

(b)(3)(iii) of this section are interest for purposes of section 103.

(C) *Adjustments.* A net positive adjustment on the obligation is treated as gain to the holder from the sale or exchange of the obligation in the taxable year of the adjustment. A net negative adjustment on the obligation is treated as a loss to the holder from the sale or exchange of the obligation in the taxable year of the adjustment.

(D) *Gains and losses.* Any gain or loss recognized on the sale, exchange, or retirement of the obligation is gain or loss from the sale or exchange of the obligation.

(4) *Basis different from adjusted issue price.* This paragraph (d)(4) provides rules for a holder whose basis in a tax-exempt obligation is different from the adjusted issue price of the obligation. The rules of paragraph (b)(9)(i) of this section do not apply to tax-exempt obligations.

(i) *Basis greater than adjusted issue price.* If the holder's basis in the obligation exceeds the obligation's adjusted issue price, the holder, upon acquiring the obligation, must allocate this difference to daily portions of interest on a yield to maturity basis over the remaining term of the obligation. The amount allocated to a daily portion of interest is not deductible by the holder. However, the holder's basis in the obligation is reduced by the amount allocated to a daily portion of interest on the date the daily portion accrues.

(ii) *Basis less than adjusted issue price.* If the holder's basis in the obligation is less than the obligation's adjusted issue price, the holder, upon acquiring the obligation, must allocate this difference to daily portions of interest on a yield to maturity basis over the remaining term of the obligation. The amount allocated to a daily portion of interest is includible in income by the holder as ordinary income on the date the daily portion accrues. The holder's adjusted basis in the obligation is increased by the amount includible in income by the holder under this paragraph (d)(4)(ii) on the date the daily portion accrues.

(iii) *Premium and discount rules do not apply.* The rules for accruing premium and discount in sections 171, 1276, and 1288 do not apply. Other rules of those

sections continue to apply to the extent relevant.

(e) *Amounts treated as interest under this section.* Amounts treated as interest under this section are treated as OID for all purposes of the Internal Revenue Code.

(f) *Effective date.* This section applies to debt instruments issued on or after August 13, 1996.

[T.D. 8674, 61 FR 30143, June 14, 1996, as amended by T.D. 8709, 62 FR 618, Jan. 6, 1997; T.D. 8838, 64 FR 48547, Sept. 7, 1999]

§ 1.1275-5 Variable rate debt instruments.

(a) *Applicability—(1) In general.* This section provides rules for variable rate debt instruments. Except as provided in paragraph (a)(6) of this section, a variable rate debt instrument is a debt instrument that meets the conditions described in paragraphs (a)(2), (3), (4), and (5) of this section. If a debt instrument that provides for a variable rate of interest does not qualify as a variable rate debt instrument, the debt instrument is a contingent payment debt instrument. See § 1.1275-4 for the treatment of a contingent payment debt instrument. See § 1.1275-6 for a taxpayer's treatment of a variable rate debt instrument and a hedge.

(2) *Principal payments.* The issue price of the debt instrument must not exceed the total noncontingent principal payments by more than an amount equal to the lesser of—

(i) .015 multiplied by the product of the total noncontingent principal payments and the number of complete years to maturity from the issue date (or, in the case of an installment obligation, the weighted average maturity as defined in § 1.1273-1(e)(3)); or

(ii) 15 percent of the total noncontingent principal payments.

(3) *Stated interest—(i) General rule.* The debt instrument must not provide for any stated interest other than stated interest (compounded or paid at least annually) at—

(A) One or more qualified floating rates;

(B) A single fixed rate and one or more qualified floating rates;

(C) A single objective rate; or

(D) A single fixed rate and a single objective rate that is a qualified inverse floating rate.

