

designed and installed to ensure that the operations, and operational capabilities of these systems to perform critical functions, are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

2. For the purpose of these special conditions, the following definition applies: Critical Functions: Functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Kansas City, Missouri, on February 27, 2002.

**James E. Jackson,**

*Acting Manager, Small Airplane Directorate,  
Aircraft Certification Service.*

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**BILLING CODE 4910-13-P**

## **SOCIAL SECURITY ADMINISTRATION**

### **20 CFR Part 416**

**RIN 0960-AF60**

#### **Determining Income Under the Supplemental Security Income Program; Student Child Earned Income Exclusion**

**AGENCY:** Social Security Administration.

**ACTION:** Final rule.

**SUMMARY:** We are revising our rules on deeming of income so that we use the same increased earned income exclusion amounts for both eligible and ineligible students in Supplemental Security Income (SSI) households. Beginning with earned income for January 2001, the monthly and yearly SSI student child earned income exclusion (SEIE) amounts were increased for eligible children based on final rules published in the **Federal Register** on December 29, 2000. The same increase should have been made for ineligible children for purposes of deeming calculations, but it was inadvertently not included in the published final rules. Under SSA's longstanding rule, the same SEIE amounts have applied to the income of both eligible and ineligible children. Consistent with the increase made in the final rules published December 29, 2000, this final rule applies the same increase in the SEIE to ineligible children.

**EFFECTIVE DATE:** This rule is effective on March 12, 2002.

**FOR FURTHER INFORMATION CONTACT:** Georgia E. Myers, Regulations Officer, Office of Process and Innovation Management, L2109 West Low Rise

Building, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, [regulations@ssa.gov](mailto:regulations@ssa.gov), (410) 965-3632 or TTY (410) 966-5609 for information about these rules. For information on eligibility or claiming benefits, call our national toll-free numbers, 1-800-772-1213 or TTY 1-800-325-0778 or visit our Internet web site, Social Security Online, at <http://www.ssa.gov>.

#### **Electronic Version**

The electronic file of this document is available on the date of publication in the **Federal Register** on the Internet site for the Government Printing Office: [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html). It is also available on the Internet site for SSA (i.e., Social Security Online): <http://www.ssa.gov/regulations/>. Electronic copies of public comments may also be found on this site.

**SUPPLEMENTARY INFORMATION:** Section 1612 of the Social Security Act (the Act) describes the meaning of "income" for purposes of the SSI program. This section also explains what is excluded from income. Section 1612(b)(1) provides an exclusion from earned income for a child who is a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare for gainful employment. The section also provides that the Commissioner may prescribe the maximum amount of the exclusion. Prior to January 2001, regulations at §§ 416.1112(c)(3) and 416.1161(c) provided, for a child who is a student, an SEIE of up to \$400 a month of earned income with an annual limit of \$1,620.

If an SSI eligible individual lives in the same household with a parent or spouse who does not receive SSI benefits (hereafter referred to as an "ineligible parent" or "ineligible spouse"), the ineligible parent's or spouse's income may be considered available (deemed) to the eligible individual. This concept is called "deeming" and is provided for in section 1614 of the Act. In determining the amount of an ineligible parent's or spouse's income to consider in determining the individual's eligibility and benefit amounts, we deduct an allocation for other children living in the household who are not eligible for SSI benefits (hereafter referred to as "ineligible children") (see § 416.1160(c)(2)). We reduce the amount of this allocation by the amount of the ineligible child's own income (see § 416.1161(c)). However, if an ineligible child is a student who is working, his

or her earned income is reduced by the amount of the SEIE exclusion before that income is used to reduce the amount of the allocation.

On December 29, 2000, we published final rules in the **Federal Register** (65 FR 82905) to, among other things, revise § 416.1112(c)(3) of our regulations. Effective for earned income beginning in January 2001, these revisions increased the maximum monthly and yearly SEIE amounts used in determining SSI eligibility and payment amounts for student children, and provided for the automatic adjustment of the monthly and yearly exclusion amounts each year based on increases in the cost of living. Under our longstanding rules, the SEIE maximum exclusion amounts have been the same for ineligible children as for eligible children. However, the new rules applied the new exclusion amounts to eligible children but inadvertently did not include ineligible children for deeming calculation purposes. The preamble to those rules noted that the prior amounts had been in place since 1974, and stated that the change in these amounts was being made in response to increases in school expenses since that time. The rationale for this increase is equally applicable to ineligible student children as for eligible student children.

