[4830-01-u]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8821]

RIN 1545-AN54

Group-Term Insurance; Uniform Premiums

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations revising the uniform premium table used to calculate the cost of group-term life insurance coverage provided to an employee by an employer. These regulations provide guidance to employers who provide group-term life insurance coverage to their employees that is includible in the gross income of the employees.

DATES: Effective Date: These regulations are effective July 1, 1999.

Applicability Date: For the applicability of these regulations to group-term life insurance coverage, see §1.79-3(e)

FOR FURTHER INFORMATION CONTACT: Betty J. Clary, (202) 622-6070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations under section 79 of the Internal Revenue Code. These regulations revise the uniform premiums used to calculate the cost of group-term life insurance provided to employees. The revised uniform premiums are effective generally on July 1, 1999. However, employers have until the last pay period of 1999 to make any needed adjustments of amounts withheld for purposes of the FICA. Further, an employer may continue using only 10 age-brackets for making its calculations until January 1, 2000. A special effective date applies to a policy of life insurance issued under a plan in existence on June 30, 1999, if the policy would not be treated as carried directly or indirectly by an employer under §1.79-0 of the Income Tax Regulations using the section 79 uniform premium table in effect on June 30, 1999. If this is the case, the employer may continue using such table for determining if the policy is carried directly or indirectly by an employer until January 1, 2003.

Section 79 generally permits an employee to exclude from gross income the cost of $50,000 of group-term life insurance carried directly or indirectly by an employer. The remaining cost of the group-term life insurance is included in the employee's gross income to the extent it exceeds the amount, if any, paid by the employee for the coverage. Income imputed under section 79 is not subject to Federal income tax withholding. However, it is subject to FICA tax and, for active employees, an employer is required to withhold the FICA tax at least once a year. Also, the amount of the income imputed under section 79 is reported on an employee's Form W-2.

Section 79 provides for the cost of the group-term life insurance to be determined on the basis of five-year age brackets prescribed by regulations. Those costs are set forth in the regulations in Table I entitled "Uniform Premiums for $1,000 of Group-term Life Insurance Protection." §1.79-3(d)(2). The group-term life insurance costs are calculated on a calendar month basis. §1.79-3 (a) through (c).

Table I was initially published on July 6, 1966 (31 F R 9199), and was revised on December 6, 1983 (48 F R 54595). In a notice of proposed rulemaking (REG 209103-89) published in the **Federal Register** (64 FR 2164) on January 13, 1999, the IRS and Treasury proposed revising the Table I rates, effective July 1, 1999. The uniform premiums under the proposed table were lower in all age groups than those under the then-current section 79 regulations.[1] The proposed table also added a new age bracket to the table for ages under 25. A special effective date was proposed solely for purposes of determining whether a policy is carried directly or indirectly by the employer.

Explanation of Provisions

Uniform Premium Table

The IRS received 26 written comments concerning the proposed regulations. No commentator suggested changes to the proposed uniform premium table. The final regulations reflect the uniform premium table that was set forth in the

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[1]The revised uniform premiums are based on mortality experience for individuals covered by group-term life insurance during the 1985-1989 period, as reflected in a Society of Actuaries report. The mortality rates have been adjusted for improvements in mortality from 1988 (the weighted midpoint for the data used in the1985-89 study) through 2000, based on the same rates of mortality improvement that were adopted by the Society of Actuaries Group Annuity Valuation Table Task Force for the period 1988-1994. Separate mortality rates have been derived for males and females, and the uniform premium table reflects a 50/50 blend of the male and female mortality rates. The resulting mortality projections have been adjusted to reflect a 10 percent load factor.

proposed regulations.

General Effective Date

Many of the comments received by the IRS discussed the proposed effective date for the uniform premium rates. Some commentators agreed with the proposed effective date of July 1, 1999. Many of the commentators asked that the effective date be made retroactive to January 1, 1999. A few of the commentators requested that it be postponed, generally until January 1, 2000. Some commentators suggested that each employer should be allowed to decide the effective date for its employees, within a limited period of time set by the IRS . Some commentators requested that the effective date of the revised Table I be the first payroll period beginning on or after July 1, 1999.

Those advocating a January 1, 1999 effective date expressed the view that employees should get the benefit of the lower Table I rates for the entire year. In their opinion, additional administrative costs, if any, for implementing revised rates retroactively, rather than July 1, 1999, would be minimal. Some commentators observed that the use of a January 1 effective date would permit the use of a single set of Table I rates for the entire year, rather than a bifurcated rate for 1999. However, there was no consensus as to whether this factor suggests using an effective date of January 1, 1999 or (as discussed below) January 1, 2000.

