

## Part III - Administrative, Procedural, and Miscellaneous

### Application of Section 382 in the Case of Certain Acquisitions Made by the United States

Notice 2008-84

#### 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 not described in Notice 2008-76, I.R.B. 2008-39, in which the United States (or any agency or instrumentality thereof) (United States) becomes a direct or indirect owner of a more-than-50-percent interest in a loss corporation. For this purpose, a “more-than-50-percent interest” is stock of the loss corporation possessing more than 50 percent of the total value of shares of all classes of stock (excluding stock described in section 1504(a)(4)) or more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or an option to acquire such stock.

#### 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 loss corporation, the term “testing date” (as defined in §1.382-2(a)(4)) shall not include any date at the end of which the United States directly or indirectly owns a more-than-50-percent interest in the loss corporation. Thus, with respect to the loss corporation, the term “testing date” (as defined in §1.382-2(a)(4)) shall include any date at the end of which the United States does not directly or indirectly own a more-than-50-percent interest in the loss 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 for any taxable year ending on or after September 23, 2008, and will apply unless and until there is additional guidance.