(ii) *Certain debt instruments bearing interest at a fixed rate for an initial period.* If interest on a debt instrument is stated at a fixed rate for an initial period of 1 year or less followed by a variable rate that is either a qualified floating rate or an objective rate for a subsequent period, and the value of the variable rate on the issue date is intended to approximate the fixed rate, the fixed rate and the variable rate together constitute a single qualified floating rate or objective rate. A fixed rate and a variable rate will be conclusively presumed to meet the requirements of the preceding sentence if the value of the variable rate on the issue date does not differ from the value of the fixed rate by more than .25 percentage points (25 basis points).

(4) *Current value.* The debt instrument must provide that a qualified floating rate or objective rate in effect at any time during the term of the instrument is set at a current value of that rate. A current value is the value of the rate on any day that is no earlier than 3 months prior to the first day on which that value is in effect and no later than 1 year following that first day.

(5) *No contingent principal payments.* Except as provided in paragraph (a)(2) of this section, the debt instrument must not provide for any principal payments that are contingent (within the meaning of §1.1275-4(a)).

(6) *Special rule for debt instruments issued for nonpublicly traded property.* A debt instrument (other than a tax-exempt obligation) that would otherwise qualify as a variable rate debt instrument under this section is not a variable rate debt instrument if section 1274 applies to the instrument and any stated interest payments on the instrument are treated as contingent payments under §1.1274-2. This paragraph (a)(6) applies to debt instruments issued on or after August 13, 1996.

(b) *Qualified floating rate—(1) In general.* A variable rate is a qualified floating rate if variations in the value of the rate can reasonably be expected to measure contemporaneous variations in the cost of newly borrowed funds in

the currency in which the debt instrument is denominated. The rate may measure contemporaneous variations in borrowing costs for the issuer of the debt instrument or for issuers in general. Except as provided in paragraph (b)(2) of this section, a multiple of a qualified floating rate is not a qualified floating rate. If a debt instrument provides for two or more qualified floating rates that can reasonably be expected to have approximately the same values throughout the term of the instrument, the qualified floating rates together constitute a single qualified floating rate. Two or more qualified floating rates will be conclusively presumed to meet the requirements of the preceding sentence if the values of all rates on the issue date are within .25 percentage points (25 basis points) of each other.

(2) *Certain rates based on a qualified floating rate.* For a debt instrument issued on or after August 13, 1996, a variable rate is a qualified floating rate if it is equal to either—

(i) The product of a qualified floating rate described in paragraph (b)(1) of this section and a fixed multiple that is greater than .65 but not more than 1.35; or

(ii) The product of a qualified floating rate described in paragraph (b)(1) of this section and a fixed multiple that is greater than .65 but not more than 1.35, increased or decreased by a fixed rate.

(3) *Restrictions on the stated rate of interest.* A variable rate is not a qualified floating rate if it is subject to a restriction or restrictions on the maximum stated interest rate (cap), a restriction or restrictions on the minimum stated interest rate (floor), a restriction or restrictions on the amount of increase or decrease in the stated interest rate (governor), or other similar restrictions. Notwithstanding the preceding sentence, the following restrictions will not cause a variable rate to fail to be a qualified floating rate—

(i) A cap, floor, or governor that is fixed throughout the term of the debt instrument;

(ii) A cap or similar restriction that is not reasonably expected as of the issue date to cause the yield on the debt instrument to be significantly less

than the expected yield determined without the cap;

(iii) A floor or similar restriction that is not reasonably expected as of the issue date to cause the yield on the debt instrument to be significantly more than the expected yield determined without the floor; or

(iv) A governor or similar restriction that is not reasonably expected as of the issue date to cause the yield on the debt instrument to be significantly more or significantly less than the expected yield determined without the governor.

(c) *Objective rate*—(1) *Definition*—(i) *In general*. For debt instruments issued on or after August 13, 1996, an objective rate is a rate (other than a qualified floating rate) that is determined using a single fixed formula and that is based on objective financial or economic information. For example, an objective rate generally includes a rate that is based on one or more qualified floating rates or on the yield of actively traded personal property (within the meaning of section 1092(d)(1)).

