

Section 7872.—Treatment of Loans With Below-Market Interest Rates.

This notice announces that the Treasury and the Service intend to publish proposed regulations providing comprehensive guidance on the Federal tax treatment of split-dollar life insurance arrangements. In addition, this notice indicates that any regulations will not be effective until the publication date of the final regulations, and provides information on the tax treatment of split-dollar life insurance arrangements entered into prior to the effective date of final regulations. Notice 2001-10 (2001-5 I.R.B. 459) is revoked. Notwithstanding that revocation, Rev. Rul. 55-747 (1955-2 C.B. 228) remains revoked, and Rev. Rul. 64-328 (1964-2 C.B. 11) and Rev. Rul. 66-110 (1966-1 C.B. 12) remain modified to the extent that those rulings indicate that an employer's premium payments under a split-dollar life insurance arrangement may not be treated as loans. See Notice 2002-8, page 398.

Split-Dollar Life Insurance Arrangements

Notice 2002-8

I. PURPOSE AND OVERVIEW

On January 29, 2001, the Treasury Department and Internal Revenue Service issued Notice 2001-10 (2001-5 I.R.B. 459) to provide interim guidance regarding the tax treatment of parties entering into split-dollar life insurance arrangements and to revise standards for valuing current life insurance protection. This Notice 2002-8:

- Revokes Notice 2001-10;
- Announces that the Treasury and the Service intend to publish proposed regulations providing comprehensive guidance regarding the Federal tax treatment of split-dollar life insurance arrangements;
- Outlines rules expected to be included in the forthcoming proposed regulations and the expected effective date of those regulations; and
- Provides guidance regarding the valuation of current life insurance protection under a split-dollar life insurance arrangement, under qualified retirement plans and under employee annuity contracts.

II. EXPECTED PROPOSED REGULATIONS

Treasury and the Service intend to issue proposed regulations requiring the taxation of parties to a split-dollar life insurance arrangement under one of two mutually exclusive regimes. Under one regime, the economic benefits of a split-dollar life insurance arrangement generally are treated as transfers to the benefited party. Under the other regime, payments by the sponsor (*i.e.*, the party providing life insurance benefits to the other party under the arrangement) pursuant to a split-dollar life insurance arrangement generally are treated as a series of loans to the benefited party.

The proposed regulations are expected to provide that, in an employment-related split-dollar life insurance arrangement, if the employer is formally designated as the owner of the life insurance contract,

then the benefits provided to the employee under the arrangement are subject to tax under the first regime. Under this regime, the employer is treated for Federal tax purposes as the owner of the life insurance contract prior to termination of the arrangement, and is treated as providing current life insurance protection and other economic benefits to the employee, which are taxable under section 61 of the Internal Revenue Code. A transfer of the life insurance contract to the employee is taxed under section 83. The proposed regulations will not treat an employer as having made a transfer of a portion of the cash surrender value of a life insurance contract to an employee for purposes of section 83 solely because the interest or other earnings credited to the cash surrender value of the contract cause the cash surrender value to exceed the portion thereof payable to the employer.

The proposed regulations are expected to provide that if the employee is formally designated as the owner of the life insurance contract under a split-dollar arrangement, then the premiums paid by the employer are treated as a series of loans by the employer to the employee if the employee is obligated to repay the employer, whether out of contract proceeds or otherwise. Under this second regime, the loans are subject to the principles, where applicable, of sections 1271-1275 (regarding the taxation of original issue discount) and section 7872 (in the case of a compensation-related below-market loan, section 7872 deems an interest payment by the employee to the employer, which is funded by deemed additional compensation paid by the employer to the employee). If the employee is not obligated to repay the premiums paid by the employer, then such amounts are treated as compensation income to the employee at the time the premiums are paid by the employer.

The same principles are expected to govern the Federal tax treatment of split-dollar life insurance arrangements in other contexts, including arrangements that provide benefits in gift and corporation-shareholder contexts.

The proposed regulations addressing the Federal tax treatment of split-dollar life insurance arrangements will be effec-

tive for arrangements entered into after the date of publication of final regulations.

III. REVISED STANDARDS FOR VALUING CURRENT LIFE INSURANCE PROTECTION

Pending the consideration of comments and publication of further guidance, the following interim guidance is provided on the valuation of current life insurance protection:

1. Rev. Rul. 55-747 (1955-2 C.B. 228), remains revoked, as provided in and with the transitional relief for 2001 described in Part IV.B.1 of Notice 2001-10. Notwithstanding such revocation, for a split-dollar life insurance arrangement entered into before January 28, 2002, in which a contractual arrangement between an employer and employee provides that the P.S. 58 rates will be used to determine the value of current life insurance protection provided to the employee (or to the employee and one or more additional persons), the employer and employee may continue to use the P.S. 58 rates set forth in Rev. Rul. 55-747 to determine the value of current life insurance protection.

