Contingent Payments

- Code says Treasury can write the rules
- Textbook refers to Proposed Regs which were withdrawn without being officially released
- Nothing in the Supplement about contingent payments

Contingent Payments

- 16 pages of Regulations
  - Regs. 1.1275-4(b) – debt instruments issued for money or publicly traded property
  - Regs. 1.1275-4(c) – debt instruments issued for nonpublicly traded property
Definition of Contingent Payment

- No explicit definition in the Regs.
- Regs. provide exclusions from contingent payment concept –
  - Not contingent merely because of the possibility of impairment by insolvency, default, etc.
  - Not contingent because of being convertible into stock

Non-contingent Bond Method

- Used where the contingent payment debt is issued for money or publicly traded property
- Interest must be taken into account whether or not any payment is fixed or determinable in the taxable year
- Amount is determined by constructing a projected payment schedule

Below Market Loans

- Definition –
  - Demand loan where the interest rate is less than the Federal applicable rate
  - Term loan where the amount loaned exceeds the present value of all payments due under the loan discounted at a rate equal to the applicable Federal rate
Below Market Loans

- **De Minimus Rules** –
  - Gift loans of less than $10,000
  - Compensation and shareholder loans of less than $10,000

Treatment of Below Market Demand Loans

- Foregone interest is treated as transferred from the lender to the borrower
  - Deemed transfer from the borrower to the lender is interest
  - Deemed transfer from the lender to the borrower is characterized in accordance with the relationship between the parties

Treatment of Below Market Term Loans

- Lender treated as having made a transfer to the borrower in an amount equal to the excess of the amount loaned over the present value of all payments due under the loan
  - Amount of excess is treated as OID
Demand Gift Loans

- Below market demand gift loans are treated in the same manner as other demand loans

Term Gift Loans

- Gift Tax Purposes –
  - Amount of the gift is determined under the rules for term loans

Term Gift Loans

- Income Tax Purposes –
  - Treatment determined under the demand loan rules
Gift Loan Under $100,000

- Amount of foregone interest will not exceed the borrower’s net investment income

  - If borrower’s net investment income is $1,000 or less, it is treated as being zero