

which is included in the gross income of a domestic corporation under section 951(a) shall be treated as a distribution received by such domestic corporation on the last day in such taxable year on which such first-tier corporation is a controlled foreign corporation.

(f) *Illustrations.* The application of this section may be illustrated by the examples provided in § 1.902-1, § 1.904-5, § 1.960-3, § 1.960-4, and § 1.963-4.

[T.D. 6805, 30 FR 3208, Mar. 9, 1965, as amended by T.D. 7120, 36 FR 10859, June 4, 1971; 36 FR 11924, June 23, 1971; T.D. 7481, 42 FR 20130, Apr. 18, 1977; T.D. 7490, 42 FR 30497, June 15, 1977; 42 FR 32536, June 27, 1977; T.D. 7649, 44 FR 60086, Oct. 18, 1979; T.D. 7961, 49 FR 26225, June 27, 1984]

**§ 1.79-0 Group-term life insurance—definitions of certain terms.**

The following definitions apply for purposes of section 79, this section, and §§ 1.79-1, 1.79-2, and 1.79-3.

*Carried directly or indirectly.* A policy of life insurance is “carried directly or indirectly” by an employer if—

(a) The employer pays any part of the cost of the life insurance directly or through another person; or

(b) The employer or two or more employers arrange for payment of the cost of the life insurance by their employees and charge at least one employee less than the cost of his or her insurance, as determined under Table I of § 1.79-3(d)(2), and at least one other employee more than the cost of his or her insurance, determined in the same way.

*Employee.* An “employee” is—

(a) A person who performs services if his or her relationship to the person for whom services are performed is the legal relationship of employer and employee described in § 31.3401(c)-1; or

(b) A full-time life insurance salesperson described in section 7701(a)(20); or

(c) A person who formerly performed services as an employee.

A person who formerly performed services as an employee and currently performs services for the same employer as an independent contractor is considered an employee only with respect to insurance provided because of the person’s former services as an employee.

*Group of employees.* A “group of employees” is all employees of an employer, or less than all employees if membership in the group is determined solely on the basis of age, marital status, or factors related to employment. Examples of factors related to employment are membership in a union some or all of whose members are employed by the employer, duties performed, compensation received, and length of service. Ordinarily the purchase of something other than group-term life insurance is not a factor related to employment. For example, if an employer provides credit life insurance to all employees who purchase automobiles, these employees are not a “group of employees” because membership is not determined solely on the basis of age, marital status, or factors related to employment. On the other hand, participation in an employer’s pension, profit-sharing or accident and health plan is considered a factor related to employment even if employees are required to contribute to the cost of the plan. Ownership of stock in the employer corporation is not a factor related to employment. However, participation in an employer’s stock bonus plan may be a factor related to employment and a “group of employees” may include employees who own stock in the employer corporation.

*Permanent benefit.* A “permanent benefit” is an economic value extending beyond one policy year (for example, a paid-up or cash surrender value) that is provided under a life insurance policy. However, the following features are not permanent benefits:

(a) A right to convert (or continue) life insurance after group life insurance coverage terminates;

(b) Any other feature that provides no economic benefit (other than current insurance protection) to the employee; or

(c) A feature under which term life insurance is provided at a level premium for a period of five years or less.

*Policy.* The term “policy” includes two or more obligations of an insurer (or its affiliates) that are sold in conjunction. Obligations that are offered or available to members of a group of employees are sold in conjunction if they are offered or available because of

the employment relationship. The actuarial sufficiency of the premium charged for each obligation is not taken into account in determining whether the obligations are sold in conjunction. In addition, obligations may be sold in conjunction even if the obligations are contained in separate documents, each document is filed with and approved by the applicable state insurance commission, or each obligation is independent of any other obligation. Thus, a group of individual contracts under which life insurance is provided to a group of employees may be a policy. Similarly, two benefits provided to a group of employees, one term life insurance and the other a permanent benefit, may be a policy, even if one of the benefits is provided only to employees who decline the other benefit. However, an employer may elect to treat two or more obligations each of which provides no permanent benefits as separate policies if the premiums are properly allocated among such policies. An employer also may elect to treat an obligation which provides permanent benefits as a separate policy if—

(a) The insurer sells the obligation directly to the employee who pays the full cost thereof;

(b) The participation of the employer with respect to sales of the obligation to employees is limited to selection of the insurer and the type of coverage and to sales assistance activities such as providing employee lists to the insurer, permitting the insurer to use the employer's premises for solicitation, and collecting premiums through payroll deduction;

(c) The insurer sells the obligation on the same terms and in substantial amounts to individuals who do not purchase (and whose employers do not purchase) any other obligation from the insurer; and

(d) No employer-provided benefit is conditioned on purchase of the obligation.

[T.D. 7623, 44 FR 28797, May 17, 1979, as amended by T.D. 7917, 48 FR 45762, Oct. 7, 1983]

**§ 1.79-1 Group-term life insurance—general rules.**

(a) *What is group-term life insurance?* Life insurance is not group-term life insurance for purposes of section 79 unless it meets the following conditions:

(1) It provides a general death benefit that is excludable from gross income under section 101(a).

(2) It is provided to a group of employees.

(3) It is provided under a policy carried directly or indirectly by the employer.

(4) The amount of insurance provided to each employee is computed under a formula that precludes individual selection. This formula must be based on factors such as age, years of service, compensation, or position. This condition may be satisfied even if the amount of insurance provided is determined under a limited number of alternative schedules that are based on the amount each employee elects to contribute. However, the amount of insurance provided under each schedule must be computed under a formula that precludes individual selection.

(b) *May group-term life insurance be combined with other benefits?* No part of the life insurance provided under a policy that provides a permanent benefit is group-term life insurance unless—

(1) The policy or the employer designates in writing the part of the death benefit provided to each employee that is group-term life insurance; and

(2) The part of the death benefit that is provided to an employee and designated as the group-term life insurance benefit for any policy year is not less than the difference between the total death benefit provided under the policy and the employee's deemed death benefit (DDB) at the end of the policy year determined under paragraph (d)(3) of this section.

(c) *May a group include fewer than 10 employees?* (1) As a general rule, life insurance provided to a group of employees cannot qualify as group-term life insurance for purposes of section 79 unless, at some time during the calendar year, it is provided to at least 10 full-time employees who are members of the group of employees. For purposes of this rule, all life insurance provided