This final rule amends the regulations to apply the same increase in the SEIE amounts to ineligible children as for eligible children. We are now addressing the oversight noted above in order to be consistent with our longstanding policy of having the same SEIE amounts for both eligible and ineligible children and with the regulatory increase in the SEIE amounts already made for eligible children. This final rule therefore amends § 416.1161(c) to provide a cross-reference to the eligible child regulation in § 416.1112(c)(3) that provides for a SEIE in 2001 of up to \$1,290 a month with an annual limit of \$5,200, and automatic adjustments each subsequent year as provided in that section. These amounts have increased for calendar year 2002 to \$1,320 and \$5,340, respectively.

The effects of this rule change are most easily understood by considering an example. John, an ineligible student, lives with his mother and his SSI eligible brother, Mark. In June, July and August of 2002, John earns \$750 each month to defray his school expenses in the fall. His mother also works and her earnings are deemed to Mark. As part of the deeming computation we deduct from the mother's earnings a living allowance allocation of \$272 each month for John subject to reduction for

his own income after application of the SEIE. *Under the prior rule:* The maximum monthly SEIE amount of \$400 would be subtracted from John's earnings (\$750 - \$400 = \$350), and \$350 would be considered in reducing the living allowance of ineligible student. Since \$350 is more than the \$272 allocation, there would be no deduction from the mother's earnings of a living allowance allocation for John. *Under the new rule:* The maximum monthly SEIE amount of \$1,320 exceeds John's monthly earnings of \$750. Therefore, the SEIE would apply to all of John's earnings, and none of those earnings would reduce the living allowance allocation for John. Therefore, a living allowance allocation of \$272 each month would be deducted from the amount of the mother's earnings deemed to Mark.

### Regulatory Procedures

Pursuant to section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures in this case. Good cause exists because this rule merely adapts the rules for the SEIE that have always been reflected in our regulations for both eligible and ineligible student children in order to continue SSA's longstanding policy of having the same exclusion amounts apply to both eligible and ineligible children. This final rule contains no substantive changes of interpretation. Therefore, opportunity for prior comment is unnecessary, and we are issuing this as a final rule.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, provided for by 5 U.S.C. 553(d). As explained above, we are not making any substantive changes in the SEIE provision. However, without these changes, our rules will conflict and may mislead the public. Therefore, we find that it is in the public interest to make this rule effective upon publication.

### Executive Order 12866

The Office of Management and Budget (OMB) has reviewed this final rule in

accordance with Executive Order (E.O.) 12866.

### Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

### Paperwork Reduction Act

This final rule does not contain reporting or recordkeeping requirements that require OMB review.

(Catalog of Federal Domestic Assistance Program No. 96.006, Supplemental Security Income)

### List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public Assistance programs, reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: February 26, 2002.

Jo Anne B. Barnhart,

Commissioner of Social Security.

For the reasons set out in the preamble, we are amending part 416 of Chapter III of title 20 of the Code of Federal Regulations as follows:

### PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

#### Subpart K—[Amended]

1. The authority citation for Subpart K of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93-66, 87 Stat. 154 (42 U.S.C. 1382 note).

2. Revise the last sentence of § 416.1161(c) to read as follows:

**§ 416.1161 Income of an ineligible spouse, ineligible parent, and essential person for deeming purposes.**

\* \* \* \* \*

(c) \* \* \* In addition, if the ineligible child is a student (see § 416.1861), we exclude his/her earned income subject to the amounts set in § 416.1112(c)(3).

\* \* \* \* \*

[FR Doc. 02-5858 Filed 3-11-02; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Parts 1 and 602

[TD 8984]

RIN 1545-BA51

### Loss Limitation Rules

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final and temporary regulations.

**SUMMARY:** This document contains regulations under sections 337(d) and 1502. These regulations permit certain losses recognized on sales of subsidiary stock by members of a consolidated group. These regulations apply to corporations filing consolidated returns, both during and after the period of affiliation, and also affect purchasers of the stock of members of a consolidated group. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

**DATES:** *Effective Date:* These regulations are effective March 7, 2002.

*Applicability Date:* For dates of applicability, see §§ 1.337(d)-2T(g), 1.1502-20T(i) and 1.1502-32T(b)(4)(v).

**FOR FURTHER INFORMATION CONTACT:** Sean P. Duffley (202) 622-7530 or Lola L. Johnson (202) 622-7550 (not toll-free numbers).

### SUPPLEMENTARY INFORMATION:

#### Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545-1774. Responses to this collection of information are voluntary.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden,