

Authority: 26 U.S.C. 7805 \* \* \*

Par. 4. In §53.4958-2, paragraph (a)(6) is added to read as follows:

*§53.4958-2 Definition of applicable tax-exempt organization.*

(a) \* \* \*

(6) *Examples.* The following examples illustrate the principles of this section, which defines an applicable tax-exempt organization for purposes of section 4958:

*Example 1.* O is a nonprofit corporation formed under state law. O filed its application for recognition of exemption under section 501(c)(3) within the time prescribed under section 508(a). In its application, O described its plans for purchasing property from some of its directors at prices that would exceed fair market value. After reviewing the application, the IRS determined that because of the proposed property purchase transactions, O failed to establish that it met the requirements for an organization described in section 501(c)(3). Accordingly, the IRS denied O's application. While O's application was pending, O engaged in the purchase transactions described in its application at prices that exceeded the fair market values of the properties. Although these transactions would constitute excess benefit transactions under section 4958, because the IRS never recognized O as an organization described in section 501(c)(3), O was never an applicable tax-exempt organization under section 4958. Therefore, these transactions are not subject to the excise taxes provided in section 4958.

*Example 2.* O is a nonprofit corporation formed under state law. O files its application for recognition of exemption under section 501(c)(3) within the time prescribed under section 508(a). The IRS issues a favorable determination letter in Year 1 that recognizes O as an organization described in section 501(c)(3). Subsequently, in Year 5 of O's operations, O engages in certain transactions that constitute excess benefit transactions under section 4958 and violate the proscription against inurement under section 501(c)(3) and §1.501(c)(3)-1(c)(2). The IRS examines the Form 990, "Return of Organization Exempt From Income Tax", that O filed for Year 5. After considering all the relevant facts and circumstances in accordance with §1.501(c)(3)-1(f), the IRS concludes that O is no longer described in section 501(c)(3) effective in Year 5. The IRS does not examine the Forms 990 that O filed for its first four years of operations and, accordingly, does not revoke O's ex-

empt status for those years. Although O's tax-exempt status is revoked effective in Year 5, under the *lookback* rules in paragraph (a)(1) of this section and §53.4958-3(a)(1) of this chapter, during the five-year period prior to the excess benefit transactions that occurred in Year 5, O was an applicable tax-exempt organization and O's directors were disqualified persons as to O. Therefore, the transactions between O and its directors during Year 5 are subject to the applicable excise taxes provided in section 4958.

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

Approved March 19, 2008.

Eric Solomon,  
*Assistant Secretary of  
the Treasury (Tax Policy).*

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## Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of May 2008. See Rev. Rul. 2008-24, page 861.

## 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 May 2008. See Rev. Rul. 2008-24, page 861.

## 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 May 2008. See Rev. Rul. 2008-24, page 861.

## 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 May 2008.

## Rev. Rul. 2008-24

This revenue ruling provides various prescribed rates for federal income tax purposes for May 2008 (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. 2008-24 TABLE 1  
Applicable Federal Rates (AFR) for May 2008

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	1.64%	1.63%	1.63%	1.62%
110% AFR	1.80%	1.79%	1.79%	1.78%
120% AFR	1.97%	1.96%	1.96%	1.95%
130% AFR	2.13%	2.12%	2.11%	2.11%
<i>Mid-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%
150% AFR	4.12%	4.08%	4.06%	4.05%
175% AFR	4.82%	4.76%	4.73%	4.71%
<i>Long-term</i>				
AFR	4.21%	4.17%	4.15%	4.13%
110% AFR	4.64%	4.59%	4.56%	4.55%
120% AFR	5.06%	5.00%	4.97%	4.95%
130% AFR	5.49%	5.42%	5.38%	5.36%

REV. RUL. 2008-24 TABLE 2  
Adjusted AFR for May 2008

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	2.07%	2.06%	2.05%	2.05%
Mid-term adjusted AFR	3.17%	3.15%	3.14%	3.13%
Long-term adjusted AFR	4.71%	4.66%	4.63%	4.62%

REV. RUL. 2008-24 TABLE 3  
Rates Under Section 382 for May 2008

Adjusted federal long-term rate for the current month	4.71%
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.)	4.71%

