

arrive at a purchase price for a new car. The ruling holds that the rebates reduce the purchase price of the cars and are not includible in the retail customer's gross income. The ruling further holds that the manufacturer may deduct the rebates as ordinary and necessary business expenses under § 162.

The Medicaid Rebate is paid by *M* to *S* pursuant to the terms of the rebate agreement. Under the purpose and intent test of *Pittsburgh Milk*, the Medicaid Rebate is made with the purpose and intent of reaching an agreed upon net selling price, and is negotiated and agreed to before the sale to *W* takes place.

#### HOLDING

Medicaid Rebates incurred by a pharmaceutical manufacturer are purchase price adjustments that are subtracted from gross receipts in determining gross income.

#### EFFECT ON OTHER DOCUMENTS

Rev. Rul. 76-96 is suspended in part. Whether a rebate of the type described in Rev. Rul. 76-96 is an ordinary and necessary business expense or, alternatively, is a reduction of gross receipts in determining gross income, is an issue under reconsideration. Accordingly, the conclusion of Rev. Rul. 76-96 that rebates made by the manufacturer are ordinary and necessary business expenses deductible under § 162 is suspended pending the Service's reconsideration of the issue and publication of subsequent guidance. Therefore, the Service will not apply, and taxpayers may not rely on, this conclusion while it is being reconsidered.

#### DRAFTING INFORMATION

The principal author of this revenue ruling is Susie K. Bird of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue ruling, contact Ms. Bird at (202) 622-4950 (not a toll-free call).

## Section 162.—Trade or Business Expenses

26 CFR 1.162-1: Business expenses.

Medicaid rebates incurred by a pharmaceutical manufacturer are not ordinary and necessary business expenses deductible from gross income under § 162 but are purchase price adjustments that are subtracted from gross receipts in determining gross income. See Rev. Rul. 2005-28, page 997.

## Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of May 2005. See Rev. Rul. 2005-27, page 998.

## 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 May 2005. See Rev. Rul. 2005-27, page 998.

## Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2005. See Rev. Rul. 2005-27, page 998.

## 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 May 2005. See Rev. Rul. 2005-27, page 998.

## 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 May 2005. See Rev. Rul. 2005-27, page 998.

## 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 May 2005. See Rev. Rul. 2005-27, page 998.

## 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 May 2005. See Rev. Rul. 2005-27, page 998.

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

Federal short-term, mid-term, and long-term rates are set forth for the month of May 2005. See Rev. Rul. 2005-27, page 998.

## 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 May 2005. See Rev. Rul. 2005-27, page 998.

## 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 May 2005. See Rev. Rul. 2005-27, page 998.

## 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 May 2005.

## Rev. Rul. 2005-27

This revenue ruling provides various prescribed rates for federal income tax purposes for May 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. Finally, 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.

REV. RUL. 2005-27 TABLE 1				
Applicable Federal Rates (AFR) for May 2005				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	3.54%	3.51%	3.49%	3.48%
110% AFR	3.90%	3.86%	3.84%	3.83%
120% AFR	4.25%	4.21%	4.19%	4.17%
130% AFR	4.61%	4.56%	4.53%	4.52%
<i>Mid-term</i>				
AFR	4.28%	4.24%	4.22%	4.20%
110% AFR	4.71%	4.66%	4.63%	4.62%
120% AFR	5.15%	5.09%	5.06%	5.04%
130% AFR	5.59%	5.51%	5.47%	5.45%
150% AFR	6.46%	6.36%	6.31%	6.28%
175% AFR	7.56%	7.42%	7.35%	7.31%
<i>Long-term</i>				
AFR	4.83%	4.77%	4.74%	4.72%
110% AFR	5.32%	5.25%	5.22%	5.19%
120% AFR	5.80%	5.72%	5.68%	5.65%
130% AFR	6.30%	6.20%	6.15%	6.12%

REV. RUL. 2005-27 TABLE 2				
Adjusted AFR for May 2005				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term adjusted</i>				
AFR	2.61%	2.59%	2.58%	2.58%
<i>Mid-term adjusted AFR</i>				
	3.29%	3.26%	3.25%	3.24%
<i>Long-term adjusted</i>				
AFR	4.37%	4.32%	4.30%	4.28%

REV. RUL. 2005-27 TABLE 3	
Rates Under Section 382 for May 2005	
Adjusted federal long-term rate for the current month	4.37%
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.)	4.37%

REV. RUL. 2005-27 TABLE 4

Appropriate Percentages Under Section 42(b)(2) for May 2005

Appropriate percentage for the 70% present value low-income housing credit	8.06%
Appropriate percentage for the 30% present value low-income housing credit	3.45%

REV. RUL. 2005-27 TABLE 5

Rate Under Section 7520 for May 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	5.2%
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## 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 May 2005. See Rev. Rul. 2005-27, page 998.

## Section 3402.—Income Tax Collected at Source

26 CFR 31.3402(f)(2)-1: *Withholding exemption certificates.*

### T.D. 9196

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

### Withholding Exemptions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains regulations providing guidance under section 3402(f) of the Internal Revenue Code (Code) for employers and employees relating to the Form W-4, “Employee’s Withholding Allowance Certificate.” These regulations provide rules for the submission of copies of certain withholding exemption certificates to the IRS, the notification provided to the employer and the employee of the maximum number of withholding exemptions permitted, and the use of substitute forms. The text

of the temporary regulations also serves as the text of the proposed regulations (REG-162813-04) set forth in the notice of proposed rulemaking on this subject in this issue of the Bulletin. The amendments to the final regulations provide cross-references to the temporary regulations.

DATES: These regulations are effective April 14, 2005.

FOR FURTHER INFORMATION CONTACT: Margaret A. Owens, (202) 622-0047 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

#### Paperwork Reduction Act

These regulations do not impose any new information collection. The Office of Management and Budget (OMB) previously approved the information collection requirements concerning Form W-4 contained in the regulation under section 6001 (§31.6001-5; OMB Control No. 1545-0798) and in the regulation under section 3402 (§31.3402(f)(2)-1; OMB Control No. 1545-0010) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

#### Background

Under section 3402(f)(2)(A), every employee is required to furnish his or her employer with a signed withholding exemption certificate on or before commencing employment. Regulations prescribe

the form of the certificate as the Form W-4. The maximum number of withholding exemptions to which an employee is entitled depends upon the employee’s marital status, the employee’s filing status, the number of the employee’s dependents, the number of exemptions claimed by the employee’s spouse (if any) on a Form W-4, and the amount of the employee’s estimated itemized deductions, tax credits, and certain other deductions from income. A Form W-4 may be in either paper or electronic form.

Section 31.3402(f)(2)-1(g) of the existing regulations requires employers to submit copies of certain questionable Forms W-4 to the IRS. Employers must submit a copy of each Form W-4 on which an employee claims more than 10 withholding exemptions. Employers must also submit a copy of each Form W-4 on which the employee claims a complete exemption from withholding for the taxable year if the employer reasonably expects, when the Form W-4 is received, that the employee’s wages from that employer will usually be \$200 or more per week.

In addition, the existing regulations provide that, upon written request from the IRS, employers are required to submit to the IRS copies of withholding exemption certificates which are received from employees or groups of employees identified by the IRS in the written request.

The existing regulations provide that the IRS may notify an employer that a named employee is not entitled to claim a complete exemption from withholding and is not entitled to claim a total number of withholding exemptions more than the maximum number specified by the IRS in the notice. The IRS will issue such notice if the IRS finds that the withholding