Part I

Section 1274A.--Special Rules for Certain Transactions Where Stated Principal Amount Does Not Exceed $2,800,000

26 CFR 1.1274A-1: Special rules for certain transactions where stated principal amount does not exceed $2,800,000. (Also '' 483, 1274, 7872)

Rev. Rul. 2007-4

This revenue ruling provides the dollar amounts, increased by the 2007 inflation adjustment, for ' 1274A of the Internal Revenue Code. This ruling also provides that the Internal Revenue Service will no longer publish the inflation adjustment under ' 7872(g)(2) because of amendments made to ' 7872 by the Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA), Pub. L. No. 109-222, 120 Stat. 345, and the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, 120 Stat. 2922.

BACKGROUND

In general, '' 483 and 1274 determine the principal amount of a debt instrument given in consideration for the sale or exchange of nonpublicly traded property. In addition, any interest on a debt instrument subject to ' 1274 is taken into account under the original issue discount provisions of the Code. Section 1274A, however, modifies the rules under '' 483 and 1274 for certain types of debt instruments.

In the case of a "qualified debt instrument," the discount rate used for purposes of '' 483 and 1274 may not exceed 9 percent, compounded semiannually. Section 1274A(b) defines a qualified debt instrument as any debt instrument given in consideration for the sale or exchange of property (other than new ' 38 property within the meaning of ' 48(b), as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990) if the stated principal amount of the instrument does not exceed the amount specified in ' 1274A(b). For debt instruments arising out of sales or exchanges before January 1, 1990, this amount is $2,800,000.

In the case of a "cash method debt instrument," as defined in ' 1274A(c), the borrower and lender may elect to use the cash receipts and disbursements method of accounting. In particular, for any cash method debt instrument, ' 1274 does not apply, and interest on the instrument is accounted for by both the borrower and the lender under the cash method of accounting. A cash method debt instrument is a qualified debt instrument that meets the following additional requirements: (A) In the case of instruments arising out of sales or exchanges before January 1, 1990, 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) ' 1274 would have applied to the debt instrument but for an

election under ' 1274A(c); and (D) an election under ' 1274A(c) is jointly made with respect to the debt instrument by the borrower and lender. Section 1.1274A-1(c)(1) of the Income Tax Regulations provides rules concerning the time for, and manner of, making this election.

Section 1274A(d)(2) provides that, for any debt instrument arising out of a sale or exchange during any calendar year after 1989, the dollar amounts stated in ' 1274A(b) and ' 1274A(c)(2)(A) are increased by the inflation adjustment for the calendar year. Any increase due to the inflation adjustment is rounded to the nearest multiple of $100 (or, if the increase is a multiple of $50 and not of $100, the increase is increased to the nearest multiple of $100). The inflation adjustment for any calendar year is the percentage (if any) by which the CPI for the preceding calendar year exceeds the CPI for calendar year 1988. Section 1274A(d)(2)(B) defines the CPI for any calendar year as the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of that calendar year.

INFLATION-ADJUSTED AMOUNTS UNDER ' 1274A

For debt instruments arising out of sales or exchanges after December 31, 1989, the inflation-adjusted amounts under ' 1274A are shown in Table 1.

Rev. Rul. 2007 – 4 Table 1
Inflation-Adjusted Amounts Under ' 1274A

Calendar Year of Sale or Exchange	1274A(b) Amount (qualified debt instrument)	1274A(c)(2)(A) Amount (cash method debt instrument)
1990	$2,933,200	$2,095,100
1991	$3,079,600	$2,199,700
1992	$3,234,900	$2,310,600
1993	$3,332,400	$2,380,300
1994	$3,433,500	$2,452,500
1995	$3,523,600	$2,516,900
1996	$3,622,500	$2,587,500
1997	$3,723,800	$2,659,900
1998	$3,823,100	$2,730,800
1999	$3,885,500	$2,775,400
2000	$3,960,100	$2,828,700
2001	$4,085,900	$2,918,500
2002	$4,217,500	$3,012,500
2003	$4,280,800	$3,057,700
2004	$4,381,300	$3,129,500
2005	$4,483,000	$3,202,100
2006	$4,630,300	$3,307,400
2007	$4,800,800	$3,429,100

Note: These inflation adjustments were computed using the All-Urban, Consumer Price Index, 1982-1984 base, published by the Bureau of Labor Statistics.

INFLATION-ADJUSTED AMOUNTS UNDER ' 7872(g)(2)

The Service will no longer publish the inflation adjustment under ' 7872(g)(2), regarding the amount that a taxpayer may lend to a qualifying continuing care facility without incurring imputed interest, because of amendments made to ' 7872 by TIPRA and the Tax Relief and Health Care Act of 2006.

Section 7872(g)(2) provides an exception for certain below-market loans to qualified continuing care facilities only to the extent that the aggregate outstanding amount of any loan to which § 7872(g)(1) applies (determined without regard to § 7872(g)(2)),

when added to the aggregate outstanding amount of all other previous loans between the lender (or the lender's spouse) and any qualified continuing care facility to which § 7872(g)(1) applies, does not exceed $90,000. Section 7872(g)(5) generally provides that, for loans made during any calendar year after 1986 to which § 7872(g)(1) applies, the $90,000 limit specified in § 7872(g)(2) is increased by an inflation adjustment.

Section 7872(g)(6) generally suspends the application of § 7872(g) for any calendar year to which ' 7872(h), as amended by TIPRA, applies. Section 7872(h) generally provides that ' 7872 shall not apply for any calendar year to any below-market loan owed by a facility which on the last day of such year is a qualified continuing care facility, if such loan was made pursuant to a continuing care contract and if the lender (or the lender’s spouse) attains age 62 before the close of such year. Section 7872(h)(4) provided that paragraph (h) shall not apply for any calendar year after 2010. Section 425 of the Tax Relief and Health Care Act of 2006 amended ' 7872(h) by striking subsection (4), making the ' 7872(h) exception for loans to qualified continuing care facilities permanent.

EFFECT ON OTHER DOCUMENTS

Rev. Rul. 2005-76, 2005-49 I.R.B. 1072, is supplemented and superseded.

DRAFTING INFORMATION

The author of this revenue ruling is Richard C. LaFalce of

the Office of the Associate Chief Counsel (Financial Institutions and Products). For further information regarding this revenue ruling please contact Mr. LaFalce on (202) 622-3930 (not a toll-free call).