(ii) *Exception*. For purposes of paragraph (c)(1)(i) of this section, an objective rate does not include a rate based on information that is within the control of the issuer (or a related party within the meaning of section 267(b) or 707(b)(1)) or that is unique to the circumstances of the issuer (or a related party within the meaning of section 267(b) or 707(b)(1)), such as dividends, profits, or the value of the issuer's stock. However, a rate does not fail to be an objective rate merely because it is based on the credit quality of the issuer.

(2) *Other objective rates to be specified by Commissioner*. The Commissioner may designate in the Internal Revenue Bulletin variable rates other than those described in paragraph (c)(1) of this section that will be treated as objective rates (see § 601.601(d)(2)(ii) of this chapter).

(3) *Qualified inverse floating rate*. An objective rate described in paragraph (c)(1) of this section is a qualified inverse floating rate if—

(i) The rate is equal to a fixed rate minus a qualified floating rate; and

(ii) The variations in the rate can reasonably be expected to inversely re-

flect contemporaneous variations in the qualified floating rate (disregarding any restrictions on the rate that are described in paragraphs (b)(3)(i), (b)(3)(ii), (b)(3)(iii), and (b)(3)(iv) of this section).

(4) *Significant front-loading or back-loading of interest*. Notwithstanding paragraph (c)(1) of this section, a variable rate of interest on a debt instrument is not an objective rate if it is reasonably expected that the average value of the rate during the first half of the instrument's term will be either significantly less than or significantly greater than the average value of the rate during the final half of the instrument's term.

(5) *Tax-exempt obligations*. Notwithstanding paragraph (c)(1) of this section, in the case of a tax-exempt obligation (within the meaning of section 1275(a)(3)), a variable rate is an objective rate only if it is a qualified inverse floating rate or a qualified inflation rate. A rate is a qualified inflation rate if the rate measures contemporaneous changes in inflation based on a general inflation index.

(d) *Examples*. The following examples illustrate the rules of paragraphs (b) and (c) of this section. For purposes of these examples, assume that the debt instrument is not a tax-exempt obligation. In addition, unless otherwise provided, assume that the rate is not reasonably expected to result in a significant front-loading or back-loading of interest and that the rate is not based on objective financial or economic information that is within the control of the issuer (or a related party) or that is unique to the circumstances of the issuer (or a related party).

Example 1. Rate based on LIBOR. X issues a debt instrument that provides for annual payments of interest at a rate equal to the value of the 1-year London Interbank Offered Rate (LIBOR) at the end of each year. Variations in the value of 1-year LIBOR over the term of the debt instrument can reasonably be expected to measure contemporaneous variations in the cost of newly borrowed funds over that term. Accordingly, the rate is a qualified floating rate.

Example 2. Rate increased by a fixed amount. X issues a debt instrument that provides for annual payments of interest at a rate equal to 200 basis points (2 percent) plus the current value, at the end of each year, of the average yield on 1-year Treasury securities as

published in Federal Reserve bulletins. Variations in the value of this interest rate can reasonably be expected to measure contemporaneous variations in the cost of newly borrowed funds. Accordingly, the rate is a qualified floating rate.

Example 3. Rate based on commercial paper rate. X issues a debt instrument that provides for a rate of interest that is periodically adjusted to equal the current interest rate of Bank's commercial paper. Variations in the value of this interest rate can reasonably be expected to measure contemporaneous variations in the cost of newly borrowed funds. Accordingly, the rate is a qualified floating rate.

Example 4. Rate based on changes in the value of a commodity index. On January 1, 1997, X issues a debt instrument that provides for annual interest payments at the end of each year at a rate equal to the percentage increase, if any, in the value of an index for the year immediately preceding the payment. The index is based on the prices of several actively traded commodities. Variations in the value of this interest rate cannot reasonably be expected to measure contemporaneous variations in the cost of newly borrowed funds. Accordingly, the rate is not a qualified floating rate. However, because the rate is based on objective financial information using a single fixed formula, the rate is an objective rate.

