

For a list of bond factor amounts applicable to dispositions occurring during other calendar years, see: Rev. Rul. 98-3, 1998-1 C.B. 248; Rev. Rul. 2001-2, 2001-1 C.B. 255; Rev. Rul. 2001-53, 2001-2 C.B. 488; Rev. Rul. 2002-72, 2002-2 C.B. 759; Rev. Rul. 2003-117, 2003-2 C.B. 1051; and Rev. Rul. 2004-100, 2004-44 I.R.B. 718.

#### DRAFTING INFORMATION

The principal author of this revenue ruling is David McDonnell of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling, contact Mr. McDonnell at (202) 622-3040 (not a toll-free call).

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### Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of January 2005. See Rev. Rul. 2005-2, page 259.

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### Section 382.—Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change

The adjusted applicable federal long-term rate is set forth for the month of January 2005. See Rev. Rul. 2005-2, page 259.

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### Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2005. See Rev. Rul. 2005-2, page 259.

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### Section 467.—Certain Payments for the Use of Property or Services

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2005. See Rev. Rul. 2005-2, page 259.

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### Section 468.—Special Rules for Mining and Solid Waste Reclamation and Closing Costs

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2005. See Rev. Rul. 2005-2, page 259.

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### Section 482.—Allocation of Income and Deductions Among Taxpayers

Federal short-term, mid-term, and long-term rates are set forth for the month of January 2005. See Rev. Rul. 2005-2, page 259.

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### Section 483.—Interest on Certain Deferred Payments

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2005. See Rev. Rul. 2005-2, page 259.

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### Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of January 2005. See Rev. Rul. 2005-2, page 259.

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### Section 807.—Rules for Certain Reserves

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2005. See Rev. Rul. 2005-2, page 259.

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### 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 January 2005. See Rev. Rul. 2005-2, page 259.

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### 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, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for January 2005.

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### Rev. Rul. 2005-2

This revenue ruling provides various prescribed rates for federal income tax purposes for January 2005 (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. Table 5 contains the federal rate for determining the present value of an annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520. Finally, Table 6 contains the deemed rate of return for transfers made during calendar year 2005 to pooled income funds described in §642(c)(5) that have been in existence for less than 3 taxable years immediately preceding the taxable year in which the transfer was made.

REV. RUL. 2005-2 TABLE 1  
Applicable Federal Rates (AFR) for January 2005

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	2.78%	2.76%	2.75%	2.74%
110% AFR	3.06%	3.04%	3.03%	3.02%
120% AFR	3.34%	3.31%	3.30%	3.29%
130% AFR	3.62%	3.59%	3.57%	3.56%
<i>Mid-term</i>				
AFR	3.76%	3.73%	3.71%	3.70%
110% AFR	4.14%	4.10%	4.08%	4.07%
120% AFR	4.53%	4.48%	4.46%	4.44%
130% AFR	4.91%	4.85%	4.82%	4.80%
150% AFR	5.68%	5.60%	5.56%	5.54%
175% AFR	6.64%	6.53%	6.48%	6.44%
<i>Long-term</i>				
AFR	4.76%	4.70%	4.67%	4.65%
110% AFR	5.24%	5.17%	5.14%	5.12%
120% AFR	5.72%	5.64%	5.60%	5.57%
130% AFR	6.20%	6.11%	6.06%	6.03%

REV. RUL. 2005-2 TABLE 2  
Adjusted AFR for January 2005

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	2.01%	2.00%	2.00%	1.99%
Mid-term adjusted AFR	2.97%	2.95%	2.94%	2.93%
Long-term adjusted AFR	4.27%	4.23%	4.21%	4.19%

REV. RUL. 2005-2 TABLE 3  
Rates Under Section 382 for January 2005

Adjusted federal long-term rate for the current month	4.27%
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.)	4.27%

REV. RUL. 2005-2 TABLE 4  
Appropriate Percentages Under Section 42(b)(2) for January 2005

Appropriate percentage for the 70% present value low-income housing credit	7.99%
Appropriate percentage for the 30% present value low-income housing credit	3.42%

REV. RUL. 2005-2 TABLE 5

Rate Under Section 7520 for January 2005

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

4.60%

REV. RUL. 2005-2 TABLE 6

Deemed Rate for Transfers to New Pooled Income Funds During 2005

Deemed rate of return for transfers during 2005 to pooled income funds that have been in existence for less than 3 taxable years

4.0%

## Section 1288.—Treatment of Original Issue Discount on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2005. See Rev. Rul. 2005-2, page 259.

## Section 3121.—Definitions

26 CFR 31.3121(b)(10)-2: *Services performed by certain students in the employ of a school, college, or university, or of a nonprofit organization auxiliary to a school, college, or university.*

### T.D. 9167

## DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 31

### Student FICA Exception

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final Regulation.

SUMMARY: This document contains final regulations providing guidance regarding the employment tax exceptions for student services. These regulations affect schools, colleges, and universities and their employees.

DATES: *Effective Date:* December 21, 2004.

*Applicability Date:* These regulations are applicable for services performed on or after April 1, 2005.

FOR FURTHER INFORMATION CONTACT: John Richards of the Office of Associate Chief Counsel (Tax Exempt and Government Entities), (202) 622-6040 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

#### Background

This document contains amendments to 26 CFR part 31 under sections 3121(b)(10) and 3306(c)(10)(B) of the Internal Revenue Code (Code). These sections except from “employment” for Federal Insurance Contributions Act (FICA) and Federal Unemployment Tax Act (FUTA) purposes, respectively, service performed in the employ of a school, college, or university by a student who is enrolled and regularly attending classes at such school, college, or university. In addition, this document contains amendments to 26 CFR part 31 under section 3121(b)(2). This section excepts from employment for FICA purposes domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending cases at a school, college, or university.

Proposed regulations under sections 3121(b)(2), 3121(b)(10), and 3306(c)(10)(B) were published in the **Federal Register** on February 25, 2004 (REG-156421-03, 2004-10 I.R.B. 571 [69 FR 8604]). Written and electronic comments responding to the notice of proposed rulemaking were received. A public hearing was held on June 16, 2004. After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury decision. The revisions are discussed below.

#### Explanation of Provisions and Summary of Comments

The final regulations provide rules for determining whether an organization is a school, college, or university (SCU) and whether an employee is a student for purposes of sections 3121(b)(10), 3121(b)(2), and 3306(c)(10)(B) of the Code. Many comments were received on the proposed regulations and several witnesses testified at the hearing which was held June 16, 2004. After consideration of the comments and testimony, the Treasury department and the IRS decided to make several significant changes described below.

##### 1. School, College, or University

The exceptions from employment for student services apply only if the employee is a student enrolled and regularly attending classes at a SCU. Under the proposed regulations, whether an organization is a SCU is determined with reference to the organization’s primary function. An organization whose primary function is to carry on educational activities qualifies as a SCU for purposes of the student exceptions from employment.

A few commentators suggested that an organization, such as a teaching hospital, that has embedded within it a division or function that carries on educational activities should be treated as a SCU for purposes of the student exceptions from employment.

The final regulations retain the primary function standard as described in the proposed regulations. As discussed in the preamble to the proposed regulations, the primary function standard is based upon the existing statutory and regulatory language under section 3121(b)(10), as well as the