

corporation with respect to those pre-2011 split taxes.

(4) *Determining when pre-2011 split taxes are no longer treated as pre-2011 split taxes.* For each pre-2011 splitter arrangement, as related income is taken into account by the payor section 902 corporation or a section 902 shareholder as provided in paragraph (d) of this section, a ratable portion of the associated pre-2011 split taxes will no longer be treated as pre-2011 split taxes. In the case of a pre-2011 splitter arrangement involving a reverse hybrid or a foreign consolidated group (as described in paragraphs (b)(1) and (b)(2) of this section, respectively), if aggregate related income is reduced to zero (other than as a result of a distribution, deemed distribution, or inclusion described in paragraph (d) of this section) or less than zero, pre-2011 split taxes will retain their character as pre-2011 split taxes until the amount of aggregate related income is positive and the related income is taken into account by the payor section 902 corporation or a section 902 shareholder as provided in paragraph (d) of this section.

(f) *Rules relating to partnerships and trusts—(1) Taxes paid or accrued by partnerships.* In the case of foreign income taxes paid or accrued by a partnership, the taxes will be treated as pre-2011 split taxes to the extent such taxes are allocated to one or more section 902 corporations and would be pre-2011 split taxes if the partner section 902 corporation had paid or accrued the taxes directly on the date such taxes are included by the section 902 corporation under sections 702 and 706(a). Further, any foreign income taxes subject to section 909 will be suspended in the hands of the partner section 902 corporation.

(2) *Section 704(b) allocations.* Partnership allocations that satisfy the requirements of section 704(b) and the regulations thereunder will not constitute pre-2011 splitter arrangements except to the extent the arrangement is otherwise described in paragraph (b) of this section (for example, a payment or accrual on a disregarded debt instrument that gives rise to a shared loss).

(3) *Trusts.* Rules similar to the rules of paragraph (f)(1) of this section will apply in the case of any trust with one or more

beneficiaries that is a section 902 corporation.

(g) *Interaction between section 909 and other Code provisions—(1) Section 904(c).* Section 909 does not apply to excess foreign income taxes that were paid or accrued in pre-2011 taxable years and carried forward and deemed paid or accrued under section 904(c) in a post-2010 taxable year.

(2) *Section 905(a).* For purposes of determining in post-2010 taxable years the allowable deduction for foreign income taxes paid or accrued under section 164(a), the carryover of excess foreign income taxes under section 904(c), and the extended period for claiming a credit or refund under section 6511(d)(3)(A), foreign income taxes to which section 909 applies are first taken into account and treated as paid or accrued in the year in which the related income is taken into account, and not in the earlier year to which the tax relates (determined without regard to section 909).

(3) *Section 905(c).* If a redetermination of foreign taxes claimed as a direct credit under section 901 occurs in a post-2010 taxable year and the foreign tax redetermination relates to a pre-2011 taxable year, to the extent such foreign tax redetermination increased the amount of foreign income taxes paid or accrued with respect to the pre-2011 taxable year (for example, due to an additional assessment of foreign tax or a payment of a previously accrued tax not paid within two years), section 909 will not apply to such taxes. If a redetermination of foreign tax paid or accrued by a section 902 corporation occurs in a post-2010 taxable year and increases the amount of foreign income taxes paid or accrued by the section 902 corporation with respect to a pre-2011 taxable year (for example, due to an additional assessment of foreign tax or a payment of a previously accrued tax not paid within two years), such taxes will be treated as pre-2011 taxes. Section 909 will apply to such taxes if they are pre-2011 split taxes and the taxes will be suspended in the post-2010 taxable year in which they would otherwise be taken into account as a prospective adjustment to the section 902 corporation's pools of post-1986 foreign income taxes.

(4) *Other foreign tax credit provisions.* Section 909 does not affect the applicability of other restrictions or limitations on

the foreign tax credit under existing law, including, for example, the substantiation requirements of section 905(b).

(h) *Effective/applicability date.* This section applies to foreign income taxes paid or accrued by section 902 corporations in pre-2011 taxable years for purposes of computing foreign income taxes deemed paid with respect to distributions or inclusions out of earnings and profits of section 902 corporations in taxable years of the section 902 corporation beginning after December 31, 2010.