2. For arrangements entered into before the effective date of future guidance, taxpayers may use the premium rate table set forth at the end of this notice to determine the value of current life insurance protection on a single life that is provided under a split-dollar life insurance arrangement, in a qualified retirement plan, or under employee annuity contracts. (This table is captioned as Table 2001 and was originally published in Notice 2001-10.) Taxpayers should make appropriate adjustments to these premium rates if the life insurance protection covers more than one life.

3. For arrangements entered into before the effective date of future guidance, to the extent provided by Rev. Rul. 66-110 (1966-1 C.B. 12) as amplified by Rev. Rul. 67-154 (1967-1 C.B. 11) taxpayers may continue to determine the value of current life insurance protection by using the insurer's lower published premium rates that are available to all standard risks for initial issue one-year term insurance. However, for arrangements entered into after January 28, 2002,

and before the effective date of future guidance, for periods after December 31, 2003, the Service will not consider an insurer's published premium rates to be available to all standard risks who apply for term insurance unless (i) the insurer generally makes the availability of such rates known to persons who apply for term insurance coverage from the insurer, and (ii) the insurer regularly sells term insurance at such rates to individuals who apply for term insurance coverage through the insurer's normal distribution channels.

IV. SPLIT-DOLLAR LIFE INSURANCE ARRANGEMENTS ENTERED INTO BEFORE THE DATE OF PUBLICATION OF FINAL REGULATIONS

1. For split-dollar life insurance arrangements entered into before the date of publication of final regulations, the Service will not treat a service recipient as having made a transfer of a portion of the cash surrender value of a life insurance contract to a service provider for purposes of section 83 solely because the interest or other earnings credited to the cash surrender value of the contract cause the cash surrender value to exceed the portion thereof payable to the service recipient.

2. For split-dollar life insurance arrangements entered into before the date of publication of final regulations, in cases where the value of current life insurance protection is treated as an economic benefit provided by a sponsor to a benefited person under a split-dollar life insurance arrangement, the Service will not treat the arrangement as having been terminated (and thus will not assert that there has been a transfer of property to the benefited person by reason of termination of the arrangement) for so long as the parties to the arrangement continue to treat and report the value of the life insurance protection as an economic benefit provided to the benefited person. This treatment will be accepted without regard to the level of the remaining economic interest that the sponsor has in the life insurance contract.

3. For split-dollar life insurance arrangements entered into before the date of publication of final regulations, the parties to the arrangement may treat pre-

mium or other payments by the sponsor as loans. In such cases, the Service will not challenge reasonable efforts to comply with the requirements of sections 1271–1275 and section 7872. All payments by the sponsor from the inception of the arrangement (reduced by any repayments to the sponsor) before the first taxable year in which such payments are treated as loans for Federal tax purposes must be treated as loans entered into at the beginning of that first year in which such payments are treated as loans.

4. For split-dollar life insurance arrangements entered into before January 28, 2002, under which a sponsor has made premium or other payments under the arrangement and has received or is entitled to receive full repayment of all of its payments, the Service will not assert that there has been a taxable transfer of property to a benefited person upon termination of the arrangement if (i) the arrangement is terminated before January 1, 2004, or (ii) for all periods beginning on or after January 1, 2004, all payments by the sponsor from inception of the arrangement (reduced by any repayments to the sponsor) are treated as loans for Federal tax purposes, and the parties to the arrangement report the tax treatment in a manner consistent with this loan treatment, including sections 1271–1275 and section 7872. Any such payments by the sponsor before the first taxable year in which such payments are treated as loans for Federal tax purposes must be treated as loans entered into at the beginning of that first year in which such payments are treated as loans.

V. REQUEST FOR COMMENTS

The proposed regulations will provide an opportunity for comment. In addition, Treasury and the Service request comments on this notice, in particular on both the appropriate rates for valuing current life insurance protection and the standards that should be required for use of the insurer's published premium rates for valuing current life insurance protection. Comments are specifically invited on (i) whether one or more premium rate tables should be prescribed as the exclusive basis for valuing current life insurance protection for Federal tax purposes, and (ii) if one or more premium rate tables are prescribed for these purposes, how such

tables should be determined and whether premium rates charged by life insurance companies can be used for this determination.

