

Part III - Administrative, Procedural, and Miscellaneous

Application of Section 382 in the Case of Certain Acquisitions Made Pursuant to the Housing and Economic Recovery Act of 2008

Notice 2008-76

SECTION 1. OVERVIEW

This notice announces that the Internal Revenue Service (IRS) and the Treasury Department (Treasury) will issue regulations under section 382(m) of the Internal Revenue Code (Code) that address the application of section 382 in the case of certain acquisitions made pursuant to the Housing and Economic Recovery Act of 2008.

Pursuant to section 1117(a) and (b) of the Housing and Economic Recovery Act of 2008, Pub. L. No. 110-289 (2008), the Secretary of the Treasury is authorized to purchase any obligations and other securities issued by certain entities under the Housing and Economic Recovery Act of 2008. A purchase that is made pursuant to this authority is hereinafter referred to as a "Housing Act Acquisition."

SECTION 2. REGULATIONS TO BE ISSUED UNDER SECTION 382(m)

The IRS and Treasury will issue regulations under section 382(m) providing that notwithstanding any other provision of the Code or the regulations thereunder, for purposes of section 382 and the regulations thereunder, with respect to a corporation as

to which there is a Housing Act Acquisition, the term “testing date” (as defined in §1.382-2(a)(4)) shall not include any date on or after the date on which the United States (or any agency or instrumentality thereof) (United States) acquires, in a Housing Act Acquisition, stock (including stock described in section 1504(a)(4)) or an option to acquire stock in the corporation.

SECTION 3. EFFECTIVE DATE

The regulations to be issued under section 382(m) that are described in section 2 of this notice will apply on or after September 7, 2008, and will apply unless and until there is additional guidance.