

excess aggregate contributions is not includible in gross income to the extent it represents a distribution of designated Roth contributions. However, the income allocable to a corrective distribution of excess aggregate contributions that are designated Roth contributions is taxed in accordance with paragraph (b)(2)(vi)(A) or (B) of this section (i.e., in the same manner as income allocable to a corrective distribution of excess aggregate contributions that are not designated Roth contributions).

\*\*\*\*\*

Par. 8. Section 1.401(m)-5 is amended by adding a new definition of “Designated Roth contributions” after the definition of *Current year testing method* to read as follows:

*§1.401(m)-5 Definitions.*

\*\*\*\*\*

*Designated Roth contributions.* *Designated Roth contributions* means designated Roth contributions as defined in §1.401(k)-1(f)(1).

\*\*\*\*\*

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

Par. 9. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 10. In §602.101, paragraph (b) is amended by adding an entry for “1.401(k)-1” in numerical order to the table to read, in part, as follows:

*§602.101 OMB Control numbers.*

\*\*\*\*\*

(b) \*\*\*\*\*

| CFR part or section where identified and described | Current OMB control No. |
|--|-------------------------|
| *****  |                         |
| 1.401(k)-1   | 1545-1930               |
| *****  |                         |

Mark E. Matthews,  
*Deputy Commissioner for Services and Enforcement.*

Approved December 13, 2005.

Eric Solomon,  
*Acting Deputy Assistant Secretary for Tax Policy.*

(Filed by the Office of the Federal Register on December 30, 2005, 8:45 a.m., and published in the issue of the Federal Register for January 3, 2006, 71 F.R. 6)

**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 2006. See Rev. Rul. 2006-7, page 399.

**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 2006. See Rev. Rul. 2006-7, page 399.

**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 2006. See Rev. Rul. 2006-7, page 399.

**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 2006. See Rev. Rul. 2006-7, page 399.

**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 2006. See Rev. Rul. 2006-7, page 399.

**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 2006. See Rev. Rul. 2006-7, page 399.

**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 2006. See Rev. Rul. 2006-7, page 399.

**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 2006. See Rev. Rul. 2006-7, page 399.

**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 2006.

**Rev. Rul. 2006-7**

This revenue ruling provides various prescribed rates for federal income tax

purposes for February 2006 (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. 2006-7 TABLE 1                         |                               |                   |                  |                |
|--|-------------------------------|-------------------|------------------|----------------|
| Applicable Federal Rates (AFR) for February 2006 |                               |                   |                  |                |
|  | <i>Period for Compounding</i> |                   |                  |                |
|  | <i>Annual</i>                 | <i>Semiannual</i> | <i>Quarterly</i> | <i>Monthly</i> |
| <i>Short-term</i>                                |                               |                   |                  |                |
| AFR  | 4.39%                         | 4.34%             | 4.32%            | 4.30%          |
| 110% AFR   | 4.83%                         | 4.77%             | 4.74%            | 4.72%          |
| 120% AFR   | 5.28%                         | 5.21%             | 5.18%            | 5.15%          |
| 130% AFR   | 5.72%                         | 5.64%             | 5.60%            | 5.57%          |
| <i>Mid-term</i>                                  |                               |                   |                  |                |
| AFR  | 4.40%                         | 4.35%             | 4.33%            | 4.31%          |
| 110% AFR   | 4.85%                         | 4.79%             | 4.76%            | 4.74%          |
| 120% AFR   | 5.29%                         | 5.22%             | 5.19%            | 5.16%          |
| 130% AFR   | 5.74%                         | 5.66%             | 5.62%            | 5.59%          |
| 150% AFR   | 6.64%                         | 6.53%             | 6.48%            | 6.44%          |
| 175% AFR   | 7.75%                         | 7.61%             | 7.54%            | 7.49%          |
| <i>Long-term</i>                                 |                               |                   |                  |                |
| AFR  | 4.61%                         | 4.56%             | 4.53%            | 4.52%          |
| 110% AFR   | 5.08%                         | 5.02%             | 4.99%            | 4.97%          |
| 120% AFR   | 5.54%                         | 5.47%             | 5.43%            | 5.41%          |
| 130% AFR   | 6.02%                         | 5.93%             | 5.89%            | 5.86%          |

