

cal and Medical Instruments and Apparatus.) The safe harbor of paragraph (b)(2)(ii)(B) of this section applies because the two activities are within the same three-digit SIC code and Corp. X satisfies paragraphs (b)(2)(i)(A), (B), (C), (D), (F), and (G) of this section.

Example 4. X Corp. has been manufacturing house slippers in Puerto Rico since 1990. Y Corp. is a U.S. corporation that is not affiliated with X Corp. and is not an existing credit claimant. Y Corp. has been manufacturing snack food in the United States. In 1997, X Corp. purchased the assets of Y Corp. and began to manufacture snack food in Puerto Rico. House slipper manufacturing is in the six-digit NAICS code 316212 (Four-digit SIC code 3142, House Slippers). The manufacture of snack foods falls under the six-digit NAICS code 311919, Other Snack Food Manufacturing (four-digit SIC code 2052, Cookies and Crackers (pretzels)). Because these activities are not within the same five or six digit NAICS code (or the same three or four-digit SIC code), and because snack food is not an integrated product that contains house slippers, the safe harbor of paragraph (b)(2)(ii) of this section cannot apply. Considering all the facts and circumstances, including the eight factors of paragraph (b)(2)(i) of this section, the snack food manufacturing activity is not closely related to the manufacture of house slippers, and is a new line of business, within the meaning of paragraph (b) of this section.

Example 5. X Corp. is an existing credit claimant that has elected the profit-split method for computing taxable income. P Corp. was not an existing credit claimant and manufactured a product in a different five-digit NAICS code than the product manufactured by X Corp. In 1997, X Corp. acquired the stock of P Corp. and liquidated P Corp. in a tax-free liquidation under section 332, but continued the business activity of P Corp. as a new business segment. Assume that this new business segment is a new line of business within the meaning of paragraph (c) of this section. In 1997, X Corp. has gross income from the active conduct of a trade or business in a possession computed under section 936(a)(2) of \$500 million and the adjusted tax basis of its assets is \$200 million. The new business segment had gross income of \$60 million, or 12 percent of the X Corp. gross income, and the adjusted basis of the new segment's assets was \$20 million, or 10 percent of the X Corp. total assets. In 1997, X Corp. does not derive more than 15 percent of its gross income, or directly use more than 15 percent of its total assets, from the new business segment. Thus, the new line of business acquired from P Corp. is not a *substantial* new line of business within the meaning

of paragraph (c) of this section, and the new activity will not cause X Corp. to lose its status as an existing credit claimant during 1997. In 1998, however, the gross income of X Corp. grew to \$750 million while the gross income of the new line of business grew to \$150 million, or 20% of the X Corp. 1998 gross income. Thus, in 1998, the new line of business is substantial within the meaning of paragraph (c) of this section, and X Corp. loses its status as an existing credit claimant as of December 31, 1997.

(e) *Loss of status as existing credit claimant.* An existing credit claimant that adds a substantial new line of business in a taxable year, or that has a new line of business that becomes substantial in a taxable year, loses its status as an existing credit claimant as of the close of the taxable year ending before either such taxable year. In such case, the possession corporation must not claim the Puerto Rico and possession tax credit on its return for the taxable year in which the substantial new line of business is added or a new line of business becomes substantial.

(f) *Effective date—(1) General rule.* This section applies to taxable years of a possessions corporation beginning after August 19, 1998.

(2) *Election for retroactive application.* Taxpayers may elect to apply retroactively all the provisions of this section for any open taxable year beginning after December 31, 1995. Such election will be effective for the year of the election and all subsequent taxable years. This section will not apply to activities of pre-existing businesses for taxable years beginning before January 1, 1996.

Michael P. Dolan,
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Internal Revenue.*

Donald C. Lubick,
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the Treasury.*

(Filed by the Office of the Federal Register on August 18, 1998, 8:45 a.m., and published in the issue of the Federal Register for August 19, 1998, 63 F.R. 44387)

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 1274, 1288, 382, and other sections of the Code, tables set forth the rates for September 1998.