Written comments on this notice are requested to be submitted no later than April 28, 2002, to CC:ITA:RU (Notice 2002–8 [NOT-168656-01]), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Comments may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to CC:ITA:RU (Notice 2002–8 [NOT-168656-01]), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC, or submitted electronically to: Notice.Comments@irs.counsel.treas.gov. All comments will be available for public inspection and copying.

VI. EFFECT ON OTHER DOCUMENTS

Notice 2001–10 is revoked. Notwithstanding that revocation, Rev. Rul. 55–747 remains revoked, and Rev. Rul. 64–328 (1964–2 C.B. 11) and Rev. Rul. 66–110 remain modified to the extent that those rulings indicate that an employer's premium payments under a split-dollar life insurance arrangement may not be treated as loans.

Except for Part III (Revised Standards for Valuing Current Life Insurance Protection), no inference should be drawn from this notice regarding the appropriate Federal income, employment and gift tax treatment of split-dollar life insurance arrangements entered into before the date of publication of final regulations. However, taxpayers may rely on this notice (including a reasonable application of the rules to be proposed as described in Part II) or Notice 2001–10 for split-dollar life insurance arrangements entered into before the date of publication of final regulations.

VII. CONTACT INFORMATION

For further information regarding this notice, contact Rebecca Asta of the Office of Associate Chief Counsel (Financial Institutions and Products) at (202) 622–3930, or Erinn Madden of the Office of Associate Chief Counsel (Tax Exempt and Government Entities) at (202) 622–6030 (not toll-free calls).

TABLE 2001
INTERIM TABLE OF ONE-YEAR TERM PREMIUMS
FOR \$1,000 OF LIFE INSURANCE PROTECTION

Attained Age	Section 79 Extended and Interpolated Annual Rates	Attained Age	Section 79 Extended and Interpolated Annual Rates	Attained Age	Section 79 Extended and Interpolated Annual Rates
0	\$ 0.70	35	\$ 0.99	70	\$ 20.62
1	\$ 0.41	36	\$ 1.01	71	\$ 22.72
2	\$ 0.27	37	\$ 1.04	72	\$ 25.07
3	\$ 0.19	38	\$ 1.06	73	\$ 27.57
4	\$ 0.13	39	\$ 1.07	74	\$ 30.18
5	\$ 0.13	40	\$ 1.10	75	\$ 33.05
6	\$ 0.14	41	\$ 1.13	76	\$ 36.33
7	\$ 0.15	42	\$ 1.20	77	\$ 40.17
8	\$ 0.16	43	\$ 1.29	78	\$ 44.33
9	\$ 0.16	44	\$ 1.40	79	\$ 49.23
10	\$ 0.16	45	\$ 1.53	80	\$ 54.56
11	\$ 0.19	46	\$ 1.67	81	\$ 60.51
12	\$ 0.24	47	\$ 1.83	82	\$ 66.74
13	\$ 0.28	48	\$ 1.98	83	\$ 73.07
14	\$ 0.33	49	\$ 2.13	84	\$ 80.35
15	\$ 0.38	50	\$ 2.30	85	\$ 88.76
16	\$ 0.52	51	\$ 2.52	86	\$ 99.16
17	\$ 0.57	52	\$ 2.81	87	\$ 110.40
18	\$ 0.59	53	\$ 3.20	88	\$ 121.85
19	\$ 0.61	54	\$ 3.65	89	\$ 133.40
20	\$ 0.62	55	\$ 4.15	90	\$ 144.30
21	\$ 0.62	56	\$ 4.68	91	\$ 155.80
22	\$ 0.64	57	\$ 5.20	92	\$ 168.75
23	\$ 0.66	58	\$ 5.66	93	\$ 186.44
24	\$ 0.68	59	\$ 6.06	94	\$ 206.70
25	\$ 0.71	60	\$ 6.51	95	\$ 228.35
26	\$ 0.73	61	\$ 7.11	96	\$ 250.01
27	\$ 0.76	62	\$ 7.96	97	\$ 265.09
28	\$ 0.80	63	\$ 9.08	98	\$ 270.11
29	\$ 0.83	64	\$ 10.41	99	\$ 281.05
30	\$ 0.87	65	\$ 11.90		
31	\$ 0.90	66	\$ 13.51		
32	\$ 0.93	67	\$ 15.20		
33	\$ 0.96	68	\$ 16.92		
34	\$ 0.98	69	\$ 18.70		