

tion of Federal short-term, mid-term, and long-term rates based on the average market yield during any 1-month period ending in the month in which the determination is made for former provisions which had directed that the Federal rate determined under subpar. (A) apply during the appropriate 6-month period, and in subpar. (D) substituting provisions allowing a lower rate in certain cases for provisions relating to the setting of the Federal rate for any 6-month period.

Subsec. (d)(2). Pub. L. 99-121, § 101(b)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "In the case of any sale or exchange, the determination of the applicable Federal rate shall be made as of the first day on which there is a binding contract in writing for the sale or exchange."

Subsec. (e). Pub. L. 99-121, § 101(c), added subsec. (e).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105-34, set out as a note under section 121 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101-239, set out as a note under section 461 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-121, title I, § 105(a), Oct. 11, 1985, 99 Stat. 510, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by sections 101 and 102 [enacting section 1274A and amending this section and sections 280G and 483 of this title] shall apply to sales and exchanges after June 30, 1985, in taxable years ending after such date. The amendment made by section 2 of Public Law 98-612 [amending section 44(b) of Pub. L. 98-369, set out as a note under section 1271 of this title] shall not apply to sales and exchanges after June 30, 1985, in taxable years ending after such date.

"(2) REGULATORY AUTHORITY TO ESTABLISH LOWER RATE.—Section 1274(d)(1)(D) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as added by section 101(b), shall apply as if included in the amendments made by section 41 of the Tax Reform Act of 1984 [Pub. L. 98-369, see Effective Date note set out under section 1271 of this title]."

EFFECTIVE DATE

Section applicable to taxable years ending after July 18, 1984, and applicable to sales or exchanges after Dec. 31, 1984, but not applicable to any sale or exchange pursuant to a written contract which was binding on Mar. 1, 1984, and at all times thereafter before the sale or exchange, see section 44 of Pub. L. 98-369, set out as a note under section 1271 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

TRANSITIONAL RULE FOR PURPOSES OF IMPUTED INTEREST RULES

Provisions respecting treatment of debt instruments received in exchange for property, relating to special rules for sales after Dec. 31, 1984, and before July 1, 1985, general rule for assumptions of loans, exception for assumptions of loans made on or before Oct. 15, 1984, and exception for assumptions of loans with respect to certain property, see section 44(b)(4)-(7) of Pub. L. 98-369, as amended, set out as an Effective Date note under section 1271 of this title.

§ 1274A. Special rules for certain transactions where stated principal amount does not exceed \$2,800,000

(a) Lower discount rate

In the case of any qualified debt instrument, the discount rate used for purposes of sections 483 and 1274 shall not exceed 9 percent, compounded semiannually.

(b) Qualified debt instrument defined

For purposes of this section, the term "qualified debt instrument" means any debt instrument given in consideration for the sale or exchange of property (other than new section 38 property within the meaning of section 48(b), as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) if the stated principal amount of such instrument does not exceed \$2,800,000.

(c) Election to use cash method where stated principal amount does not exceed \$2,000,000

(1) In general

In the case of any cash method debt instrument—

(A) section 1274 shall not apply, and

(B) interest on such debt instrument shall be taken into account by both the borrower and the lender under the cash receipts and disbursements method of accounting.

(2) Cash method debt instrument

For purposes of paragraph (1), the term "cash method debt instrument" means any qualified debt instrument if—

(A) the stated principal amount does not exceed \$2,000,000,

(B) the lender does not use an accrual method of accounting and is not a dealer with respect to the property sold or exchanged,

(C) section 1274 would have applied to such instrument but for an election under this subsection, and

(D) an election under this subsection is jointly made with respect to such debt instrument by the borrower and lender.

(3) Successors bound by election

(A) In general

Except as provided in subparagraph (B), paragraph (1) shall apply to any successor to the borrower or lender with respect to a cash method debt instrument.

(B) Exception where lender transfers debt instrument to accrual method taxpayer

If the lender (or any successor) transfers any cash method debt instrument to a taxpayer who uses an accrual method of ac-

counting, this paragraph shall not apply with respect to such instrument for periods after such transfer.