Some commentators suggested a January 1, 2000 effective date on account of resource constraints resulting from year 2000 compliance. One of the commentators also observed that many payroll systems are now “hard coded” for making group-term calculations using only 10 age brackets, and that the additional age bracket (for ages under 25) in the revised Table I would make it more difficult to modify those payroll systems by July 1, 1999. In the public hearing that was held on the proposed regulations on May 6, 1999, the sole speaker reiterated its written comment in which it requested that the effective date be postponed, generally until January 1, 2000, and indicated that a change in the proposed regulations to not mandate use of the “Under 25" age bracket would significantly reduce the administrative burden of a July 1, 1999 effective date.

The IRS and Treasury continue to believe that an effective date of July 1, 1999 provides the best way to balance the ability of employees to obtain the tax benefits of the lower Table I rates with the concerns expressed by some commentators about modifying payroll systems. As stated previously, income imputed under section 79 is not subject to Federal income tax withholding. Further, while it must be reported on Form W-2 and it is subject to FICA tax withholding, changes to payroll systems are not required to be effectuated by the July 1, 1999 effective date.

Specifically, Notice 88-82 (1988-2 C.B. 398), “Reporting FICA Taxes on Group-Term Life Insurance,” explains that an employer may treat the imputed income amounts as paid either by the pay period, by the quarter, or on any other basis so long as the payments are treated as paid at least as often as once a year. The employer need not inform the IRS of a formal choice of payment dates or the dates chosen. Furthermore, the same choice need not be made for all employees. The employer may change methods at any time, so long as all imputed income amounts includible in a calendar year are treated as paid by December 31 of the calendar year. Notice 88-82, therefore, permits those employers currently withholding the FICA taxes on a pay period basis to either (1) change methods to treat the Table I amounts includible in income after July 1, 1999 as paid on December 31, 1999, or (2) continue to withhold using the old Table I rates, so long as adjustments for the post-July 1, 1999 FICA withholding amounts are made by the last pay period for 1999.

Accordingly, the regulations provide that the revised Table I rates are effective, generally, on July 1, 1999. However, in order to further minimize the administrative burden of a July 1, 1999 effective date, the regulations allow employers to continue using 10 age brackets until January 1, 2000, thereby eliminating the need for "hard coded" systems to be modified during 1999 to include the "Under 25" age bracket.

Special Effective Date

Several comments were received on the topic of the effective date for purposes of determining whether, for purposes of section 79, a policy is carried directly or indirectly by the employer. A policy is considered carried directly or indirectly by the employer if (a) the employer pays any part of the life insurance, or (b) the employer arranges for payment of the cost of the life insurance by its employees and charges at least one employee less than the cost of his or her insurance (as determined under Table I) and at least one other employee more than his or her insurance (as determined under Table I). §1.79-0.

The IRS and Treasury recognize that the premiums charged to employees under some employee-pay-all plans may involve premiums charged to employees that are all at or below the uniform premium rates prior to the revision of Table I. Because the revised Table I rates are lower than the rates under the prior table, it is likely that the premiums charged under some of those policies will now straddle the new rates. As a result, the life insurance provided under those policies will become subject to section 79. The notice of proposed rulemaking proposed a special effective date rule to apply to any policy of life insurance issued under a plan in existence before the general July 1, 1999 effective date. Under the special rule, if a policy would not be treated as carried directly or indirectly by an employer using the Table I rates in effect on June 30, 1999, the policy would continue to be treated as not carried directly or indirectly by the employer until the first plan year that begins after the general effective date.

Several comments received about the proposed special rule support the use of a special effective date for the purpose of determining whether a policy is carried directly or indirectly by the employer. However, most of those comments requested that the special rule be extended under certain identified circumstances. One commentator favored extending the special effective date for group-term coverage provided under a collectively bargained agreement. The commentator noted that collectively bargained plans may not be able to adjust rates within the time period of the proposed special rule because rate changes would require a substantive change to benefits in the middle of a contract. Two commentators suggested that the special effective date for a plan with a multi-year guarantee be extended until the end of the last plan year covered by the guarantee. Others suggested that the revised Table I rates not be effective for purposes of determining if the plan is carried directly or indirectly by the employer until there is a change in a plan's premium rates. Another comment addressed an issue under the definition of carried directly or indirectly by the employer different from the special effective date issue. The comment suggested that a policy not be treated as carried directly or indirectly by the employer if the policy charges employees actuarially determined, age-specific premium rates, rather than the rates in the five-year age brackets in Table I.

