

Treas. Reg. § 1.864-5(c) (In determining its life insurance company taxable income from its U.S. business, the foreign corporation shall include all of its items of income from sources without the United States which would appropriately be taken into account in determining the life insurance company taxable income of a domestic corporation).

The Report of the House Committee on Ways & Means (the “House Report”) provides:

Your committee believes that foreign insurance companies—life insurance companies and other insurance companies, including both mutual and stock companies—should, in general, be taxed on their investment income in the same manner as other foreign corporations. For this reason, the bill provides that a foreign insurance corporation carrying on an insurance business within the United States is to be taxable in the same manner as domestic companies carrying on a similar business with respect to its income which is effectively connected with the conduct of a trade or business within the United States. . . . For purposes of determining whether or not income of a foreign life insurance company is effectively connected with the conduct of its U.S. life insurance business, the annual statement of its U.S. business on the form approved by the National Association of Insurance Commissioners will *usually* be followed. It is noted that *all* the income effectively connected with the foreign life insurance company’s U.S. life insurance business, from whatever source derived, comes within the ambit of this provision. This is a continuation of present law which subjects to U.S. tax all the income attributable to the U.S. life insurance business from whatever source derived.

H.R. Rep. No. 1450, 89th Cong., 2d Sess. 31, 32 (1966) (emphasis added); S. Rep. No. 1707, 89th Cong., 2d Sess. 38 (1966) (same).

The House Report also states that “[i]n determining for purposes of subchapter L whether a foreign corporation is carrying on an insurance business in the United States, and whether income is effectively connected with the conduct of a trade or business within the United States, section 864(b) and (c), as added by section 2(d) of the bill, shall apply.” House Report at 94.

Thus, the legislative history confirms that a foreign life insurance company applies the standards set forth in section 864(c) to determine the amount of its effectively connected income.

Accordingly, under section 842(a) and consistent with the accompanying legislative history, foreign insurance companies are taxed on their ECI. Section 864(c) does not contain specific rules for foreign insurance companies other than in section 864(c)(4)(C). Similarly, no specific rules were provided for foreign insurance companies in regulations issued under section 864 other than Treas. Reg. § 1.864-5(c). Neither section 842 or 864 provides that an insurance company determines its ECI solely based on its NAIC statements.

While the legislative history states that NAIC statements will *usually* be followed, the legislative history makes clear that section 864(c) shall determine whether income is ECI. Accordingly, income on assets such as the non-trusted assets of FC are not necessarily excluded from ECI merely because they do not appear on the NAIC statement.

Section 864(c)(2) and the regulations thereunder provide that due regard shall be given to whether or not an asset, income, gain, or loss was accounted for through the U.S. trade or business. Accordingly, in determining if the income, gain or loss from the non-trusted assets is ECI, due regard must be given to the fact that FC has accounted for such assets on the books of the U.S. branch.

HOLDING(S)

FC is taxable on any income effectively connected with its U.S. trade or business. For this purpose, ECI is determined under section 864(c) and the accompanying regulations. While due regard shall be given to the NAIC statement, such statement shall not be determinative of the amount of ECI. Further, due regard also must be given to the fact that FC has accounted for the non-trusted assets on the books of the U.S. branch.

DRAFTING INFORMATION

The principal author of this revenue ruling is Sheila Ramaswamy of the Office of Associate Chief Counsel (International). For further information regarding this revenue

ruling, contact Ms. Ramaswamy at (202) 622-3870.

Section 846.—Discounted Unpaid Losses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of February 2003. See Rev. Rul. 2003-16, page 401.

26 CFR 1.846-1: Application of discount factors.

The loss payment patterns and discount factors are set forth for the 2002 determination year. These factors will be used to compute discounted unpaid losses under section 846 of the Code. See Rev. Proc. 2003-17, page 427.

26 CFR 1.846-1: Application of discount factors.

The salvage discount factors are set forth for 2002. These factors must be used to compute discounted estimated salvage recoverable for purposes of section 832 of the Code. See Rev. Proc. 2003-18, page 439.

Section 864(c).—Definitions and Special Rules - Effectively Connected Income, etc.

