

when the Treasury Rate was 8 percent, and another \$15 million on the 100th day of Fiscal Year 3 when the Treasury Rate was 10 percent, then the weighted average Treasury Rate computed as of the end of Fiscal Year 3 would be 8.55 percent. [Days elapsed since first issuance of Participating Securities = 1,035; days elapsed since second issuance of Participating Securities = 265; weighted amount of first issuance =  $\$10,000,000 \times 1,035/1,035 = \$10,000,000$ ; weighted amount of second issuance =  $\$15,000,000 \times 265/1035 = \$3,840,579$ ; weighted average amount of Participating Securities issued =  $\$10,000,000 + \$3,840,579 = \$13,840,579$ ; weighted average Treasury Rate =  $\{(.08 \times \$10,000,000) + (.10 \times \$3,840,579)\} / \$13,840,579 = 8.55\%$ ]

(ii) Adjust the Profit Participation Rate from paragraph (f) of this section by the percentage difference between the weighted average Treasury Rate and 8 percent. In the example given in paragraph (g)(2)(i) of this section, if the PLC ratio were equal to 2, the Profit Participation Rate for the fiscal year would be 12.83 percent.  $\{[(.0855 - .08) + .08] + 1\} \times .12 \times 100 = 12.83\%$

(h) *Computing SBA's Profit Participation.* If the Base from paragraph (c) of this section is greater than zero, you must compute SBA's Profit Participation as follows:

(1) Multiply the Base from paragraph (c) of this section by the Profit Participation Rate from paragraph (g) of this section.

(2) If your last Profit Participation computation was for an interim period during the same fiscal year and used a higher Profit Participation Rate than the Rate you just used in paragraph (h)(1) of this section, you must adjust the amount computed in paragraph (h)(1) of this section as follows:

(i) Determine the difference between the Profit Participation Rate you just used in paragraph (h)(1) of this section and the Rate used in your previous computation;

(ii) Multiply the difference by the Base from your last Profit Participation computation; and

(iii) Add the result to the amount you computed in paragraph (h)(1) of this section.

(3) Reduce the Profit Participation computed in paragraphs (h)(1) and (h)(2) of this section by any amounts of Profit Participation that you distributed or reserved for distribution to SBA, or its designated agent or Trust-

ee, for any previous interim period(s) during the fiscal year. The result is SBA's Profit Participation (unless it is less than zero, in which case SBA's Profit Participation is zero).

(i) *Allocation of Profit Participation.* Before any Distribution and in any case within 120 days following the end of your fiscal year, you must add the amount of Profit Participation computed under this §107.1530 to the Profit Participation Account. You must reserve funds equal to this amount for distribution to SBA, or its designated agent or Trustee; you may not reinvest these funds or use them for any other purpose.

[61 FR 3189, Jan. 31, 1996; 61 FR 41496, Aug. 9, 1996, as amended at 63 FR 5871, Feb. 5, 1998]

#### § 107.1540 Distributions by Licensee— Prioritized Payments and Adjustments.

After you compute Prioritized Payments and Adjustments under §107.1520, you must distribute them in accordance with this §107.1540. You must notify SBA of any planned distribution under this section 10 business days before the distribution date, unless SBA permits otherwise.

[61 FR 3189, Jan. 31, 1996, as amended at 63 FR 5871, Feb. 5, 1998; 88 FR 46012, July 18, 2023]

#### § 107.1550 Distributions by Licensee— permitted "tax Distributions" to private investors and SBA.

If you have outstanding Participating Securities or Earmarked Assets, and you are a limited partnership, "S Corporation," or equivalent pass-through entity for tax purposes, you may make "tax Distributions" to your investors in accordance with this §107.1550, whether or not they have an actual tax liability. SBA receives a share of any tax Distribution you make. This section tells you when you may make a "tax Distribution" and how to compute it. You must notify SBA of any planned distribution under this section 10 business days before the distribution date, unless SBA permits otherwise.

(a) *Conditions for making a tax Distribution.* You may make a tax Distribution only if: