that M must include in income in 1997 is limited by §1.597–2(c)(2) to $20 million, the amount by which M's liabilities ($120 million) exceed the total adjusted basis of its assets ($100 million) at the beginning of the taxable year. Pursuant to §1.597–2(c)(4)(i), M must establish a deferred FFA account for the remaining $10 million.

(ii) If Agency instead lends M the $30 million, M's indebtedness to Agency is disregarded and the results are the same as in paragraph (i) of this *Example 1.* Section 597(c); §§1.597–1(b) (defining FFA) and 1.597–3(b).

Example 2. Transfer of property to Agency. (i) Institution M, a calendar year taxpayer without Continuing Equity because it is in Agency receivership, is not a member of a consolidated group and has not been acquired in a Taxable Transfer. At the beginning of 1998, M's remaining equity is $0 and M has a deferred FFA account of $10 million. Agency does not provide any FFA to M in 1998. During the year, M transfers property not covered by a Loss Guarantee to Agency and does not receive any consideration. The property has an adjusted basis of $5 million and a fair market value of $1 million at the time of the transfer. M has no other taxable income or loss in 1998.

(ii) Under §1.597–2(d)(1), M is treated as selling the property for $1 million, its fair market value, thus recognizing a $4 million loss ($5 million–$1 million). In addition, because M did not receive any consideration from Agency, under §1.597–2(d)(4) M has an adjustment to FFA of $1 million, the amount by which the fair market value of the transferred property ($1 million) exceeds the consideration M received from Agency ($0). Because no FFA is provided to M in 1998, this adjustment reduces the balance of M's deferred FFA account to $9 million ($10 million–$1 million). Section 1.597–2(d)(5)(i)(B). Because M's $4 million loss causes M's deductions to exceed its gross income by $4 million in 1998 and M has no remaining equity, under §1.597–2(c)(4)(iii)(A) M must include $4 million of deferred FFA in income, and must decrease the remaining $9 million balance of its deferred FFA account by the same amount, leaving a balance of $5 million.

Example 3. Loss Guarantee. Institution Q, a calendar year taxpayer, sells an asset covered by a Loss Guarantee to an unrelated third party for $4,000. Q's adjusted basis in the asset at the time of sale and the asset's guaranteed value are both $10,000. Pursuant to the Loss Guarantee, Agency pays Q $6,000 ($10,000–$4,000). Q's amount realized from the sale of the asset is $10,000 ($4,000 from the third party and $6,000 from Agency). Section 1.597–2(d)(2). Q realizes no gain or loss on the sale ($10,000–$10,000 = $0), and therefore includes none of the $6,000 of FFA it receives pursuant to the Loss Guarantee in income. Section 1.597–2(d)(3).

[T.D. 8641, 60 FR 66095, Dec. 21, 1995; 61 FR 12135, Mar. 25, 1996, as amended by T.D. 8677, 61 FR 33322, June 27, 1996; T.D. 8823, 64 FR 36099, July 2, 1999; T.D. 8858, 65 FR 1237, Jan. 7, 2000; T.D. 8940, 66 FR 9929, Feb. 13, 2001]

§ 1.597–3 Other rules.

(a) *Ownership of assets.* For all income tax purposes, an Institution is treated as the owner of all assets covered by a Loss Guarantee, yield maintenance agreement, or cost to carry or cost of funds reimbursement agreement, regardless of whether Agency (or a Controlled Entity) otherwise would be treated as the owner under general principles of income taxation.

(b) *Debt and equity interests received by Agency*. Debt instruments, stock, warrants, or other rights to acquire stock of an Institution (or any of its affiliates) that Agency or a Controlled Entity receives in connection with a transaction in which FFA is provided are not treated as debt, stock or other equity interests of or in the issuer for any purpose of the Internal Revenue Code while held by Agency or a Controlled Entity. On the date Agency or a Controlled Entity transfers an interest described in this paragraph (b) to a holder other than Agency or a Controlled Entity, the interest is treated as having been newly issued by the issuer to the holder with an issue price equal to the sum of the amount of money and the fair market value of property paid by the new holder in exchange for the interest.