(i) *Expiration date.* The applicability of this section expires on February 9, 2015.

Steven T. Miller,  
*Deputy Commissioner for  
Services and Enforcement.*

Approved February 8, 2012.

Emily S. McMahon,  
*Acting Assistant Secretary  
of the Treasury (Tax Policy).*

(Filed by the Office of the Federal Register on February 9, 2012, 4:15 p.m., and published in the issue of the Federal Register for February 14, 2012, 77 F.R. 8127)

## **Section 1274.—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property**

(Also Sections 382, 1288.)

**Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate.** The March 2012 Applicable Federal Rate is modified to correct the annual long-term adjusted Applicable Federal Rate and the long-term tax-exempt rate for ownership changes. Rev. Rul. 2012-9 modified.

### **Rev. Rul. 2012-12**

This revenue ruling modifies Rev. Rul. 2012-9, 2012-11 I.R.B. 475, which provides various prescribed rates for federal income tax purposes for March 2012, to correct two of the rates.

Table 2 of Rev. Rul. 2012-9 contains short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for March 2012 for purposes of section 1288(b) of the Internal Revenue Code. The rate published in Table 2 of Rev. Rul. 2012-9 as the annual long-term adjusted

AFR (3.47 percent) is corrected to be 2.97 percent.

Table 3 of Rev. Rul. 2012-9 sets forth the adjusted federal long-term rate for March 2012 and the long-term tax-exempt rate described in section 382(f) for March 2012. The rate published in Table 3 of Rev. Rul. 2012-9 as the long-term tax-exempt rate for ownership changes during March 2012 (3.55 percent) is corrected to be 3.47 percent.

#### EFFECT ON OTHER REVENUE RULING(S)

Rev. Rul. 2012-9 is modified.

#### PROSPECTIVE APPLICATION

Under the authority of section 7805(b), the corrected rates will not be applied adversely with respect to debt instruments issued on or before March 20, 2012, or to ownership changes that occurred on or before March 20, 2012.

#### DRAFTING INFORMATION

The principal author of this revenue ruling is Andrea M. Hoffenson of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue ruling, contact Andrea M. Hoffenson at (202) 622-4188 (not a toll-free call).

## Section 1288.—Treatment of Original Issue Discount on Tax-Exempt Obligations

The March 2012 Applicable Federal Rate is modified to correct the annual long-term adjusted Applicable Federal Rate and the long-term tax-exempt rate for ownership changes. See Rev. Rul. 2012-12, page 748.

## Section 9815.—Additional Market Reforms

26 CFR 54.9815-2715: Summary of benefits and coverage and uniform glossary.

### T.D. 9575

#### DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Parts 54 and 602

#### DEPARTMENT OF LABOR Employee Benefits Security Administration 29 CFR Part 2590

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES CMS-9982-F 45 CFR Part 147

### Summary of Benefits and Coverage and Uniform Glossary

**AGENCIES:** Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Centers for Medicare & Medicaid Services, Department of Health and Human Services.

**ACTION:** Final rule.

**SUMMARY:** This document contains final regulations regarding the summary of benefits and coverage and the uniform glossary for group health plans and health insurance coverage in the group and individual markets under the Patient Protection and Affordable Care Act. This document implements the disclosure requirements under section 2715 of the Public Health Service Act to help plans and individuals better understand their health coverage, as well as other coverage options. A guidance document published elsewhere in this issue of the Bulletin provides further guidance regarding compliance.

**DATES:** *Effective Date:* These final regulations are effective April 16, 2012.

*Applicability date:* The requirements to provide an SBC, notice of modification, and uniform glossary under PHS Act section 2715 and these final regulations apply for disclosures to participants and beneficiaries who enroll or re-enroll in group health coverage through an open enrollment period (including re-enrollees and late enrollees) beginning on the first day of the first open enrollment period that begins on or after September 23, 2012. For disclosures to participants and beneficiaries who enroll in group health plan coverage other than through an open enrollment period (including individuals who are newly eligible for coverage and special enrollees), the requirements under PHS Act section 2715 and these final regulations apply beginning on the first day of the first plan year that begins on or after September 23, 2012. For disclosures to plans, and to individuals and dependents in the individual market, these requirements are applicable to health insurance issuers beginning on September 23, 2012.

