Internal Revenue Code Section 72(s)(2)

Annuities; certain proceeds of endowment and life insurance contracts.

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(s) Required distributions where holder dies before entire interest is distributed.

(1) In general. A contract shall not be treated as an annuity contract for purposes of this title unless it provides that--

(A) if any holder of such contract dies on or after the annuity starting date and before the entire interest in such contract has been distributed, the remaining portion of such interest will be distributed at least as rapidly as under the method of distributions being used as of the date of his death, and

(B) if any holder of such contract dies before the annuity starting date, the entire interest in such contract will be distributed within 5 years after the death of such holder.

(2) Exception for certain amounts payable over life of beneficiary. If--

(A) any portion of the holder's interest is payable to (or for the benefit of) a designated beneficiary,

(B) such portion will be distributed (in accordance with regulations) over the life of such designated beneficiary (or over a period not extending beyond the life expectancy of such beneficiary), and

(C) such distributions begin not later than 1 year after the date of the holder's death or such later date as the Secretary may by regulations prescribe,

then for purposes of paragraph (1), the portion referred to in subparagraph (A) shall be treated as distributed on the day on which such distributions begin.

(3) Special rule where surviving spouse beneficiary. If the designated beneficiary referred to in paragraph (2)(A) is the surviving spouse of the holder of the contract, paragraphs (1) and (2) shall be applied by treating such spouse as the holder of such contract.

(4) Designated beneficiary. For purposes of this subsection, the term "designated beneficiary" means any individual designated a beneficiary by the holder of the contract.

(5) Exception for certain annuity contracts. This subsection shall not apply to any annuity contract--

(A) which is provided--

(i) under a plan described in section 401(a) [*IRC Sec. 401(a)*] which includes a trust exempt from tax under section 501 [*IRC Sec. 501*], or

(ii) under a plan described in section 403(a) [*IRC Sec. 403(a)*],

(B) which is described in section 403(b) [*IRC Sec. 403(b)*],

(C) which is an individual retirement annuity or provided under an individual retirement account or annuity, or,

(D) which is a qualified funding asset (as defined in section 130(d) [*IRC Sec. 130(d)*], but without regard to whether there is a qualified assignment).

(6) Special rule where holder is corporation or other non-individual.

(A) In general. For purposes of this subsection, if the holder of the contract is not an individual, the primary annuitant shall be treated as the holder of the contract.

(B) Primary annuitant. For purposes of subparagraph (A), the term "primary annuitant" means the individual, the events in the life of whom are of primary importance in affecting the timing or amount of the payout under the contract.

(7) Treatment of changes in primary annuitant where holder of contract is not an individual. For purposes of this subsection, in the case of a holder of an annuity contract which is not an individual, if there is a change in a primary annuitant (as defined in paragraph (6)(B)), such change shall be treated as the death of the holder.

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