REV. RUL. 2008-24 TABLE 4  
Appropriate Percentages Under Section 42(b)(2) for May 2008

Appropriate percentage for the 70% present value low-income housing credit	7.80%
Appropriate percentage for the 30% present value low-income housing credit	3.34%

REV. RUL. 2008-24 TABLE 5

Rate Under Section 7520 for May 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

3.2%

## 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 May 2008. See Rev. Rul. 2008-24, page 861.

## Section 6103.—Confidentiality and Disclosure of Returns and Return Information

26 CFR 301.6103(n)-2T: Disclosure of return information in connection with written contracts among the IRS, whistleblowers, and legal representatives of whistleblowers (temporary).

T.D. 9389

### DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 301

#### Disclosure of Return Information in Connection With Written Contracts Among the IRS, Whistleblowers, and Legal Representatives of Whistleblowers

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

**SUMMARY:** This document contains temporary regulations relating to the disclosure of return information, pursuant to section 6103(n) of the Internal Revenue Code (Code), by an officer or employee of the Treasury Department, to a whistleblower and, if applicable, the legal representative of the whistleblower, to the extent necessary in connection with a written contract among the IRS, the whistleblower and, if applicable, the legal representative

of the whistleblower, for services relating to the detection of violations of the internal revenue laws or related statutes. The temporary regulations will affect officers and employees of the Treasury Department who disclose return information to whistleblowers, or their legal representatives, in connection with written contracts among the IRS, whistleblowers and, if applicable, their legal representatives, for services relating to the detection of violations of the internal revenue laws or related statutes. The temporary regulations will also affect any whistleblower, or legal representative of a whistleblower, who receives return information in connection with a written contract among the IRS, the whistleblower and, if applicable, the legal representative of the whistleblower, for services relating to the detection of violations of the internal revenue laws or related statutes. The text of the temporary regulations also serves as the text of the proposed regulations (REG-114942-07) set forth in the notice of proposed rulemaking on this subject in this issue of the Bulletin.

**DATES: Effective Date:** These temporary regulations are effective on March 25, 2008.

**Applicability Date:** For dates of applicability, see §301.6103(n)-2T(f).

**FOR FURTHER INFORMATION CONTACT:** Helene R. Newsome, 202-622-7950 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

#### Background

This document contains amendments to the Procedure and Administration Regulations (26 CFR part 301) under section 6103(n) relating to the disclosure of return information in connection with written contracts among the IRS, whistleblowers and, if applicable, their legal representatives.

The Tax Relief and Health Care Act of 2006, Public Law 109-432 (120 Stat. 2958), (the Act) was enacted on December

20, 2006. Section 406 of the Act amends section 7623, concerning the payment of awards to whistleblowers, and establishes a Whistleblower Office within the IRS that has responsibility for the administration of a whistleblower program. The Whistleblower Office, in connection with administering a whistleblower program, will analyze information provided by a whistleblower, and either investigate the matter itself or assign it to the appropriate IRS office for investigation. In analyzing information provided by a whistleblower, or investigating a matter, the Whistleblower Office may determine that it requires the assistance of the whistleblower, or the legal representative of the whistleblower. The legislative history of section 406 of the Act states that “[t]o the extent the disclosure of returns or return information is required [for the whistleblower or his or her legal representative] to render such assistance, the disclosure must be pursuant to an IRS tax administration contract.” Joint Committee on Taxation, *Technical Explanation of H.R. 6408, The “Tax Relief and Health Care Act of 2006,”* as Introduced in the House on December 7, 2006, at 89 (JCX-50-06), December 7, 2006. The legislative history further states that “[i]t is expected that such disclosures will be infrequent and will be made only when the assigned task cannot be properly or timely completed without the return information to be disclosed.” *Id.*

Under section 6103(a), returns and return information are confidential unless the Internal Revenue Code (Code) authorizes disclosure. Section 6103(n) is the authority by which returns and return information may be disclosed pursuant to a tax administration contract. Section 6103(n) authorizes, pursuant to regulations prescribed by the Secretary, returns and return information to be disclosed to any person, including any person described in section 7513(a), for purposes of tax administration, to the extent necessary in connection with: (1) the processing, storage, transmission, and reproduction of returns and return information; (2) the