**FOR FURTHER INFORMATION CONTACT:** Amy Turner or Heather Raeburn, Employee Benefits Security Administration, Department of Labor, at (202) 693-8335; Karen Levin, Internal Revenue Service, Department of the Treasury, at (202) 622-6080; Jennifer Libster or Padma Shah, Centers for Medicare & Medicaid Services, Department of Health and Human Services, at (301) 492-4222.

#### SUPPLEMENTARY INFORMATION:

**Customer Service Information:** Individuals interested in obtaining information from the Department of Labor concerning employment-based health coverage laws may call the EBSA Toll-Free Hotline at 1-866-444-EBSA (3272) or visit the Department of Labor's website (<http://www.dol.gov/ebsa>). In addition, information from HHS on private health insurance for consumers can be found on the Centers for Medicare & Medicaid Services (CMS) website ([http://www.cms.hhs.gov/HealthInsReformforConsume/01\\_Overview.asp](http://www.cms.hhs.gov/HealthInsReformforConsume/01_Overview.asp)) and information on health reform can be found at <http://www.healthcare.gov>.

Par. 16. Section 1.1461-1 is amended by:

1. Redesignating paragraphs (c)(2)(i)(L) and (c)(2)(i)(M) as (c)(2)(i)(M) and (c)(2)(i)(N), respectively.

3. Adding a new paragraph (c)(2)(i)(L).

The addition reads as follows:

*§1.1461-1 Payment and returns of tax withheld.*

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(i) \* \* \*

(L) [Reserved]. For further guidance, see §1.1461-1T(c)(2)(L).

\* \* \* \* \*

Par. 17. Section 1.1461-1T is added as follows:

*§1.1461-1T Payment and returns of tax withheld (temporary).*

(a) through (c)(2)(i)(K) [Reserved]. For further guidance, see §1.1461-1(a) through (c)(2)(i)(K).

(L) Dividend equivalents as defined in section 871(m) and the regulations thereunder;

(c)(2)(i)(M) through (i) [Reserved]. For further guidance, see §1.1461-1(c)(2)(i)(M) through (i).

(j) *Effective/applicability date.* This section applies on or after January 23, 2012.

(k) *Expiration date.* The applicability of this section expires on January 16, 2015.

Steven T. Miller,  
*Deputy Commissioner for  
Services and Enforcement.*

Approved January 3, 2012.

Emily S. McMahon,  
*Acting Assistant Secretary  
of the Treasury (Tax Policy).*

(Filed by the Office of the Federal Register on January 19, 2012, 11:15 a.m., and published in the issue of the Federal Register for January 23, 2012, 77 F.R. 3108)

## **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 March 2012.

## **Rev. Rul. 2012-9**

This revenue ruling provides various prescribed rates for federal income tax purposes for March 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. 2012-9 TABLE 1  
Applicable Federal Rates (AFR) for March 2012

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	.19%	.19%	.19%	.19%
110% AFR	.21%	.21%	.21%	.21%
120% AFR	.23%	.23%	.23%	.23%
130% AFR	.25%	.25%	.25%	.25%
<i>Mid-term</i>				
AFR	1.08%	1.08%	1.08%	1.08%
110% AFR	1.19%	1.19%	1.19%	1.19%
120% AFR	1.30%	1.30%	1.30%	1.30%
130% AFR	1.40%	1.40%	1.40%	1.40%
150% AFR	1.63%	1.62%	1.62%	1.61%
175% AFR	1.90%	1.89%	1.89%	1.88%
<i>Long-term</i>				
AFR	2.65%	2.63%	2.62%	2.62%
110% AFR	2.91%	2.89%	2.88%	2.87%
120% AFR	3.18%	3.16%	3.15%	3.14%
130% AFR	3.45%	3.42%	3.41%	3.40%