Example 5. Rate based on a percentage of S&P 500 Index. On January 1, 1997, X issues a debt instrument that provides for annual interest payments at the end of each year based on a fixed percentage of the value of the S&P 500 Index. Variations in the value of this interest rate cannot reasonably be expected to measure contemporaneous variations in the cost of newly borrowed funds and, therefore, the rate is not a qualified floating rate. Although the rate is described in paragraph (c)(1)(i) of this section, the rate is not an objective rate because, based on historical data, it is reasonably expected that the average value of the rate during the first half of the instrument's term will be significantly less than the average value of the rate during the final half of the instrument's term.

Example 6. Rate based on issuer's profits. On January 1, 1997, Z issues a debt instrument that provides for annual interest payments equal to 1 percent of Z's gross profits earned during the year immediately preceding the payment. Variations in the value of this interest rate cannot reasonably be expected to measure contemporaneous variations in the cost of newly borrowed funds. Accordingly, the rate is not a qualified floating rate. In addition, because the rate is based on information that is unique to the issuer's circumstances, the rate is not an objective rate.

Example 7. Rate based on a multiple of an interest index. On January 1, 1997, Z issues a debt instrument with annual interest pay-

ments at a rate equal to two times the value of 1-year LIBOR as of the payment date. Because the rate is a multiple greater than 1.35 times a qualified floating rate, the rate is not a qualified floating rate. However, because the rate is based on objective financial information using a single fixed formula, the rate is an objective rate.

Example 8. Variable rate based on the cost of borrowed funds in a foreign currency. On January 1, 1997, Y issues a 5-year dollar denominated debt instrument that provides for annual interest payments at a rate equal to the value of 1-year French franc LIBOR as of the payment date. Variations in the value of French franc LIBOR do not measure contemporaneous changes in the cost of newly borrowed funds in dollars. As a result, the rate is not a qualified floating rate for an instrument denominated in dollars. However, because the rate is based on objective financial information using a single fixed formula, the rate is an objective rate.

Example 9. Qualified inverse floating rate. On January 1, 1997, X issues a debt instrument that provides for annual interest payments at the end of each year at a rate equal to 12 percent minus the value of 1-year LIBOR as of the payment date. On the issue date, the value of 1-year LIBOR is 6 percent. Because the rate can reasonably be expected to inversely reflect contemporaneous variations in 1-year LIBOR, it is a qualified inverse floating rate. However, if the value of 1-year LIBOR on the issue date were 11 percent rather than 6 percent, the rate would not be a qualified inverse floating rate because the rate could not reasonably be expected to inversely reflect contemporaneous variations in 1-year LIBOR.

Example 10. Rate based on an inflation index. On January 1, 1997, X issues a debt instrument that provides for annual interest payments at the end of each year at a rate equal to 400 basis points (4 percent) plus the annual percentage change in a general inflation index (e.g., the Consumer Price Index, U.S. City Average, All Items, for all Urban Consumers, seasonally unadjusted). The rate, however, may not be less than zero. Variations in the value of this interest rate cannot reasonably be expected to measure contemporaneous variations in the cost of newly borrowed funds. Accordingly, the rate is not a qualified floating rate. However, because the rate is based on objective economic information using a single fixed formula, the rate is an objective rate.

(e) *Qualified stated interest and OID with respect to a variable rate debt instrument—(1) In general.* This paragraph (e) provides rules to determine the amount and accrual of OID and qualified stated interest on a variable rate debt instrument. In general, the rules convert the

debt instrument into a fixed rate debt instrument and then apply the general OID rules to the debt instrument. The issue price of a variable rate debt instrument, however, is not determined under this paragraph (e). See §§ 1.1273-2 and 1.1274-2 to determine the issue price of a variable rate debt instrument.

(2) *Variable rate debt instrument that provides for annual payments of interest at a single variable rate.* If a variable rate debt instrument provides for stated interest at a single qualified floating rate or objective rate and the interest is unconditionally payable in cash or in property (other than debt instruments of the issuer), or will be constructively received under section 451, at least annually, the following rules apply to the instrument:

(i) All stated interest with respect to the debt instrument is qualified stated interest.