| REV. RUL. 2006-7 TABLE 2       |                               |                   |                  |                |
|--------------------------------|-------------------------------|-------------------|------------------|----------------|
| Adjusted AFR for February 2006 |                               |                   |                  |                |
|                                | <i>Period for Compounding</i> |                   |                  |                |
|                                | <i>Annual</i>                 | <i>Semiannual</i> | <i>Quarterly</i> | <i>Monthly</i> |
| Short-term adjusted AFR        | 3.20%                         | 3.17%             | 3.16%            | 3.15%          |
| Mid-term adjusted AFR          | 3.53%                         | 3.50%             | 3.48%            | 3.47%          |
| Long-term adjusted AFR         | 4.26%                         | 4.22%             | 4.20%            | 4.18%          |

| REV. RUL. 2006-7 TABLE 3   |       |
|--|-------|
| Rates Under Section 382 for February 2006  |       |
| Adjusted federal long-term rate for the current month  | 4.26% |
| 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.) | 4.40% |

REV. RUL. 2006-7 TABLE 4

Appropriate Percentages Under Section 42(b)(2) for February 2006

|  |       |
|--|-------|
| Appropriate percentage for the 70% present value low-income housing credit | 8.05% |
| Appropriate percentage for the 30% present value low-income housing credit | 3.45% |

REV. RUL. 2006-7 TABLE 5

Rate Under Section 7520 for February 2006

|   |      |
|---|------|
| 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 | 5.2% |
|---|------|

## 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 2006. See Rev. Rul. 2006-7, page 399.

## Section 6011.—General Requirement of Return, Statement, or List

26 CFR 31.6011(a)-1: Returns under Federal Insurance Contributions Act.

### T.D. 9239

## DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Parts 1 and 31

### Time for Filing Employment Tax Returns and Modifications to the Deposit Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary regulations establishing the Employers' Annual Federal Tax Program (Form 944) (hereinafter referred to as the Form 944 Program). The temporary regulations relate to sections 6011 and 6302 of the Internal Revenue Code (Code) concerning reporting and paying income taxes withheld from wages and reporting and

paying taxes under the Federal Insurance Contributions Act (FICA) (collectively, employment taxes). These temporary regulations provide requirements for filing returns under FICA and returns of income tax withheld under section 6011 and §§31.6011(a)-1 and 31.6011(a)-4 of the Employment Tax Regulations.

These temporary regulations generally require employers who receive written notification from the Commissioner of their qualification for the Form 944 Program to file a Form 944, "Employer's Annual Federal Tax Return," rather than Form 941, "Employer's Quarterly Federal Tax Return." In addition, these temporary regulations provide requirements for employers to make deposits of employment taxes under section 6302 and §31.6302-1. These temporary regulations permit employers in the Form 944 Program to deposit or remit their accumulated employment taxes annually with their Form 944 if they satisfy the provisions of the *de minimis* deposit rule, as modified. Also, these temporary regulations modify the lookback period used to determine an employer's status as a monthly or semi-weekly depositor.

The portions of this document that are final regulations provide necessary cross-references to the temporary regulations as well as technical revisions. The technical revisions correct the table of contents in §31.6302-0 and a cross-reference in §31.6302-1(e)(2) and remove all references to an IRS district director, as that position no longer exists within the IRS. In addition, a cross-reference to the temporary regulations under section 6011 was added to the final regulations under section 6071, regarding the time for filing returns. The text of the temporary regulations also serves, in part, as the text of the

proposed regulations (REG-148568-04) set forth in this issue of the Bulletin. In addition to the provisions contained in these temporary regulations related to the Form 944 Program, the proposed regulations provide a modification to the *de minimis* deposit rule applicable to quarterly return filers.

**DATES: Effective Date:** These regulations are effective as of January 1, 2006.

**Applicability Date:** These regulations apply with respect to taxable years beginning on or after January 1, 2006. The applicability of §§31.6011-1T, 31.6011-4T, and 31.6302-1T will expire on or before December 30, 2009.

**FOR FURTHER INFORMATION CONTACT:** Raymond Bailey, (202) 622-4910 (filing requirements under section 6011), or Audra Dineen, (202) 622-4940 (deposit requirements under section 6302) (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

#### Background and Explanation of Provisions

These temporary regulations amend the Regulations on Employment Taxes and Collection of Income Tax at Source (26 CFR part 31) under section 6011 relating to the Federal employment tax return filing requirements and section 6302 relating to the employment tax deposit requirements.

Section 31.6011(a)-1 of the Employment Tax Regulations provides rules requiring employers to file returns quarterly to report FICA taxes. Section 31.6011(a)-4 of the Employment Tax Regulations requires that every person required to make a return of income tax