(c) *Agency Obligations*—(1) *In general.* Except as otherwise provided in this paragraph (c), the original issue discount rules of sections 1271 *et seq.* apply to Agency Obligations.

(2) *Issue price of Agency Obligations provided as Net Worth Assistance.* The issue price of an Agency Obligation that is provided as Net Worth Assistance and that bears interest at either a single fixed rate or a qualified floating rate (and provides for no contingent payments) is the lesser of the sum of the present values of all payments due under the obligation, discounted at a rate equal to the applicable Federal rate (within the meaning of section 1274(d) (1) and (3)) in effect for the date

of issuance, or the stated principal amount of the obligation. The issue price of an Agency Obligation that bears a qualified floating rate of interest (within the meaning of § 1.1275–5(b)) is determined by treating the obligation as bearing a fixed rate of interest equal to the rate in effect on the date of issuance under the obligation.

(3) *Adjustments to principal amount.* Except as provided in § 1.597–5(d)(2)(iv), this paragraph (c)(3) applies if Agency modifies or exchanges an Agency Obligation provided as Net Worth Assistance (or a successor obligation). The issue price of the modified or new Agency Obligation is determined under paragraphs (c) (1) and (2) of this section. If the issue price is greater than the adjusted issue price of the existing Agency Obligation, the difference is treated as FFA. If the issue price is less than the adjusted issue price of the existing Agency Obligation, the difference is treated as an adjustment to FFA under § 1.597–2(d)(4).

(d) *Successors.* To the extent necessary to effectuate the purposes of the regulations under section 597, an entity's treatment under the regulations applies to its successor. A successor includes a transferee in a transaction to which section 381(a) applies or a Bridge Bank to which another Bridge Bank transfers deposit liabilities.

(e) [Reserved]

(f) *Losses and deductions with respect to covered assets.* Prior to the disposition of an asset covered by a Loss Guarantee, the asset cannot be charged off, marked to a market value, depreciated, amortized, or otherwise treated in a manner that supposes an actual or possible diminution of value below the greater of the asset's highest guaranteed value or the highest price at which the asset can be put.

(g) *Anti-abuse rule.* The regulations under section 597 must be applied in a manner consistent with the purposes of section 597. Accordingly, if, in structuring or engaging in any transaction, a principal purpose is to achieve a tax result that is inconsistent with the purposes of section 597 and the regulations thereunder, the Commissioner can make appropriate adjustments to income, deductions and other items that would be consistent with those purposes.

[T.D. 8641, 60 FR 66097, Dec. 21, 1995, as amended by T.D. 9048, 68 FR 12290, Mar. 14, 2003]

§ 1.597–4 Bridge Banks and Agency Control.

(a) *Scope.* This section provides rules that apply to a Bridge Bank or other *Institution* under Agency Control and to transactions in which an Institution transfers deposit liabilities (whether or not the Institution also transfers assets) to a Bridge Bank.

(b) *Status as taxpayer.* A Bridge Bank or other Institution under Agency Control is a corporation within the meaning of section 7701(a)(3) for all purposes of the Internal Revenue Code and is subject to all Internal Revenue Code provisions that generally apply to corporations, including those relating to methods of accounting and to requirements for filing returns, even if Agency owns stock of the Institution.

(c) *No section 382 ownership change.* The imposition of Agency Control, the cancellation of Institution stock by Agency, a transaction in which an Institution transfers deposit liabilities to a Bridge Bank, and an election under paragraph (g) of this section are disregarded in determining whether an ownership change has occurred within the meaning of section 382(g).

(d) *Transfers to Bridge Banks*—(1) *In general.* Except as otherwise provided in paragraph (g) of this section, the rules of this paragraph (d) apply to transfers to Bridge Banks. In general, a Bridge Bank and its associated Residual Entity are together treated as the successor entity to the transferring Institution. If an Institution transfers deposit liabilities to a Bridge Bank (whether or not it also transfers assets), the Institution recognizes no gain or loss on the transfer and the Bridge Bank succeeds to the transferring Institution's basis in any transferred assets. The associated Residual Entity retains its basis in any assets it continues to hold. Immediately after the transfer, the Bridge Bank succeeds to and takes into account the transferring Institution's items described in section 381(c) (subject to the conditions and limitations specified in section