(ii) The amount of qualified stated interest and the amount of OID, if any, that accrues during an accrual period is determined under the rules applicable to fixed rate debt instruments by assuming that the variable rate is a fixed rate equal to—

(A) In the case of a qualified floating rate or qualified inverse floating rate, the value, as of the issue date, of the qualified floating rate or qualified inverse floating rate; or

(B) In the case of an objective rate (other than a qualified inverse floating rate), a fixed rate that reflects the yield that is reasonably expected for the debt instrument.

(iii) The qualified stated interest allocable to an accrual period is increased (or decreased) if the interest actually paid during an accrual period exceeds (or is less than) the interest assumed to be paid during the accrual period under paragraph (e)(2)(ii) of this section.

(3) *All other variable rate debt instruments except for those that provide for a fixed rate.* If a variable rate debt instrument is not described in paragraph (e)(2) of this section and does not provide for interest payable at a fixed rate (other than an initial fixed rate described in paragraph (a)(3)(ii) of this section), the amount of interest and

OID accruals for the instrument are determined under this paragraph (e)(3).

(i) *Step one: Determine the fixed rate substitute for each variable rate provided under the debt instrument—(A) Qualified floating rate.* The fixed rate substitute for each qualified floating rate provided for in the debt instrument is the value of each rate as of the issue date. If, however, a variable rate debt instrument provides for two or more qualified floating rates with different intervals between interest adjustment dates, the fixed rate substitutes for the rates must be based on intervals that are equal in length. For example, if a 4-year debt instrument provides for 24 monthly interest payments based on the value of the 30-day commercial paper rate on each payment date followed by 8 quarterly interest payments based on the value of quarterly LIBOR on each payment date, the fixed rate substitutes may be based on the values, as of the issue date, of the 90-day commercial paper rate and quarterly LIBOR. Alternatively, the fixed rate substitutes may be based on the values, as of the issue date, of the 30-day commercial paper rate and monthly LIBOR.

(B) *Qualified inverse floating rate.* The fixed rate substitute for a qualified inverse floating rate is the value of the qualified inverse floating rate as of the issue date.

(C) *Objective rate.* The fixed rate substitute for an objective rate (other than a qualified inverse floating rate) is a fixed rate that reflects the yield that is reasonably expected for the debt instrument.

(ii) *Step two: Construct the equivalent fixed rate debt instrument.* The equivalent fixed rate debt instrument has terms that are identical to those provided under the variable rate debt instrument, except that the equivalent fixed rate debt instrument provides for the fixed rate substitutes (determined in paragraph (e)(3)(i) of this section) in lieu of the qualified floating rates or objective rate provided under the variable rate debt instrument.

(iii) *Step three: Determine the amount of qualified stated interest and OID with respect to the equivalent fixed rate debt instrument.* The amount of qualified

stated interest and OID, if any, are determined for the equivalent fixed rate debt instrument under the rules applicable to fixed rate debt instruments and are taken into account as if the holder held the equivalent fixed rate debt instrument.

(iv) *Step four: Make appropriate adjustments for actual variable rates.* Qualified stated interest or OID allocable to an accrual period must be increased (or decreased) if the interest actually accrued or paid during an accrual period exceeds (or is less than) the interest assumed to be accrued or paid during the accrual period under the equivalent fixed rate debt instrument. This increase or decrease is an adjustment to qualified stated interest for the accrual period if the equivalent fixed rate debt instrument (as determined under paragraph (e)(3)(ii) of this section) provides for qualified stated interest and the increase or decrease is reflected in the amount actually paid during the accrual period. Otherwise, this increase or decrease is an adjustment to OID for the accrual period.

