

pay benefits with respect to a claim for which the operator has been adjudicated liable, the Director may invoke and execute the lien on the property of the operator as described in § 725.603. Enforcement of this lien must be pursued in an appropriate U.S. district court. If the Director determines that the remedy provided by § 725.603 may not be sufficient to guarantee the continued compliance with the terms of an award or awards against the operator, the Director may in addition seek an injunction in the U.S. district court to prohibit future noncompliance by the operator and such other relief as the court considers appropriate (see § 725.604). If an operator unlawfully suspends or terminates the payment of benefits to a claimant, the district director may declare the award in default and proceed in accordance with § 725.605. In all cases payments of additional compensation (see § 725.607) and interest (see § 725.608) will be sought by the Director or awarded by the district director.

(c) In certain instances the remedies provided by the Act are concurrent; that is, more than one remedy might be appropriate in any given case. In such a case, the Director may select the remedy or remedies appropriate for the enforcement action. In making this selection, the Director shall consider the best interests of the claimant as well as those of the fund.

■ 6. Revise § 725.607 to read as follows:

**§ 725.607 Payments of additional compensation.**

(a) If any benefits payable under the terms of an award by a district director (§ 725.419(d)), a decision and order filed and served by an administrative law judge (§ 725.478), or a decision filed by the Board or a U.S. court of appeals, are not paid by an operator or other employer ordered to make such payments within 10 days after such payments become due, there will be added to such unpaid benefits an amount equal to 20 percent thereof, which must be paid to the claimant at the same time as, but in addition to, such benefits, unless review of the order making such award is sought as provided in section 21 of the LHWCA and an order staying payments has been issued.

(b) If, on account of an operator's or other employer's failure to pay benefits as provided in paragraph (a) of this section, benefit payments are made by the fund, the eligible claimant will nevertheless be entitled to receive such additional compensation to which he or she may be eligible under paragraph (a), with respect to all amounts paid by the

fund on behalf of such operator or other employer.

(c) The fund may not be held liable for payments of additional compensation under any circumstances.

Signed at Washington, DC, this 19th day of April, 2016.

**Leonard J. Howie, III,**

*Director, Office of Workers' Compensation Programs.*

[FR Doc. 2016-09525 Filed 4-25-16; 8:45 am]

**BILLING CODE 4510-CR-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9763]

RIN 1545-BM20

#### **Determination of Adjusted Applicable Federal Rates Under Section 1288 and the Adjusted Federal Long-Term Rate Under Section 382**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations that provide the method to be used to adjust the applicable Federal rates (AFRs) to determine the corresponding rates under section 1288 of the Internal Revenue Code (Code) for tax-exempt obligations (adjusted AFRs) and the method to be used to determine the long-term tax-exempt rate and the adjusted Federal long-term rate under section 382. For tax-exempt obligations, the regulations affect the determination of original issue discount under section 1273 and of total unstated interest under section 483. In addition, the regulations affect the determination of the limitations under sections 382 and 383 on the use of certain operating loss carryforwards, tax credits, and other attributes of corporations following ownership changes.

**DATES:** *Effective Date:* These regulations are effective on April 26, 2016.

*Applicability Dates:* For the dates of applicability, see §§ 1.382-12(d) and 1.1288-1(c).

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations under section 1288, Jason G. Kurth at (202) 317-6842; concerning the regulations under section 382, William W. Burhop at (202) 317-6847.

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 2, 2015, the IRS and the Treasury Department published a notice

of proposed rulemaking (REG-136018-13) in the **Federal Register** (80 FR 11141) proposing the method to be used to determine the adjusted AFRs for tax-exempt obligations under section 1288 and the method to be used to determine the long-term tax-exempt rate and the adjusted Federal long-term rate under section 382. No comments were received on the notice of proposed rulemaking. No public hearing was requested or held. Accordingly, this Treasury decision adopts the proposed regulations without substantive change.

#### **Explanation of Provisions**

The regulations in this Treasury decision provide the new method by which the Treasury Department and the IRS will determine the adjusted AFRs under section 1288 to take into account the tax exemption for interest on tax-exempt obligations (as defined in section 1275(a)(3) and § 1.1275-1(e)). The regulations also provide that the Treasury Department and the IRS will use the new method to determine the long-term tax-exempt rate and the adjusted Federal long-term rate under section 382(f) to take into account differences between rates on long-term taxable and tax-exempt obligations.

Since November 1986, the adjusted Federal long-term rate published under section 382(f)(2) has been equal to the long-term adjusted AFR with annual compounding published under section 1288(b) in the same month. See Rev. Rul. 86-133 (1986-2 CB 59). For calendar months from November 1986 to February 2013, the Treasury Department determined the adjusted Federal long-term rate and each adjusted AFR described in section 1288(b)(1) by multiplying the corresponding AFR by a fraction (the adjustment factor). The numerator of the adjustment factor was a composite yield of the highest-grade tax-exempt obligations available, which are prime, general obligation tax-exempt obligations. The denominator was a composite yield of U.S. Treasury obligations with maturities similar to those of the tax-exempt obligations. Each of the composite yields was measured over a one-month period.