REV. RUL. 2012-9 TABLE 2  
Adjusted AFR for March 2012

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	.26%	.26%	.26%	.26%
Mid-term adjusted AFR	1.05%	1.05%	1.05%	1.05%
Long-term adjusted AFR	3.47%	2.95%	2.94%	2.93%

REV. RUL. 2012-9 TABLE 3  
Rates Under Section 382 for March 2012

Adjusted federal long-term rate for the current month	2.97%
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.)	3.55%

REV. RUL. 2012-9 TABLE 4  
Appropriate Percentages Under Section 42(b)(1) for March 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	7.43%
Appropriate percentage for the 30% present value low-income housing credit	3.18%

REV. RUL. 2012-9 TABLE 5  
Rate Under Section 7520 for March 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

1.4%

## 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 March 2012. See Rev. Rul. 2012-9, page 475.

## Section 6695.—Other Assessable Penalties With Respect to the Preparation of Tax Returns for Other Persons

26 CFR 1.6695-2: Tax return preparer due diligence requirements for determining earned income credit eligibility.

### T.D. 9570

## Tax Return Preparer Penalties Under Section 6695

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that modify existing regulations related to the tax return preparer penalties under section 6695 of the Internal Revenue Code (Code). The final regulations are necessary to monitor and to improve compliance with the tax return preparer due diligence requirements of section 6695(g). The final regulations affect paid tax return preparers.

DATES: *Effective Date:* The final regulations are effective on December 20, 2011.

*Applicability Date:* For date of applicability, see §1.6695-2(e).

FOR FURTHER INFORMATION CONTACT: Spence Hanemann, (202) 622-4940 (not a toll-free number).

### SUPPLEMENTARY INFORMATION:

#### Paperwork Reduction Act

The collection of information contained in the final regulations was previously reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545-1570. The collection of information is in §1.6695-2(b)(1) and (b)(4) of the final regulations, and is an increase in the total annual burden from the burden in the prior regulations. The collection of this information will improve the IRS' ability to enforce compliance with the due diligence requirements under section 6695(g) with respect to determining eligibility for, or the amount of, the earned income credit (EIC) under section 32.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law.

#### Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 6695 of the Code.

The Treasury Department and the IRS published a notice of proposed rulemaking (REG-140280-09, 2011-45 I.R.B. 709) in the **Federal Register**, 76 FR 62689, on October 11, 2011 (the NPRM). A public hearing was scheduled for November 7, 2011. The IRS did not receive any requests to testify at the public hearing, and the public hearing was cancelled. Written comments responding to the NPRM were received and are available for public inspection at <http://www.regulations.gov> or upon request. After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury de-

cision. The revisions to the regulations are discussed in this preamble.

#### Summary of Comments and Explanation of Revisions

The IRS received nine written comments in response to the NPRM, and this section addresses those public comments. This section also describes the significant differences between the rules proposed in the NPRM and those adopted in the final regulations.

##### 1. 2011 Amendment to Section 6695(g)

On October 21, 2011, section 501 of the United States-Korea Free Trade Agreement Implementation Act, Public Law 112-41, 125 Stat 428, amended section 6695(g) of the Code by increasing the amount of the penalty from \$100 to \$500. To account for this change in the law, §1.6695-2(a) of the final regulations has been conformed to the statutory language of section 6695(g), as amended.

##### 2. Necessity of These Regulations

Two commenters stated that the proposed amendments to the due diligence standards in the NPRM were unnecessary in light of recent regulatory changes requiring tax return preparers to register with the IRS and comply with the ethical standards governing practice before the IRS (Circular 230), as well as the tax return preparer penalties under section 6694. They suggested that the IRS can apply these existing provisions to address misconduct by tax return preparers, including improper determination of eligibility for, and amount of, EIC by both individual tax return preparers and firms.

As reflected in section 6695(g), Congress has determined that noncompliance with the EIC rules poses a sufficiently significant problem to merit imposing unique due diligence requirements on tax return preparers involved in determining eligibility for, or amount of, the EIC. By recently quintupling the amount of the penalty for