

Internal Revenue Code Section 7872(c)(3)(A)

Treatment of loans with below-market interest rates.

(c) Below-market loans to which section applies.

(1) In general. Except as otherwise provided in this subsection, and subsection (g), this section shall apply to—

(A) Gifts. Any below-market loan which is a gift loan.

(B) Compensation-related loans. Any below-market loan directly or indirectly between—

(i) an employer and an employee, or

(ii) an independent contractor and a person for whom such independent contractor provides services.

(C) Corporation-shareholder loans. Any below-market loan directly or indirectly between a corporation and any shareholder of such corporation.

(D) Tax avoidance loans. Any below-market loan 1 of the principal purposes of the interest arrangements of which is the avoidance of any Federal tax.

(E) Other below-market loans. To the extent provided in regulations, any below-market loan which is not described in subparagraph (A), (B), (C), or (F) if the interest arrangements of such loan have a significant effect on any Federal tax liability of the lender or the borrower.

(F) Loans to qualified continuing care facilities. Any loan to any qualified continuing care facility pursuant to a continuing care contract.

(2) \$10,000 de minimis exception for gift loans between individuals.

(A) In general. In the case of any gift loan directly between individuals, this section shall not apply to any day on which the aggregate outstanding amount of loans between such individuals does not exceed \$10,000.

(B) De minimis exception not to apply to loans attributable to acquisition of income-producing assets. Sub-paragraph (A) shall not apply to any gift loan directly attributable to the purchase or carrying of income-producing assets.

(C) Cross reference. For limitation on amount treated as interest where loans do not exceed \$100,000, see subsection (d)(1).

(3) \$10,000 de minimis exception for compensation-related and corporate-shareholder loans.



(A) In general. In the case of any loan described in subparagraph (B) or (C) of paragraph (1), this section shall not apply to any day on which the aggregate outstanding amount of loans between the borrower and lender does not exceed \$10,000.

(B) Exception not to apply where 1 of principal purposes is tax avoidance. Subparagraph (A) shall not apply to any loan the interest arrangements of which have as 1 of their principal purposes the avoidance of any Federal tax.

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