The IRS published Notice 2013-4 (2013-9 IRB 527) on February 25, 2013, requesting comments on possible modifications to the method by which adjusted AFRs and the adjusted Federal long-term rate are determined. The IRS requested comments on these possible modifications because, since the beginning of 2008, market yields of prime, general obligation tax-exempt obligations had sometimes exceeded market yields of comparable U.S.

Treasury obligations, causing the adjusted Federal long-term rate and each adjusted AFR to exceed the corresponding AFRs. Adjusted rates that are higher than the corresponding AFRs indicate that the adjustment factor no longer served the purposes of sections 1288(b)(1) and 382(f)(2), which were intended to adjust only for the tax exemption. These rates were also inconsistent with the express intention of Congress that the adjusted Federal long-term rate and the long-term tax-exempt rate be lower than the Federal long-term rate. See 2 H.R. Rep. No. 99-841 (Conf. Rep.), 99th Cong., 2d Sess. II-188 (1986) (1986-3 CB (Vol. 4) 1, 188).

Notice 2013-4 also provided that, until the Treasury Department and the IRS issue further guidance, the adjusted AFRs and the long-term tax-exempt rate would continue to be calculated using the adjustment factor, except that the adjustment factor would equal one (1) for any month in which the adjustment factor would otherwise be greater than one or in which the denominator of the adjustment factor would otherwise be less than or equal to zero.

After reviewing comments received in response to Notice 2013-4, the Treasury Department and the IRS issued a notice of proposed rulemaking (REG-136018-13) proposing the regulations that are adopted in this Treasury decision. The regulations use historical market data to create an appropriate adjustment factor based on individual tax rates. The regulations provide that the adjusted AFRs and the adjusted Federal long-term rate for each month will be determined from the appropriate AFRs for that month using the adjustment factor that results from the following calculation: 100 percent—[(a combined tax rate) x (a fixed percentage)].

The tax rate in the adjustment factor is the sum of the maximum individual rate under section 1 and the maximum individual rate under section 1411 for the month to which the rate applies. The fixed percentage is the amount by which that combined tax rate must be multiplied to reflect the historical relationship between the maximum tax rate and the spread between yields of taxable and tax-exempt obligations. The fixed percentage in the adjustment factor is 59 percent, because the yield on tax-exempt obligations from February 1986 to July 2007 was lower than that of comparable taxable obligations by, on average, 59 percent of the maximum individual rate in effect under section 1.

Therefore, the adjustment factor under current tax rates would be 74.39 percent, the result of subtracting 25.61 percent (the product of 43.4 percent (the

sum of the current maximum individual rate under section 1 (39.6 percent) and the current maximum individual rate under section 1411 (3.8 percent)) and 59 percent) from 100 percent. If an AFR for a given month were 5 percent, under current tax rates, the corresponding adjusted AFR would be 3.72 percent: The product of 74.39 percent and 5 percent. If that 5 percent AFR were the Federal long-term rate for debt instruments with annual compounding, the adjusted Federal long-term rate under section 382 would likewise be 3.72 percent.

As noted previously, because no comments were received on the proposed regulations, the final regulations adopt the proposed regulations without substantive change.

#### Effective/Applicability Date

These regulations apply to determine the adjusted AFRs, adjusted Federal long-term rate, and long-term tax-exempt rate beginning with the rates determined during August 2016 that apply during September 2016.

#### Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the proposed regulations preceding these final regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses. No comments were received.

#### Drafting Information

The principal authors of these regulations are Jason G. Kurth, IRS Office of the Associate Chief Counsel (Financial Institutions and Products) and William W. Burhop, IRS Office of the Associate Chief Counsel (Corporate). However, other personnel from the Treasury Department and the IRS participated in their development.

#### Availability of IRS Documents

The IRS revenue ruling and notice cited in this Treasury decision are made available by the Superintendent of

Documents, U.S. Government Printing Office, Washington, DC 20402.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

#### PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*  
Section 1.382-12 also issued under 26 U.S.C. 382(f) and 26 U.S.C. 382(m). \* \* \*  
Section 1.1288-1 also issued under 26 U.S.C. 1288(b). \* \* \*

■ **Par. 2.** Section 1.382-1 is amended by revising the introductory text and adding an entry for § 1.382-12 to read as follows:

#### § 1.382-1 Table of contents.

This section lists the captions that appear in the regulations for §§ 1.382-2 through 1.382-12.

\* \* \* \* \*

#### § 1.382-12 Determination of adjusted Federal long-term rate.

- (a) In general.
- (b) Adjusted Federal long-term rate.
- (c) Adjustment factor.
- (d) Effective/applicability date.

