

Internal Revenue Code Section 7872(f)(2)


Treatment of loans with below-market interest rates.

(f) Other definitions and special rules. For purposes of this section—

(1) Present value. The present value of any payment shall be determined in the manner provided by regulations prescribed by the Secretary—

(A) as of the date of the loan, and

(B) by using a discount rate equal to the applicable Federal rate.

 (2) Applicable Federal rate.

(A) Term loans. In the case of any term loan, the applicable Federal rate shall be the applicable Federal rate in effect under section 1274(d) (as of the day on which the loan was made), compounded semiannually.

(B) Demand loans. In the case of a demand loan, the applicable Federal rate shall be the Federal short-term rate in effect under section 1274(d) for the period for which the amount of forgone interest is being determined, compounded semiannually.

(3) Gift loan. The term "gift loan" means any below-market loan where the forgoing of interest is in the nature of a gift.

(4) Amount loaned. The term "amount loaned" means the amount received by the borrower.

(5) Demand loan. The term "demand loan" means any loan which is payable in full at any time on the demand of the lender. Such term also includes (for purposes other than determining the applicable Federal rate under paragraph (2)) any loan if the benefits of the interest arrangements of such loan are not transferable and are conditioned on the future performance of substantial services by an individual. To the extent provided in regulations, such term also includes any loan with an indefinite maturity.

(6) Term loan. The term "term loan" means any loan which is not a demand loan.

(7) Husband and wife treated as 1 person. A husband and wife shall be treated as 1 person.

(8) Loans to which section 483, 643(i), or 1274 applies. This section shall not apply to any loan to which section 483, 643(i), or 1274 applies.

(9) No withholding. No amount shall be withheld under chapter 24 with respect to—

(A) any amount treated as transferred or retransferred under subsection (a), and

(B) any amount treated as received under subsection (b).

(10) Special rule for term loans. If this section applies to any term loan on any day, this section shall continue to apply to such loan notwithstanding paragraphs (2) and (3) of subsection (c). In the case of a gift loan, the preceding sentence shall only apply for purposes of chapter 12.

(11) Time for determining rate applicable to employee relocation loans.

(A) In general. In the case of any term loan made by an employer to an employee the proceeds of which are used by the employee to purchase a principal residence (within the meaning of section 121), the determination of the applicable Federal rate shall be made as of the date the written contract to purchase such residence was entered into.

(B) Paragraph only to apply to cases to which section 217 applies. Subparagraph (A) shall only apply to the purchase of a principal residence in connection with the commencement of work by an employee or a change in the principal place of work of an employee to which section 217 applies.

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