

acquiring for property the stock of a corporation (deemed issuing corporation) controlled by the issuing corporation if, in connection with the acquisition for property of stock of the issuing corporation by the acquiring corporation, the issuing corporation acquired stock of the deemed issuing corporation with a principal purpose of avoiding the application of section 304 to the deemed issuing corporation. See paragraph (c) Example 2 of this section for an illustration of this paragraph.

(c) *Examples.* The rules of this section are illustrated by the following examples:

Example 1. (i) *Facts.* P, a domestic corporation, wholly owns CFC1, a controlled foreign corporation with substantial accumulated earnings and profits. CFC1 is organized in Country X, which imposes a high rate of tax on the income of CFC1. P also wholly owns CFC2, a controlled foreign corporation with accumulated earnings and profits of \$200x. CFC2 is organized in Country Y, which imposes a low rate of tax on the income of CFC2. P wishes to own all of its foreign corporations in a direct chain and to repatriate the cash of CFC2. In order to avoid having to obtain Country X approval for the acquisition of CFC1 (a Country X corporation) by CFC2 (a Country Y corporation) and to avoid the dividend distribution from CFC2 to P that would result if CFC2 were the acquiring corporation, P causes CFC2 to form CFC3 in Country X and to contribute \$100x to CFC3. CFC3 then acquires all of the stock of CFC1 from P for \$100x.

(ii) *Result.* Because a principal purpose for creating, organizing or funding CFC3 (acquiring corporation) is to avoid the application of section 304 to CFC2 (deemed acquiring corporation), under paragraph (b)(1) of this section, for purposes of determining the amount of the \$100x distribution constituting a dividend (and source thereof) under section 304(b)(2), CFC2 shall be treated as acquiring the stock of CFC1 (issuing corporation) from P for \$100x. As a result, P receives a \$100x distribution, out of the earnings and profits of CFC2, to which section 301(c)(1) applies.

Example 2. (i) *Facts.* P, a domestic corporation, wholly owns CFC1, a controlled foreign corporation with substantial accumulated earnings and profits. The CFC1 stock has a basis of \$100x. CFC1 is organized in Country X. P also wholly owns CFC2, a controlled foreign corporation with zero accumulated earnings and profits. CFC2 is organized in Country Y. P wishes to own all of its foreign corporations in a direct chain and to repatriate the cash of CFC2. In order to avoid having to obtain Country X approval for the acquisition of CFC1 (a Country X corporation) by CFC2 (a Country Y corporation) and to avoid a dividend distribution from CFC1 to P, P forms a new corporation (CFC3) in Country X and transfers the stock of CFC1 to CFC3 in exchange for CFC3 stock. P then transfers the stock of CFC3 to CFC2 in exchange for \$100x.

(ii) *Result.* Because a principal purpose for the transfer of the stock of CFC1 (deemed issuing corporation) by P to CFC3 (issuing corporation) is to avoid the application of section 304 to CFC1, under

paragraph (b)(2) of this section, for purposes of determining the amount of the \$100x distribution constituting a dividend (and source thereof) under section 304(b)(2), CFC2 (acquiring corporation) shall be treated as acquiring the stock of CFC1 from P for \$100x. As a result, P receives a \$100x distribution, out of the earnings and profits of CFC1, to which section 301(c)(1) applies.

(d) *Effective/applicability date.* This section applies to acquisitions of stock occurring on or after December 29, 2009. See §1.304-4T, as contained in 26 CFR part 1 revised as of April 1, 2008, for acquisitions of stock occurring on or after June 14, 1988, and before December 29, 2009.

(e) *Expiration date.* This section expires on or before December 28, 2012.

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

Approved December 18, 2009.

Michael F. Mundaca,
*Acting Assistant Secretary
of the Treasury (Tax Policy).*

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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 2010. See Rev. Rul. 2010-6, page 387.

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 2010. See Rev. Rul. 2010-6, page 387.

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 2010. See Rev. Rul. 2010-6, page 387.

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 2010. See Rev. Rul. 2010-6, page 387.

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 2010. See Rev. Rul. 2010-6, page 387.

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 2010. See Rev. Rul. 2010-6, page 387.

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 2010. See Rev. Rul. 2010-6, page 387.

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 2010. See Rev. Rul. 2010-6, page 387.

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 2010. See Rev. Rul. 2010-6, page 387.

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 2010.

Rev. Rul. 2010-6

This revenue ruling provides various prescribed rates for federal income tax purposes for February 2010 (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. How-

ever, 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%. 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. 2010-6 TABLE 1				
Applicable Federal Rates (AFR) for February 2010				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	.72%	.72%	.72%	.72%
110% AFR	.79%	.79%	.79%	.79%
120% AFR	.86%	.86%	.86%	.86%
130% AFR	.94%	.94%	.94%	.94%
<i>Mid-term</i>				
AFR	2.82%	2.80%	2.79%	2.78%
110% AFR	3.10%	3.08%	3.07%	3.06%
120% AFR	3.39%	3.36%	3.35%	3.34%
130% AFR	3.67%	3.64%	3.62%	3.61%
150% AFR	4.24%	4.20%	4.18%	4.16%
175% AFR	4.96%	4.90%	4.87%	4.85%
<i>Long-term</i>				
AFR	4.44%	4.39%	4.37%	4.35%
110% AFR	4.89%	4.83%	4.80%	4.78%
120% AFR	5.34%	5.27%	5.24%	5.21%
130% AFR	5.79%	5.71%	5.67%	5.64%

REV. RUL. 2010-6 TABLE 2				
Adjusted AFR for February 2010				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	.54%	.54%	.54%	.54%
Mid-term adjusted AFR	1.84%	1.83%	1.83%	1.82%
Long-term adjusted AFR	4.02%	3.98%	3.96%	3.95%

REV. RUL. 2010-6 TABLE 3
Rates Under Section 382 for February 2010

Adjusted federal long-term rate for the current month	4.02%
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.)	4.14%

REV. RUL. 2010-6 TABLE 4
Appropriate Percentages Under Section 42(b)(1) for February 2010

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	7.84%
Appropriate percentage for the 30% present value low-income housing credit	3.36%

REV. RUL. 2010-6 TABLE 5
Rate Under Section 7520 for February 2010

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	3.4%
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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 2010. See Rev. Rul. 2010-6, page 387.

Section 7520.—Valuation Tables

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of February 2010. See Rev. Rul. 2010-6, page 387.

Section 7872.—Treatment of Loans With Below-Market Interest Rates

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of February 2010. See Rev. Rul. 2010-6, page 387.