

Section 1.162-27(e)(3)(vii) provides that, solely for this purpose, “officer” means an administrative executive who is or was in regular and continued service. The regulations state that the term implies continuity of service and excludes those employed for a special and single transaction. An individual who merely has (or had) the title of officer, but not the authority of an officer, is not considered an officer. The regulations further state that determination of whether an individual is or was an officer is based on all of the facts and circumstances in the particular case, including without limitation the source of the individual’s authority, the term for which the individual is elected or appointed, and the nature and extent of the individual’s duties.

ANALYSIS

The determination of whether an individual is or was an officer is based on all of the facts and circumstances in the particular case, including without limitation the source of the individual’s authority, the term for which the individual is elected or appointed, and the nature and extent of the individual’s duties. Director A was in regular and continued service from January 7, 2008 through December 11, 2008. Company X did not employ Director A for a special and single transaction and Director A did not merely have the title of officer. Instead, Company X employed Director A for an indefinite period to serve as interim CEO with the full authority vested in that office. Accordingly, under the facts and circumstances analysis, Director A was an officer of Company X.

HOLDING

Under the facts provided in this revenue ruling, a member of the board of directors who serves as interim chief executive officer is not an “outside director” for purposes of § 162(m)(4)(C) and § 1.162-27(e)(3).

DRAFTING INFORMATION

The principal author of this revenue ruling is Ilya Enkishev of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt & Government Entities). For further information regarding this rev-

enue ruling, contact Mr. Enkishev at (202) 622-6030 (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 July 2008. See Rev. Rul. 2008-33, page 8.

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 July 2008. See Rev. Rul. 2008-33, page 8.

Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of July 2008. See Rev. Rul. 2008-33, page 8.

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 July 2008. See Rev. Rul. 2008-33, page 8.

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 July 2008. See Rev. Rul. 2008-33, page 8.

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 July 2008. See Rev. Rul. 2008-33, page 8.

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 July 2008. See Rev. Rul. 2008-33, page 8.

Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of July 2008. See Rev. Rul. 2008-33, page 8.

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 July 2008. See Rev. Rul. 2008-33, page 8.

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 July 2008. See Rev. Rul. 2008-33, page 8.

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 July 2008.

Rev. Rul. 2008-33

This revenue ruling provides various prescribed rates for federal income tax purposes for July 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. 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. Finally, Table 6 contains the blended annual rate for 2008 for purposes of section 7872.

REV. RUL. 2008-33 TABLE 1				
Applicable Federal Rates (AFR) for July 2008				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	2.42%	2.41%	2.40%	2.40%
110% AFR	2.67%	2.65%	2.64%	2.64%
120% AFR	2.91%	2.89%	2.88%	2.87%
130% AFR	3.15%	3.13%	3.12%	3.11%
<i>Mid-term</i>				
AFR	3.45%	3.42%	3.41%	3.40%
110% AFR	3.80%	3.76%	3.74%	3.73%
120% AFR	4.14%	4.10%	4.08%	4.07%
130% AFR	4.50%	4.45%	4.43%	4.41%
150% AFR	5.20%	5.13%	5.10%	5.08%
175% AFR	6.08%	5.99%	5.95%	5.92%
<i>Long-term</i>				
AFR	4.60%	4.55%	4.52%	4.51%
110% AFR	5.07%	5.01%	4.98%	4.96%
120% AFR	5.53%	5.46%	5.42%	5.40%
130% AFR	6.01%	5.92%	5.88%	5.85%

REV. RUL. 2008-33 TABLE 2				
Adjusted AFR for July 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	3.12%	3.10%	3.09%	3.08%
Long-term adjusted AFR	4.52%	4.47%	4.45%	4.43%

REV. RUL. 2008-33 TABLE 3	
Rates Under Section 382 for July 2008	
Adjusted federal long-term rate for the current month	4.52%
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. 2008-33 TABLE 4

Appropriate Percentages Under Section 42(b)(2) for July 2008

Appropriate percentage for the 70% present value low-income housing credit	7.93%
Appropriate percentage for the 30% present value low-income housing credit	3.40%

REV. RUL. 2008-33 TABLE 5

Rate Under Section 7520 for July 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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REV. RUL. 2008-33 TABLE 6

Blended Annual Rate for 2008

Section 7872(e)(2) blended annual rate for 2008	2.8%
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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 July 2008. See Rev. Rul. 2008-33, page 8.

Section 7520.—Valuation Tables

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of July 2008. See Rev. Rul. 2008-33, page 8.

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 July 2008. See Rev. Rul. 2008-33, page 8.