

### Internal Revenue Code Section 79

#### Group-term life insurance purchased for employees

(a) General rule.

There shall be included in the gross income of an employee for the taxable year an amount equal to the cost of group-term life insurance on his life provided for part or all of such year under a policy (or policies) carried directly or indirectly by his employer (or employers); but only to the extent that such cost exceeds the sum of-

- (1) the cost of \$50,000 of such insurance, and
- (2) the amount (if any) paid by the employee toward the purchase of such insurance.

(b) Exceptions.

Subsection (a) shall not apply to-

(1) the cost of group-term life insurance on the life of an individual which is provided under a policy carried directly or indirectly by an employer after such individual has terminated his employment with such employer and is disabled (within the meaning of section 72(m)(7) ),

(2) the cost of any portion of the group-term life insurance on the life of an employee provided during part or all of the taxable year of the employee under which-

- (A) the employer is directly or indirectly the beneficiary, or
- (B) a person described in section 170(c) is the sole beneficiary,

for the entire period during such taxable year for which the employee receives such insurance, and

(3) the cost of any group-term life insurance which is provided under a contract to which section 72(m)(3) applies.

(c) Determination of cost of insurance.

For purposes of this section and section 6052 , the cost of group-term insurance on the life of an employee provided during any period shall be determined on the basis of uniform premiums (computed on the basis of 5-year age brackets) prescribed by regulations by the Secretary.

(d) Nondiscrimination requirements.

(1) In general.

In the case of a discriminatory group-term life insurance plan

(A) subsection (a)(1) shall not apply with respect to any key employee, and

(B) the cost of group-term life insurance on the life of any key employee shall be the greater of-

(i) such cost determined without regard to subsection (c) , or

(ii) such cost determined with regard to subsection (c) .

(2) Discriminatory group-term life insurance plan.

For purposes of this subsection , the term "discriminatory group-term life insurance plan" means any plan of an employer for providing group-term life insurance unless-

(A) the plan does not discriminate in favor of key employees as to eligibility to participate, and

(B) the type and amount of benefits available under the plan do not discriminate in favor of participants who are key employees.

(3) Nondiscriminatory eligibility classification.

(A) In general. A plan does not meet requirements of subparagraph (A) of paragraph (2) unless-

(i) such plan benefits 70 percent or more of all employees of the employer,

(ii) at least 85 percent of all employees who are participants under the plan are not key employees,

(iii) such plan benefits such employees as qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of key employees, or

(iv) in the case of a plan which is part of a cafeteria plan, the requirements of section 125 are met.

(B) Exclusion of certain employees. For purposes of subparagraph (A) , there may be excluded from consideration-

(i) employees who have not completed 3 years of service;

(ii) part-time or seasonal employees;

(iii) employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and one or more employers which the Secretary finds to be a collective bargaining agreement, if the benefits provided under the plan were the subject of good faith bargaining between such employee representatives and such employer or employers; and

(iv) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2) ) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3) ).

(4) Nondiscriminatory benefits.

A plan does not meet the requirements of paragraph (2)(B) unless all benefits available to participants who are key employees are available to all other participants.

(5) Special rule.

A plan shall not fail to meet the requirements of paragraph (2)(B) merely because the amount of life insurance on behalf of the employees under the plan bears a uniform relationship to the total compensation or the basic or regular rate of compensation of such employees.

(6) Key employee defined.

For purposes of this subsection , the term "key employee" has the meaning given to such term by paragraph (1) of section 416(i) . Such term also includes any former employee if such employee when he retired or separated from service was a key employee.

(7) Exemption for church plans.

(A) In general. This subsection shall not apply to a church plan maintained for church employees.

(B) Definitions. For purposes of subparagraph (A) , the terms "church plan" and "church employee" have the meaning given such terms by paragraphs (1) and (3)(B) of section 414(e) , respectively, except that-

(i) section 414(e) shall be applied by substituting " section 501(c)(3) " for "section 501" each place it appears, and

(ii) the term "church employee" shall not include an employee of-

(I) an organization described in section 170(b)(1)(A)(ii) above the secondary school level (other than a school for religious training),

(II) an organization described in section 170(b)(1)(A)(iii) , and

(III) an organization described in section 501(c)(3) , the basis of the exemption for which is substantially similar to the basis for exemption of an organization described in subclause (II) .

(8) Treatment of former employees.

To the extent provided in regulations, this subsection shall be applied separately with respect to former employees.

(e) Employee includes former employee.

For purposes of this section , the term "employee" includes a former employee.

(f) Exception for life insurance purchased in connection with qualified transfer of excess pension assets.

Subsection (b)(3) and section 72(m)(3) shall not apply in the case of any cost paid (whether directly or indirectly) with assets held in an applicable life insurance account (as defined in section 420(e)(4) ) under a defined benefit plan.