(4) Fair market value rule in potentially abusive situations

In the case of any cash method debt instrument, section 483 shall be applied as if it included provisions similar to the provisions of section 1274(b)(3).

(d) Other special rules

(1) Aggregation rules

For purposes of this section—

(A) all sales or exchanges which are part of the same transaction (or a series of related transactions) shall be treated as 1 sale or exchange, and

(B) all debt instruments arising from the same transaction (or a series of related transactions) shall be treated as 1 debt instrument.

(2) Adjustment for inflation

In the case of any debt instrument arising out of a sale or exchange during any calendar year after 1989, each dollar amount contained in the preceding provisions of this section shall be increased by an amount equal to—

(A) such amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting “calendar year 1988” for “calendar year 2016” in subparagraph (A)(ii) thereof.

Any increase under the preceding sentence shall be rounded to the nearest multiple of \$100 (or, if such increase is a multiple of \$50, such increase shall be increased to the nearest multiple of \$100).

(e) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including—

(1) regulations coordinating the provisions of this section with other provisions of this title,

(2) regulations necessary to prevent the avoidance of tax through the abuse of the provisions of subsection (c), and

(3) regulations relating to the treatment of transfers of cash method debt instruments.

(Added Pub. L. 99-121, title I, §102(a), Oct. 11, 1985, 99 Stat. 506; amended Pub. L. 101-508, title XI, §11813(b)(22), Nov. 5, 1990, 104 Stat. 1388-555; Pub. L. 104-188, title I, §1704(t)(62), Aug. 20, 1996, 110 Stat. 1890; Pub. L. 115-97, title I, §11002(d)(10), Dec. 22, 2017, 131 Stat. 2062.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Rulings listed in a table below.

REFERENCES IN TEXT

The date of the enactment of the Revenue Reconciliation Act of 1990, referred to in subsec. (b), is the date of enactment of Pub. L. 101-508, which was approved Nov. 5, 1990.

AMENDMENTS

2017—Subsec. (d)(2). Pub. L. 115-97 amended par. (2) generally. Prior to amendment, text read as follows:

“(A) IN GENERAL.—In the case of any debt instrument arising out of a sale or exchange during any calendar year after 1989, each dollar amount contained in the preceding provisions of this section shall be increased by the inflation adjustment for such calendar year. Any increase under the preceding sentence shall be rounded to the nearest multiple of \$100 (or, if such increase is a multiple of \$50, such increase shall be increased to the nearest multiple of \$100).

“(B) INFLATION ADJUSTMENT.—For purposes of subparagraph (A), the inflation adjustment for any calendar year is the percentage (if any) by which—

“(i) the CPI for the preceding calendar year exceeds

“(ii) the CPI for calendar year 1988.

For purposes of the preceding sentence, the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of such calendar year.”

1996—Subsec. (c)(1)(B). Pub. L. 104-188 substituted “instrument” for “instrument”.

1990—Subsec. (b). Pub. L. 101-508 inserted “, as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990” after “section 48(b)”.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable to property placed in service after Dec. 31, 1990, but not applicable to any transition property (as defined in section 49(e) of this title), any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of this title, and any property described in section 46(b)(2)(C) of this title, as such sections were in effect on Nov. 4, 1990, see section 11813(c) of Pub. L. 101-508, set out as a note under section 45K of this title.

EFFECTIVE DATE

Section applicable to sales and exchanges after June 30, 1985, in taxable years ending after such date, see section 105(a)(1) of Pub. L. 99-121, set out as an Effective Date of 1985 Amendment note under section 1274 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

Provisions relating to inflation adjustment of items in this section for certain years were contained in the following:

2017—Revenue Ruling 2016-30.
 2016—Revenue Ruling 2015-24.
 2015—Revenue Ruling 2014-30.
 2014—Revenue Ruling 2013-23.
 2013—Revenue Ruling 2012-33.
 2012—Revenue Ruling 2011-27.
 2011—Revenue Ruling 2010-30.
 2010—Revenue Ruling 2010-2.
 2009—Revenue Ruling 2008-52.
 2008—Revenue Ruling 2008-3.
 2007—Revenue Ruling 2007-4.
 2006—Revenue Ruling 2005-76.
 2005—Revenue Ruling 2004-107.
 2004—Revenue Ruling 2003-119.
 2003—Revenue Ruling 2002-79.