(v) *Examples.* The following examples illustrate the rules in paragraphs (e) (2) and (3) of this section:

Example 1. Equivalent fixed rate debt instrument—(i) Facts. X purchases at original issue a 6-year variable rate debt instrument that provides for semiannual payments of interest. For the first 3 years, the rate of interest is the value of 6-month LIBOR on the payment date. For the final 3 years, the rate is the value of the 6-month T-bill rate on the payment date. On the issue date, the value of 6-month LIBOR is 3 percent, compounded semiannually, and the 6-month T-bill rate is 2 percent, compounded semiannually.

(ii) *Determination of equivalent fixed rate debt instrument.* Under paragraph (e)(3)(i) of this section, the fixed rate substitute for 6-month LIBOR is 3 percent, compounded semiannually, and the fixed rate substitute for the 6-month T-bill rate is 2 percent, compounded semiannually. Under paragraph (e)(3)(ii) of this section, the equivalent fixed rate debt instrument is a 6-year debt instrument that provides for semiannual payments of interest at 3 percent, compounded semiannually, for the first 3 years followed by 2 percent, compounded semiannually, for the final 3 years.

Example 2. Equivalent fixed rate debt instrument with de minimis OID—(i) Facts. Y purchases at original issue, for \$100,000, a 4-year variable rate debt instrument that has a stated principal amount of \$100,000, payable

at maturity. The debt instrument provides for monthly payments of interest at the end of each month. For the first year, the interest rate is the monthly commercial paper rate and for the last 3 years, the interest rate is the monthly commercial paper rate plus 100 basis points. On the issue date, the monthly commercial paper rate is 3 percent, compounded monthly.

(ii) *Equivalent fixed rate debt instrument.* Under paragraph (e)(3)(ii) of this section, the equivalent fixed rate debt instrument for the variable rate debt instrument is a 4-year debt instrument that has an issue price and stated principal amount of \$100,000. The equivalent fixed rate debt instrument provides for monthly payments of interest at 3 percent, compounded monthly, for the first year (\$250 per month) and monthly payments of interest at 4 percent, compounded monthly, for the last 3 years (\$333.33 per month).

(iii) *De minimis OID.* Under § 1.1273-1(a), because a portion (100 basis points) of each interest payment in the final 3 years is not a qualified stated interest payment, the equivalent fixed rate debt instrument has OID of \$2,999.88 (\$102,999.88 – \$100,000). However, under § 1.1273-1(d)(4) (the de minimis rule relating to teaser rates and interest holidays), the stated redemption price at maturity of the equivalent fixed rate debt instrument is \$100,999.96 (\$100,000 (issue price) plus \$999.96 (the greater of the amount of foregone interest (\$999.96) and the amount equal to the excess of the instrument's stated principal amount over its issue price (\$0))). Thus, the equivalent fixed rate debt instrument is treated as having OID of \$999.96 (\$100,999.96 – \$100,000). Because this amount is less than the de minimis amount of \$1,010 (0.0025 multiplied by \$100,999.96 multiplied by 4 complete years to maturity), the equivalent fixed rate debt instrument has de minimis OID. Therefore, the variable rate debt instrument has zero OID and all stated interest payments are qualified stated interest payments.

Example 3. Adjustment to qualified stated interest for actual payment of interest—(i) Facts. On January 1, 1995, Z purchases at original issue, for \$90,000, a variable rate debt instrument that matures on January 1, 1997, and has a stated principal amount of \$100,000, payable at maturity. The debt instrument provides for annual payments of interest on January 1 of each year, beginning on January 1, 1996. The amount of interest payable is the value of annual LIBOR on the payment date. The value of annual LIBOR on January 1, 1995, and January 1, 1996, is 5 percent, compounded annually. The value of annual LIBOR on January 1, 1997, is 7 percent, compounded annually.

