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Prop. Reg. Section 1.7872-10

Other definitions

(a) "Term" and "demand" loans distinguished. For purposes of section 7872-

(1) Demand loan. Any loan which is payable in full at any time on the demand of the lender (or within a reasonable time after the lender's demand), is a "demand loan."

(2) Term loan. A loan is treated as a "term loan" if the loan agreement specifies an ascertainable period of time during which the loan is to be outstanding. For purposes of this rule, a period of time is treated as being ascertainable if the period may be determined actuarially. Thus, a loan agreement which provides that D loans E \$16,000 for E's life, will be treated as a term loan because the life expectancy of E may be determined actuarially.

(3) Acceleration and extension clauses. Acceleration clauses and similar provisions that would make a loan due before the time otherwise specified including provisions permitting prepayment of a loan or accelerating the maturity date on disposition of collateral ("due on sale" clauses) are disregarded for purposes of section 7872. Thus, a loan for a term of 15 years is a term loan for 15 years even if it is subject to acceleration upon some action of the borrower. If the loan agreement specifies an ascertainable period of time during which the loan is to be outstanding but contains an extension clause or similar provision that would make the loan due after the time otherwise specified, the loan is a term loan during the ascertainable period and a second demand or term loan thereafter; the classification of the second loan as term or demand depends upon the terms of the extension clause.

(4) Loans for a period of time not ascertainable. [Reserved]

(5) Certain loans conditioned on future services. For all purposes of section 7872 other than determining the applicable Federal rate (see §1.7872-3(b)), if the benefits of the interest arrangements of a term loan are not transferable by the individual borrower and are conditioned on the future performance of substantial services by the individual borrower (within the meaning of section 83), the loan is treated as a demand loan. All facts and circumstances must be examined to determine whether the future services to be performed are substantial.

(6) Revolving credit loans. For purposes of section 7872, an extension of credit by reason of the use of a credit card that is available to a broad segment of the general public is treated as a demand loan, and the provisions of section 7872 may apply if the loan is described in one of the categories set forth in §1.7872-4. The period during which the loan is outstanding begins on the first day on which a finance charge would be assessed if

payment of the outstanding balance is not made. For rules governing the computation of foregone interest for demand loans with variable balances, see §1.7872-13(c).

(b) [Reserved for further definitions as needed]