Whether a foreign life insurance company carrying on an insurance business in the United States determines the amount of income effectively connected with its U.S. business under section 842(a) of the Code based exclusively on the amount of income reported by the business on its NAIC statement.

Section 1274.—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property

(Also sections 42, 280G, 382, 412, 467, 468, 482, 483, 642, 807, 846, 1288, 7520, 7872.)

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 1274, 1288, and other sections of the code, tables set forth the rates for January 2003.

Rev. Rul. 2003-16

This revenue ruling provides various prescribed rates for federal income tax pur-

poses for February 2003 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted

AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described in section 42(b)(2) for buildings placed in service during the

current month. Finally, Table 5 contains the federal rate for determining the present value of annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520.

REV. RUL. 2003-16 TABLE 1

Applicable Federal Rates (AFR) for February 2003

Period for Compounding

	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-Term</i>				
AFR	1.65%	1.64%	1.64%	1.63%
110% AFR	1.81%	1.80%	1.80%	1.79%
120% AFR	1.98%	1.97%	1.97%	1.96%
130% AFR	2.14%	2.13%	2.12%	2.12%
<i>Mid-Term</i>				
AFR	3.27%	3.24%	3.23%	3.22%
110% AFR	3.59%	3.56%	3.54%	3.53%
120% AFR	3.93%	3.89%	3.87%	3.86%
130% AFR	4.25%	4.21%	4.19%	4.17%
150% AFR	4.92%	4.86%	4.83%	4.81%
175% AFR	5.75%	5.67%	5.63%	5.60%
<i>Long-Term</i>				
AFR	4.85%	4.79%	4.76%	4.74%
110% AFR	5.34%	5.27%	5.24%	5.21%
120% AFR	5.83%	5.75%	5.71%	5.68%
130% AFR	6.33%	6.23%	6.18%	6.15%

REV. RUL. 2003-16 TABLE 2

Adjusted AFR for February 2003

Period for Compounding

	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	1.40%	1.40%	1.40%	1.40%
Mid-term adjusted AFR	2.84%	2.82%	2.81%	2.80%
Long-term adjusted AFR	4.56%	4.51%	4.48%	4.47%

REV. RUL. 2003-16 TABLE 3

Rates Under Section 382 for February 2003

Adjusted federal long-term rate for the current month	4.56%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	4.65%

REV. RUL. 2003-16 TABLE 4

Appropriate Percentages Under Section 42(b)(2)
for February 2003

Appropriate percentage for the 70% present value low-income housing credit	7.94%
Appropriate percentage for the 30% present value low-income housing credit	3.40%

REV. RUL. 2003-16 TABLE 5

Rate Under Section 7520 for February 2003

Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest	4.0%
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Section 1288.—Treatment of Original Issue Discounts on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of February 2003. See Rev. Rul. 2003-16, page 401.

Section 6050S.—Returns Relating to Higher Education Tuition and Related Expenses

26 CFR 1.6050S-1: Information reporting for qualified tuition and related expenses.

T.D. 9029

**DEPARTMENT OF THE
TREASURY
Internal Revenue Service
26 CFR Parts 1, 301, and
602**

Information Reporting for Qualified Tuition and Related Expenses; Magnetic Media Filing Requirements for Information Returns

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the information reporting requirements for qualified tuition and related expenses under section 6050S of the Internal Revenue Code, including rules prescribing when the required information returns must be filed on magnetic media. The final regulations reflect changes made to the law by the Taxpayer Relief Act of 1997 and the amendments made by the Internal Revenue Service Restructuring and Reform Act of 1998 and Public Law 107-131. These regulations provide guidance to eligible educational institutions that enroll any individual for any academic period. These regulations also pro-

vide guidance to insurers that make reimbursements or refunds of qualified tuition and related expenses.

DATES: *Effective Date:* These regulations are effective December 19, 2002.

Applicability Date: For dates of applicability, see § 1.6050S-1(f) and § 301.6011-2(g)(3).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Tonya Christianson, (202) 622-4910; and concerning the magnetic media filing specifications, waivers for filing on magnetic media, and extensions of time, contact the IRS, Martinsburg Computing Center, (304) 263-8700 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:
Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545-1678.