Rev. Rul. 98-43

This revenue ruling provides various prescribed rates for federal income tax purposes for September 1998 (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. 98-43 TABLE 1
Applicable Federal Rates (AFR) for September 1998

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-Term</i>				
AFR	5.42%	5.35%	5.31%	5.29%
110% AFR	5.98%	5.89%	5.85%	5.82%
120% AFR	6.52%	6.42%	6.37%	6.34%
130% AFR	7.08%	6.96%	6.90%	6.86%
<i>Mid-Term</i>				
AFR	5.54%	5.47%	5.43%	5.41%
110% AFR	6.11%	6.02%	5.98%	5.95%
120% AFR	6.67%	6.56%	6.51%	6.47%
130% AFR	7.24%	7.11%	7.05%	7.01%
150% AFR	8.38%	8.21%	8.13%	8.07%
175% AFR	9.80%	9.57%	9.46%	9.38%
<i>Long-Term</i>				
AFR	5.74%	5.66%	5.62%	5.59%
110% AFR	6.33%	6.23%	6.18%	6.15%
120% AFR	6.91%	6.79%	6.73%	6.70%
130% AFR	7.50%	7.36%	7.29%	7.25%

REV. RUL. 98-43 TABLE 2
Adjusted AFR for September 1998

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
adjusted AFR	3.66%	3.63%	3.61%	3.60%
<i>Mid-term</i>				
adjusted AFR	4.24%	4.20%	4.18%	4.16%
<i>Long-term</i>				
adjusted AFR	5.02%	4.96%	4.93%	4.91%

REV. RUL. 98-43 TABLE 3
Rates Under Section 382 for September 1998

Adjusted federal long-term rate for the current month	5.02%
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.)	5.02%

REV. RUL. 98-43 TABLE 4
Appropriate Percentages Under Section 42(b)(2) for September 1998

Appropriate percentage for the 70% present value low-income housing credit	8.32%
Appropriate percentage for the 30% present value low-income housing credit	3.57%

REV. RUL. 98-43 TABLE 5

Rate Under Section 7520 for September 1998

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

6.6%

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 September 1998. See Rev. Rul. 98-43, page 9.

Section 2044.—Certain Property for Which Marital Deduction Was Previously Allowed

26 CFR 1.2044-1: Certain property for which marital deduction was previously allowed.

T.D. 8779

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Parts 20 and 602

Estate and Gift Tax Marital Deduction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations amending the estate tax marital deduction regulations. The amendments are made to conform the estate tax regulations to recent court decisions in *Estate of Clayton v. Commissioner*, 976 F.2d 1486 (5th Cir. 1992), *rev'g* 97 T.C. 327 (1991); *Estate of Robertson v. Commissioner*, 15 F.3d 779 (8th Cir. 1994), *rev'g* 98 T.C. 678 (1992); *Estate of Spencer v. Commissioner*, 43 F.3d 226 (6th Cir. 1995), *rev'g* T.C. Memo. 1992-579; and *Estate of Clack v. Commissioner*, 106 T.C. 131 (1996). The amendments affect estates of decedents electing the marital deduction for qualified terminable interest property (QTIP)

and the estates of the surviving spouses of such decedents.

DATES: These regulations are effective August 19, 1998.

FOR FURTHER INFORMATION CONTACT: Susan B. Hurwitz, (202) 622-3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information in these final regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned control number 1545-1612.

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

The collection of information in this regulation is in §20.2056(b)-7(d)(3)(ii). This information is required to provide a method for estates of decedents whose estate tax returns were due on or before February 18, 1997, to obtain an extension of time to make the qualified terminable interest property election under section 2056(b)(7)(B)(v). This information will be used to inform the IRS of the affected estates that are electing to obtain the relief granted in the regulation. The collection of information is mandatory for those estates that seek relief. The likely respondents are individuals representing estates.

Comments concerning the collection of information should be directed to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attention: IRS Reports

Clearance Officer, OP:FS:FP, Washington, DC 20224. Any such comments should be submitted not later than October 19, 1998. Comments are specifically requested concerning:

Whether the collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility.

The accuracy of the estimated burden associated with the collection of information (see below);

How to enhance the quality, utility, and clarity of the information collected;

How to minimize the burden of complying with the collection of information, including the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Estimates of the reporting burden in these final regulations will be reflected in the burden of Form 843 (Claim for Refund and Request for Abatement) and Form 706 (Estate Tax Return) or 706NA (Estate Tax Return for Nonresident Noncitizens).

Books or records relating to this collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

On March 1, 1994, the IRS published final estate and gift tax regulations (26 CFR part 20 and part 25) under sections 2044, 2056, 2207A, 2519, 2523, and 6019 of the Internal Revenue Code (Code) in the **Federal Register** (59 F.R. 9642). At