(ii) *Accrual of OID and qualified stated interest.* Under paragraph (e)(2) of this section, the variable rate debt instrument is treated as a 2-year debt instrument that has an issue

price of \$90,000, a stated principal amount of \$100,000, and interest payments of \$5,000 at the end of each year. The debt instrument has \$10,000 of OID and the annual interest payments of \$5,000 are qualified stated interest payments. Under § 1.1272-1, the debt instrument has a yield of 10.82 percent, compounded annually. The amount of OID allocable to the first annual accrual period (assuming Z uses annual accrual periods) is \$4,743.25 $((\$90,000 \times 10.82) - \$5,000)$, and the amount of OID allocable to the second annual accrual period is \$5,256.75 $(\$100,000 - \$94,743.25)$. Under paragraph (e)(2)(iii) of this section, the \$2,000 difference between the \$7,000 interest payment actually made at maturity and the \$5,000 interest payment assumed to be made at maturity under the equivalent fixed rate debt instrument is treated as additional qualified stated interest for the period.

(4) *Variable rate debt instrument that provides for a single fixed rate—(i) General rule.* If a variable rate debt instrument provides for stated interest either at one or more qualified floating rates or at a qualified inverse floating rate and in addition provides for stated interest at a single fixed rate (other than an initial fixed rate described in paragraph (a)(3)(i) of this section), the amount of interest and OID are determined using the method of paragraph (e)(3) of this section, as modified by this paragraph (e)(4). For purposes of paragraphs (e)(3)(i) through (e)(3)(iii) of this section, the variable rate debt instrument is treated as if it provided for a qualified floating rate (or a qualified inverse floating rate, if the debt instrument provides for a qualified inverse floating rate), rather than the fixed rate. The qualified floating rate (or qualified inverse floating rate) replacing the fixed rate must be such that the fair market value of the variable rate debt instrument as of the issue date would be approximately the same as the fair market value of an otherwise identical debt instrument that provides for the qualified floating rate (or qualified inverse floating rate) rather than the fixed rate.

(ii) *Example.* The following example illustrates the rule in paragraph (e)(4)(i) of this section.

Example: Variable rate debt instrument that provides for a single fixed rate—(i) Facts. On January 1, 1995, X purchases at original issue, for \$100,000, a variable rate debt instrument that matures on January 1, 2001, and

that has a stated principal amount of \$100,000. The debt instrument provides for payments of interest on January 1 of each year, beginning on January 1, 1996. For the first 4 years, the interest rate is 4 percent, compounded annually, and for the last 2 years the interest rate is the value of 1-year LIBOR, as of the payment date, plus 200 basis points. On January 1, 1995, the value of 1-year LIBOR is 2 percent, compounded annually. In addition, assume that on January 1, 1995, the variable rate debt instrument has approximately the same fair market value as an otherwise identical debt instrument that provides for an interest rate equal to the value of 1-year LIBOR, as of the payment date, for the first 4 years.

(i) *Equivalent fixed rate debt instrument.* Under paragraph (e)(4)(i) of this section, for purposes of paragraphs (e)(3)(i) through (e)(3)(iii) of this section, the variable rate debt instrument is treated as if it provided for an interest rate equal to the value of 1-year LIBOR, as of the payment date, for the first 4 years. Under paragraph (e)(3)(ii) of this section, the equivalent fixed rate debt instrument for the variable rate debt instrument is a 6-year debt instrument that has an issue price and stated principal amount of \$100,000. The equivalent fixed rate debt instrument provides for interest payments of \$2,000 for the first 4 years and \$4,000 for the last 2 years.

(iii) *Accrual of OID and qualified stated interest.* Under § 1.1273-1, the equivalent fixed rate debt instrument has OID of \$4,000 because a portion (200 basis points) of each interest payment in the last 2 years is not a qualified stated interest payment. The \$4,000 of OID is allocable over the 6-year term of the debt instrument under § 1.1272-1. Under paragraph (e)(3)(iv) of this section, the difference between the \$4,000 payment made in the first 4 years and the \$2,000 payment assumed to be made on the equivalent fixed rate debt instrument in those years is an adjustment to qualified stated interest. In addition, any difference between the amount actually paid in each of the last 2 years and the \$4,000 payment assumed to be made on the equivalent fixed rate debt instrument is an adjustment to qualified stated interest.

