR	3.36%	3.33%	3.32%	3.31%
Long-term adjusted AFR	4.23%	4.19%	4.17%	4.15%

REV. RUL. 2008-9 TABLE 3
Rates Under Section 382 for February 2008

Adjusted federal long-term rate for the current month	4.23%
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.)	4.34%

REV. RUL. 2008-9 TABLE 4
Appropriate Percentages Under Section 42(b)(2) for February 2008

Appropriate percentage for the 70% present value low-income housing credit	7.92%
Appropriate percentage for the 30% present value low-income housing credit	3.40%

REV. RUL. 2008-9 TABLE 5
Rate Under Section 7520 for February 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	4.2%
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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 2008. See Rev. Rul. 2008-9, page 342.

Section 7216.—Disclosure or Use of Information by Preparers of Returns

26 CFR 301.7216-1: Penalty for disclosure or use of tax return information.

T.D. 9375

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 301

Guidance Necessary to Facilitate Electronic Tax Administration—Updating of Section 7216 Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains regulations to update the rules regarding the disclosure and use of tax return information by tax return preparers. Among other things, the regulations finalize rules for taxpayers to consent to the disclosure or use of their tax return information by tax return preparers.

DATES: Effective Date: These regulations are effective January 7, 2008.

Applicability Date: The regulations apply to disclosures or uses of tax return information occurring on or after January 1, 2009.

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Regulations on Procedure and Administration (26 CFR Part 301) under section 7216 of the Internal Revenue Code. These regulations strengthen taxpayers' ability to control their tax return information by requiring that tax return preparers give taxpayers specific information, including who will receive the tax return information and the particular items of tax return information that will be disclosed or used, to allow taxpayers to make knowing, informed, and voluntary decisions over the disclosure or use of their tax information by their tax return preparer.

Section 7216 imposes criminal penalties on tax return preparers who knowingly or recklessly make unauthorized disclosures or uses of information furnished to them in connection with the preparation of an income tax return. In addition, tax return preparers are subject to civil penalties under section 6713 for disclosure or use of this information unless an exception under the rules of section 7216(b) applies to the disclosure or use.

Section 7216 was enacted by section 316 of the Revenue Act of 1971, Public Law 92-178 (85 Stat. 529). In 1988, Congress modified the section by limiting the criminal sanction to knowing or reckless, unauthorized disclosures. Public Law 100-647 (102 Stat. 3749). At the same time, Congress enacted the civil penalty that is now found in section 6713. Public Law 100-647, §6242(a) (102 Stat. 3759). In 1989, Congress further modified section 7216, directing the Treasury Department to issue regulations permitting disclosures of tax return information for quality or peer reviews. Public Law 101-239, §7739(a) (103 Stat. 3759).

The Treasury Department and the IRS proposed regulations under section 7216 on December 20, 1972 (37 FR 28070). Final regulations were issued on March 29, 1974 (39 FR 11537). These regulations are divided into three parts: §301.7216-1 for general provisions and definitions; §301.7216-2 for disclosures and uses