

Section 101 of the Act amended section 1212(a) to allow RICs to carry forward net capital losses indefinitely and to preserve the treatment of components of those losses as long-term or short-term. Section 101(c) of the Act provides that “[t]he amendments made by [section 101 of the Act] shall apply to net capital losses for taxable years beginning after the date of the enactment of [the] Act.” The date of enactment was December 22, 2010. Before the Act, RICs could carry net capital losses forward only for eight years, with any losses carried forward being treated as short-term capital losses in the year of use. This previous rule continues to apply to net capital losses recognized by RICs in taxable years beginning on or before December 22, 2010. Thus, for Federal income tax purposes, R’s July 1, 2011, net capital loss carries forward indefinitely, but R’s net capital losses recognized before that date are subject to prior law and can only be carried forward for eight years (treated as short-term capital losses).

Section 101(c) of the Act does not specify how its effective date rule applies for purposes of the excise tax under section 4982. The section 4982 excise tax is imposed on the basis of whether sufficient dividends are paid during a calendar year. Thus, for any RIC, the taxable year for purposes of the excise tax is the calendar year. The calendar year beginning on January 1, 2011, is the first excise tax period that begins after the December 22, 2010, date of enactment.

The sufficiency of dividends paid during a calendar year for excise tax purposes is measured by taking into account both a RIC’s ordinary income for that calendar year and (absent an election under section 4982(e)(4) for a RIC eligible to make such an election) the RIC’s capital gain net income, determined with regard to any carried-forward capital losses, for the November 1–October 31 period that ends within that calendar year. Thus, the excise

tax distribution requirements for calendar year 2011 (the first excise tax period beginning after the date of enactment of the Act) are determined based in part on capital gains and losses that are recognized for the period that runs from November 1, 2010, to October 31, 2011. Accordingly, to the extent that the capital gains and losses recognized for the November 1, 2010–October 31, 2011, period result in a net capital loss, the net capital loss is carried forward indefinitely for purposes of section 4982. The carryforward is effected in a manner consistent with section 1212(a), as amended by Section 101 of the Act.

As applied to R, all three of R’s capital losses (including the November 1, 2010, loss) are taken into account for the first excise tax period that begins after the date of enactment (calendar year 2011). Accordingly, the net capital loss composed of those three capital losses is carried forward indefinitely for excise tax purposes.

HOLDING

For purposes of the excise tax imposed by section 4982, the Act’s amendments to the loss carryover rules in section 1212(a) apply beginning with any net capital loss recognized in the period that determines a RIC’s required distribution for calendar year 2011. Accordingly, the amendments apply to net capital losses recognized during the one year period that (absent an election under section 4982(e)(4)) begins on November 1, 2010.

DRAFTING INFORMATION

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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 October 2012.

Rev. Rul. 2012–28

This revenue ruling provides various prescribed rates for federal income tax purposes for October 2012 (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. However, 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. 2012-28 TABLE 1
Applicable Federal Rates (AFR) for October 2012

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	.23%	.23%	.23%	.23%
110% AFR	.25%	.25%	.25%	.25%
120% AFR	.28%	.28%	.28%	.28%
130% AFR	.30%	.30%	.30%	.30%
<i>Mid-term</i>				
AFR	.93%	.93%	.93%	.93%
110% AFR	1.02%	1.02%	1.02%	1.02%
120% AFR	1.12%	1.12%	1.12%	1.12%
130% AFR	1.21%	1.21%	1.21%	1.21%
150% AFR	1.40%	1.40%	1.40%	1.40%
175% AFR	1.64%	1.63%	1.63%	1.62%
<i>Long-term</i>				
AFR	2.36%	2.35%	2.34%	2.34%
110% AFR	2.61%	2.59%	2.58%	2.58%
120% AFR	2.84%	2.82%	2.81%	2.80%
130% AFR	3.08%	3.06%	3.05%	3.04%

REV. RUL. 2012-28 TABLE 2
Adjusted AFR for October 2012

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	.23%	.23%	.23%	.23%
Mid-term adjusted AFR	1.04%	1.04%	1.04%	1.04%
Long-term adjusted AFR	2.87%	2.85%	2.84%	2.83%

REV. RUL. 2012-28 TABLE 3
Rates Under Section 382 for October 2012

Adjusted federal long-term rate for the current month	2.87%
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.)	3.01%

REV. RUL. 2012-28 TABLE 4

Appropriate Percentages Under Section 42(b)(1) for October 2012

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	7.38%
Appropriate percentage for the 30% present value low-income housing credit	3.16%

REV. RUL. 2012-28 TABLE 5
Rate Under Section 7520 for October 2012

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

1.2%

**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 October 2012. See Rev. Rul. 2012-28, page 476.

**Section 4982.—Excise Tax
on Undistributed Income
of Regulated Investment
Companies**

A revenue ruling holds that the effective date of section 101 of the Regulated Investment Company Modernization Act of 2010, Pub. L. 111-325 (2010), for excise tax purposes is the calendar year following the date of enactment, or the calendar year beginning January 1, 2011. See Rev. Rul. 2012-29, page 475.

**Section 7520.—Valuation
Tables**

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of October 2012. See Rev. Rul. 2012-28, page 476.

**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 October 2012. See Rev. Rul. 2012-28, page 476.