

Internal Revenue Code Section 101(j)(4)

Certain death benefits

...

(j) Treatment of certain employer-owned life insurance contracts.

(1) General rule.

In the case of an employer-owned life insurance contract, the amount excluded from gross income of an applicable policyholder by reason of paragraph (1) of subsection (a) shall not exceed an amount equal to the sum of the premiums and other amounts paid by the policyholder for the contract.

(2) Exceptions.

In the case of an employer-owned life insurance contract with respect to which the notice and consent requirements of paragraph (4) are met, paragraph (1) shall not apply to any of the following:

(A) Exceptions based on insured's status. Any amount received by reason of the death of an insured who, with respect to an applicable policyholder-

(i) was an employee at any time during the 12-month period before the insured's death, or

(ii) is, at the time the contract is issued-

(I) a director,

(II) a highly compensated employee within the meaning of section 414(q) (without regard to paragraph (1)(B)(ii) thereof), or

(III) a highly compensated individual within the meaning of section 105(h)(5), except that "35 percent" shall be substituted for "25 percent" in subparagraph (C) thereof.

(B) Exception for amounts paid to insured's heirs. Any amount received by reason of the death of an insured to the extent-

(i) the amount is paid to a member of the family (within the meaning of section 267(c)(4)) of the insured, any individual who is the designated beneficiary of the insured under the contract (other than the applicable policyholder), a trust established for the benefit of any such member of the family or designated beneficiary, or the estate of the insured, or

(ii) the amount is used to purchase an equity (or capital or profits) interest in the applicable policyholder from any person described in clause (i) .

(3) Employer-owned life insurance contract.

(A) In general. For purposes of this subsection , the term "employer-owned life insurance contract" means a life insurance contract which-

(i) is owned by a person engaged in a trade or business and under which such person (or a related person described in subparagraph (B)(ii)) is directly or indirectly a beneficiary under the contract, and

(ii) covers the life of an insured who is an employee with respect to the trade or business of the applicable policyholder on the date the contract is issued.

For purposes of the preceding sentence, if coverage for each insured under a master contract is treated as a separate contract for purposes of sections 817(h) , 7702 , and 7702A , coverage for each such insured shall be treated as a separate contract.

(B) Applicable policyholder. For purposes of this subsection -

(i) In general. The term "applicable policyholder" means, with respect to any employer-owned life insurance contract, the person described in subparagraph (A)(i) which owns the contract.

(ii) Related persons. The term "applicable policyholder" includes any person which-

(I) bears a relationship to the person described in clause (i) which is specified in section 267(b) or 707(b)(1) , or

(II) is engaged in trades or businesses with such person which are under common control (within the meaning of subsection (a) or (b) of section 52).



(4) Notice and consent requirements.

The notice and consent requirements of this paragraph are met if, before the issuance of the contract, the employee-

(A) is notified in writing that the applicable policyholder intends to insure the employee's life and the maximum face amount for which the employee could be insured at the time the contract was issued,

(B) provides written consent to being insured under the contract and that such coverage may continue after the insured terminates employment, and

(C) is informed in writing that an applicable policyholder will be a beneficiary of any proceeds payable upon the death of the employee.

(5) Definitions.

For purposes of this subsection -

(A) Employee. The term "employee" includes an officer, director, and highly compensated employee (within the meaning of section 414(q)).

(B) Insured. The term "insured" means, with respect to an employer-owned life insurance contract, an individual covered by the contract who is a United States citizen or resident. In the case of a contract covering the joint lives of 2 individuals, references to an insured include both of the individuals.