■ **Par. 3.** Section 1.382-12 is added to read as follows:

#### § 1.382-12 Determination of adjusted Federal long-term rate.

(a) *In general.* The long-term tax-exempt rate for an ownership change is the highest of the adjusted Federal long-term rates in effect for any month in the 3-calendar-month period ending with the calendar month in which the change date occurs. For purposes of the previous sentence, the adjusted Federal long-term rate is the Federal long-term rate determined under section 1274(d) (without regard to paragraphs (2) and (3) thereof), adjusted for differences between rates on long-term taxable and tax-exempt obligations. The Secretary calculates the adjusted Federal long-term rate as provided in paragraph (b) of this section. The Internal Revenue Service publishes the long-term tax-exempt rate and the adjusted Federal long-term rate for each month in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii) of this chapter).

(b) *Adjusted Federal long-term rate.* The adjusted Federal long-term rate for

a calendar month is the product of the Federal long-term rate determined under section 1274(d) for that month, based on annual compounding, multiplied by the adjustment factor described in paragraph (c) of this section.

(c) *Adjustment factor.* The adjustment factor is a percentage equal to—

- (1) The excess of 100 percent, over
- (2) The product of—
  - (i) 59 percent, and

(ii) The sum of the maximum rate in effect under section 1 applicable to individuals and the maximum rate in effect under section 1411 applicable to individuals for the month to which the adjusted applicable Federal rate applies.

(d) *Effective/applicability date.* The rules of this section apply to the determination of the long-term tax-exempt rate and the adjusted Federal long-term rate beginning with the rates determined during August 2016 that apply during September 2016.

■ **Par. 4.** Section 1.1288–1 is added to read as follows:

**§ 1.1288–1 Adjustment of applicable Federal rate for tax-exempt obligations.**

(a) *In general.* In applying section 483 or section 1274 to a tax-exempt obligation, the applicable Federal rate is adjusted to take into account the tax exemption for interest on the obligation. For each applicable Federal rate determined under section 1274(d), the Secretary computes a corresponding adjusted applicable Federal rate by multiplying the applicable Federal rate by the adjustment factor described in paragraph (b) of this section. The Internal Revenue Service publishes the applicable Federal rates and the adjusted applicable Federal rates for each month in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii) of this chapter).

(b) *Adjustment factor.* The adjustment factor is a percentage equal to—

- (1) The excess of 100 percent, over
- (2) The product of—
  - (i) 59 percent, and

(ii) The sum of the maximum rate in effect under section 1 applicable to individuals and the maximum rate in effect under section 1411 applicable to individuals for the month to which the adjusted applicable Federal rate applies.

(c) *Effective/applicability date.* The rules of this section apply to the determination of adjusted applicable Federal rates beginning with the rates

determined during August 2016 that apply during September 2016.

**John Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

Approved: April 8, 2016.

**Mark J. Mazur,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 2016–09614 Filed 4–25–16; 8:45 am]

**BILLING CODE 4830–01–P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

**[TD 9751]**

**RIN 1545–BN22**

**PATH Act Changes to Section 1445; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains corrections to final regulations (TD 9721) that were published in the **Federal Register** on Friday, February 19, 2016 (81 FR 8398). The final regulations are regarding the taxation of, and withholding on, foreign persons upon certain dispositions of, and distributions with respect to, United States real property interests (USRPIs).

**DATES:** This correction is effective April 26, 2016 and is applicable on or after February 19, 2016.

**FOR FURTHER INFORMATION CONTACT:** Milton M. Cahn or David A. Levine of the Office of Associate Chief Counsel (International) at (202) 317–6937 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations (TD 9751) that are the subject of this correction are under section 897 and 1445 of the Internal Revenue Code.

**Need for Correction**

As published, the final regulations (TD 9751) contain errors that may prove to be misleading and are in need of clarification.

**List of Subjects in 26 CFR Part 1**

Income taxes, reporting and recordkeeping requirements.

**Correction of Publication**

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

**PART 1—INCOME TAXES**

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

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

■ **Par. 3.** Section 1.1445–5 is amended by revising the last sentence of paragraph (b)(3)(ii)(A) to read as follows:

**§ 1.1445–5 Special rules concerning distributions and other transactions by corporations, partnerships, trusts, and estates.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(ii) \* \* \*

(A) \* \* \* In general, a foreign person is a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, or foreign estate, but not a qualified foreign pension fund (as defined in section 897(l)) or an entity all of the interests of which are held by a qualified foreign pension fund.

\* \* \* \* \*

**Martin V. Franks,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. 2016–09666 Filed 4–25–16; 8:45 am]

**BILLING CODE 4830–01–P**

**DEPARTMENT OF JUSTICE**

**Bureau of Prisons**

**28 CFR Part 550**

**[BOP–1168–F]**

**RIN 1120–AB68**

**Drug Abuse Treatment Program**

**AGENCY:** Bureau of Prisons, Justice.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Bureau of Prisons (Bureau) revises the Residential Drug Abuse Treatment Program (RDAP) regulations to allow greater inmate participation in the program and positively impact recidivism rates.

**DATES:** This rule is effective on May 26, 2016.

**FOR FURTHER INFORMATION CONTACT:** Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 353–8248.

**SUPPLEMENTARY INFORMATION:** In this document, the Bureau revises the Residential Drug Abuse Treatment Program (RDAP) regulations to allow greater inmate participation in the