

REV. RUL. 96-57 TABLE 6

Rates Under Sections 846 and 807

Applicable rate of interest for 1997 for purposes of sections 846 and 807

6.33%

**Section 1288.—Treatment of Original Issue Discount on Tax-Exempt Obligations**

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of December 1996. See Rev. Rul. 96-57, page 5.

**Section 2031.—Definition of Gross Estate**

26 CFR 20.2031-5: *Valuation of cash on hand or on deposit.*

Rev. Rul. 67-396 is modified to provide that, if certain conditions are satisfied, the delivery of a check to a noncharitable donee will be deemed to be complete for federal gift and estate tax purposes when the check is deposited, cashed against available funds of the donee, or presented for payment in the calendar year for which favorable gift tax treatment is sought. See Rev. Rul. 96-56, this page.

**Section 2056A.—Qualified Domestic Trust**

26 CFR 20.2056A-2(d)(1): *Security and other arrangements for payment of estate tax imposed under section 2056A(b)(1).*

Sample paragraphs are provided that may be used to satisfy the governing instrument requirements contained in §§ 20.2056A-2(d)(1)(i) and (d)(1)(ii) of the Estate Tax Regulations for a qualified domestic trust (QDOT) as described in § 2056A of the Internal Revenue Code. See Rev. Proc. 96-54, page 9.

**Section 2511.—Transfers in General**

26 CFR 25.2511-2: *Cessation of donor's dominion and control.*  
(Also § 2031; 20.2031-5.)

If certain conditions are satisfied, the delivery of a check to a noncharitable donee will be deemed to be complete for federal gift and estate tax purposes when the check is deposited, cashed against available funds of the donee, or presented for payment in the calendar year for which favorable gift tax treatment is sought. Rev. Rul. 67-396 modified.

**Rev. Rul. 96-56**

In view of the Fourth Circuit's decision in *Metzger v. Commissioner*, 38 F.3d 118 (4th Cir. 1994) the Internal Revenue Service has reconsidered the rationale for the holding in Situation 1 of Rev. Rul. 67-396, 1967-2 C.B. 351. In *Situation 1*, the donor transferred a gift check on December 25 to a noncharitable donee, but the donee held the check until January 2 of the following year when it was cashed by the drawee bank. Rev. Rul. 67-396 concludes that the gift was not complete for federal gift tax purposes until the check was paid by the drawee bank on January 2, because prior to the check's payment, certification, acceptance by the drawee, or negotiation, the donor had not relinquished dominion and control over the funds. Prior to the occurrence of one of these events, the donor could have stopped payment and revoked the gift.

*Metzger* holds that if a check is delivered to a noncharitable donee, for federal gift tax purposes, completion of the gift relates back to the date the check was deposited by the donee, provided the check is paid by the drawee bank while the donor is alive and: (1) the donor intended to make a gift; (2) delivery of the check was unconditional; and (3) the donee presented the check for payment in the year for which completed gift treatment is sought and within a reasonable time of issuance. The Service will follow the *Metzger* decision.

**HOLDING**

Rev. Rul. 67-396 is modified to provide that the delivery of a check to a noncharitable donee will be deemed to be a completed gift for federal gift and estate tax purposes on the earlier of (i) the date on which the donor has so parted with dominion and control under local law as to leave in the donor no power to change its disposition, or (ii)

the date on which the donee deposits the check (or cashes the check against available funds of the donee) or presents the check for payment, if it is established that: (1) the check was paid by the drawee bank when first presented to the drawee bank for payment; (2) the donor was alive when the check was paid by the drawee bank; (3) the donor intended to make a gift; (4) delivery of the check by the donor was unconditional; and (5) the check was deposited, cashed, or presented in the calendar year for which completed gift treatment is sought and within a reasonable time of issuance. The result in *Situation 1* of Rev. Rul. 67-396 remains the same for two reasons: the check was not delivered unconditionally (the donor requested that the donee not deposit or cash the check for a few days) and the check was not presented for payment in the same calendar year for which completed gift treatment was sought.

**EFFECT ON OTHER DOCUMENTS**

Rev. Rul. 67-396 is modified.

**DRAFTING INFORMATION**

The principal author of this revenue ruling is Lane Damazo of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling contact Lane Damazo (202) 622-3090 (not a toll-free call).

**Section 7520.—Valuation Tables**

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of December 1996. See Rev. Rul. 96-57, page 5.

**Section 7872.—Treatment of Loans With Below-Market Interest Rates**

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of December 1996. See Rev. Rul. 96-57, page 5.