(f) *Special rule for certain reset bonds.* Notwithstanding paragraph (e) of this section, this paragraph (f) provides a special rule for a variable rate debt instrument that provides for stated interest at a fixed rate for an initial interval, and provides that on the date immediately following the end of the initial interval (the effective date) the stated interest rate will be a rate determined under a procedure (such as an auction procedure) so that the fair market value of the instrument on the

effective date will be a fixed amount (the reset value). Solely for purposes of calculating the accrual of OID, the variable rate debt instrument is treated as—

(1) Maturing on the date immediately preceding the effective date for an amount equal to the reset value; and

(2) Reissued on the effective date for an amount equal to the reset value.

[T.D. 8517, 59 FR 4827, Feb. 2, 1994, as amended by T.D. 8674, 61 FR 30153, June 14, 1996]

§ 1.1275-6 Integration of qualifying debt instruments.

(a) *In general.* This section generally provides for the integration of a qualifying debt instrument with a hedge or combination of hedges if the combined cash flows of the components are substantially equivalent to the cash flows on a fixed or variable rate debt instrument. The integrated transaction is generally subject to the rules of this section rather than the rules to which each component of the transaction would be subject on a separate basis. The purpose of this section is to permit a more appropriate determination of the character and timing of income, deductions, gains, or losses than would be permitted by separate treatment of the components. The rules of this section affect only the taxpayer who holds (or issues) the qualifying debt instrument and enters into the hedge.

(b) *Definitions—(1) Qualifying debt instrument.* A qualifying debt instrument is any debt instrument (including an integrated transaction as defined in paragraph (c) of this section) other than—

(i) A tax-exempt obligation as defined in section 1275(a)(3);

(ii) A debt instrument to which section 1272(a)(6) applies (certain interests in or mortgages held by a REMIC, and certain other debt instruments with payments subject to acceleration); or

(iii) A debt instrument that is subject to § 1.483-4 or § 1.1275-4(c) (certain contingent payment debt instruments issued for nonpublicly traded property).

(2) *Section 1.1275-6 hedge—(i) In general.* A § 1.1275-6 hedge is any financial instrument (as defined in paragraph (b)(3) of this section) if the combined cash flows of the financial instrument

and the qualifying debt instrument permit the calculation of a yield to maturity (under the principles of section 1272), or the right to the combined cash flows would qualify under § 1.1275-5 as a variable rate debt instrument that pays interest at a qualified floating rate or rates (except for the requirement that the interest payments be stated as interest). A financial instrument is not a § 1.1275-6 hedge, however, if the resulting synthetic debt instrument does not have the same term as the remaining term of the qualifying debt instrument. A financial instrument that hedges currency risk is not a § 1.1275-6 hedge.

(ii) *Limitations—(A)* A debt instrument issued by a taxpayer and a debt instrument held by the taxpayer cannot be part of the same integrated transaction.

(B) A debt instrument can be a § 1.1275-6 hedge only if it is issued substantially contemporaneously with, and has the same maturity (including rights to accelerate or delay payments) as, the qualifying debt instrument.

(3) *Financial instrument.* For purposes of this section, a financial instrument is a spot, forward, or futures contract, an option, a notional principal contract, a debt instrument, or a similar instrument, or combination or series of financial instruments. Stock is not a financial instrument for purposes of this section.

(4) *Synthetic debt instrument.* The synthetic debt instrument is the hypothetical debt instrument with the same cash flows as the combined cash flows of the qualifying debt instrument and the § 1.1275-6 hedge.

(c) *Integrated transaction—(1) Integration by taxpayer.* Except as otherwise provided in this section, a qualifying debt instrument and a § 1.1275-6 hedge are an integrated transaction if all of the following requirements are satisfied:

(i) The taxpayer satisfies the identification requirements of paragraph (e) of this section on or before the date the taxpayer enters into the § 1.1275-6 hedge.

(ii) None of the parties to the § 1.1275-6 hedge are related within the meaning of section 267(b) or 707(b)(1), or, if the parties are related, the party providing