2002—Revenue Ruling 2001-65.
 2001—Revenue Ruling 2000-55.
 2000—Revenue Ruling 99-50.
 1999—Revenue Ruling 98-58.
 1998—Revenue Ruling 97-56.
 1997—Revenue Ruling 96-63.
 1996—Revenue Ruling 96-4.

§ 1275. Other definitions and special rules

(a) Definitions

For purposes of this subpart—

(1) Debt instrument

(A) In general

Except as provided in subparagraph (B), the term “debt instrument” means a bond, debenture, note, or certificate or other evidence of indebtedness.

(B) Exception for certain annuity contracts

The term “debt instrument” shall not include any annuity contract to which section 72 applies and which—

(i) depends (in whole or in substantial part) on the life expectancy of 1 or more individuals, or

(ii) is issued by an insurance company subject to tax under subchapter L (or by an entity described in section 501(c) and exempt from tax under section 501(a) which would be subject to tax under subchapter L were it not so exempt)—

(I) in a transaction in which there is no consideration other than cash or another annuity contract meeting the requirements of this clause,

(II) pursuant to the exercise of an election under an insurance contract by a beneficiary thereof on the death of the insured party under such contract, or

(III) in a transaction involving a qualified pension or employee benefit plan.

(2) Issue date

(A) Publicly offered debt instruments

In the case of any debt instrument which is publicly offered, the term “date of original issue” means the date on which the issue was first issued to the public.

(B) Issues not publicly offered and not issued for property

In the case of any debt instrument to which section 1273(b)(2) applies, the term “date of original issue” means the date on which the debt instrument was sold by the issuer.

(C) Other debt instruments

In the case of any debt instrument not described in subparagraph (A) or (B), the term “date of original issue” means the date on which the debt instrument was issued in a sale or exchange.

(3) Tax-exempt obligation

The term “tax-exempt obligation” means any obligation if—

(A) the interest on such obligation is not includible in gross income under section 103, or

(B) the interest on such obligation is exempt from tax (without regard to the iden-

tity of the holder) under any other provision of law.

(4) Treatment of obligations distributed by corporations

Any debt obligation of a corporation distributed by such corporation with respect to its stock shall be treated as if it had been issued by such corporation for property.

(b) Treatment of borrower in the case of certain loans for personal use

(1) Sections 1274 and 483 not to apply

In the case of the obligor under any debt instrument given in consideration for the sale or exchange of property, sections 1274 and 483 shall not apply if such property is personal use property.

(2) Original issue discount deducted on cash basis in certain cases

In the case of any debt instrument, if—

(A) such instrument—

(i) is incurred in connection with the acquisition or carrying of personal use property, and

(ii) has original issue discount (determined after the application of paragraph (1)), and

(B) the obligor under such instrument uses the cash receipts and disbursements method of accounting,

notwithstanding section 163(e), the original issue discount on such instrument shall be deductible only when paid.

(3) Personal use property

For purposes of this subsection, the term “personal use property” means any property substantially all of the use of which by the taxpayer is not in connection with a trade or business of the taxpayer or an activity described in section 212. The determination of whether property is described in the preceding sentence shall be made as of the time of issuance of the debt instrument.

(c) Information requirements

(1) Information required to be set forth on instrument

(A) In general

In the case of any debt instrument having original issue discount, the Secretary may by regulations require that—

(i) the amount of the original issue discount, and

(ii) the issue date,

be set forth on such instrument.

(B) Special rule for instruments not publicly offered

In the case of any issue of debt instruments not publicly offered, the regulations prescribed under subparagraph (A) shall not require the information to be set forth on the debt instrument before any disposition of such instrument by the first buyer.

(2) Information required to be submitted to Secretary

In the case of any issue of publicly offered debt instruments having original issue dis-