The IRS and Treasury agree that some additional time should be given to employee-pay-all plans that would previously not be subject to section 79. Accordingly, the final regulations provide a special rule under which, until January 1, 2003, an employer can use either the Table I rates in effect on June 30, 1999 or the new Table I rates in the final regulation for determining if a plan in existence on June 30, 1999 is carried directly or indirectly by the employer.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Betty J. Clary, Office of Associate Chief Counsel (Employee Benefits and Exempt Organizations), IRS. Other personnel from the IRS and the Treasury Department also participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1–INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In §1.79-1, paragraph (d)(7) is revised to read as follows:

<u>§1.79-1 Group-term life insurance–general rules.</u>

* * * * *

(d) * * *

(7) <u>Example</u>. The provisions of this paragraph may be illustrated by the following example:

<u>Example</u>. An employer provides insurance to employee A under a policy that meets the requirements of this section. Under the policy, A, who is 47 years old, received $70,000 of group-term life insurance and elects to receive a permanent benefit under the policy. A pays $2 for each $1,000 of group-term life insurance through payroll deductions and the employer pays the remainder of the premium for the group-term life insurance. The employer also pays one half of the premium specified in the policy for the permanent benefit. A pays the other half of the premium for the permanent benefit through payroll deductions. The policy specifies that the annual premium paid for the permanent benefit is $300. However, the amount of premium

allocated to the permanent benefit by the formula in paragraph (d)(2) of this section is $350. A is a calendar year taxpayer; the policy year begins January 1. In year 2000, $200 is includible in A's income because of insurance provided by the employer. This amount is computed as follows:

(1) Cost of permanent benefits	$350
(2) Amounts considered paid by A for permanent benefits (½ x $300)...............	150
(3) Line (1) minus line (2)...	200
(4) Cost of $70,000 of group-term life insurance under Table I of §1.79-3..........	126
(5) Cost of $50,000 of group-term life insurance under Table I of §1.79-3...........	90
(6) Cost of group-term insurance in excess of $50,000 (line (4) minus line(5))	36
(7) Amount considered paid by A for group-term life insurance (70 x $2)............	140
(8) Line (6) minus line (7) (but not less than 0)..	0
(9) Amount includible in income (line (3) plus line (8))...	200

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Par. 3. Section 1.79-3 is amended as follows:

1. Paragraph (d)(2) is revised.

2. Paragraphs (e) and (f) are redesignated as paragraphs (f) and (g), respectively.

3. New paragraph (e) is added.

The revision and addition read as follows:

<u>§1.79-3 Determination of amount equal to cost of group-term life insurance.</u>

* * * * *

(d) * * *

(2) For the cost of group-term life insurance provided after June 30, 1999, the following table sets forth the cost of $1,000 of group-term life insurance provided for one month, computed on the basis of 5-year age brackets. See 26 CFR 1.79-3(d)(2) in

effect prior to July 1, 1999, and contained in the 26 CFR part 1 edition revised as of April 1, 1999, for a table setting forth the cost of group-term life insurance provided before July 1, 1999. For purposes of Table I, the age of the employee is the employee's attained age on the last day of the employee's taxable year.

TABLE I. – UNIFORM PREMIUMS FOR $1,000 OF GROUP-TERM LIFE INSURANCE PROTECTION

5-year age bracket	Cost per $1,000 of protection for one month
Under 25	$0.05
25 to 29	.06
30 to 34	.08
35 to 39	.09
40 to 44	.10
45 to 49	.15
50 to 54	.23
55 to 59	.43
60 to 64	.66
65 to 69	1.27
70 and above	2.06

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(e) Effective date -- (1) General effective date for table. Except as provided in paragraph (e)(2) of this section, the table in paragraph (d)(2) of this section is applicable July 1, 1999. Until January 1, 2000, an employer may calculate imputed income for all its employees under age 30 using the 5-year age bracket for ages 25 to 29.

(2) Effective date for table for purposes of §1.79-0. For a policy of life insurance issued under a plan in existence on June 30, 1999, which would not be treated as carried

directly or indirectly by an employer under §1.79-0 (taking into account the Table I in effect on that date), until January 1, 2003, an employer may use either the table in paragraph (d)(2) of this section or the table in effect prior to July 1, 1999 (as described in paragraph (d)(2) of this section) for determining if the policy is carried directly or indirectly by the employer.

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Robert E. Wenzel

Deputy Commissioner of Internal Revenue

Approved: May 25, 1999

Donald C. Lubick

Assistant Secretary of the Treasury (Tax Policy)