

[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9364]

RIN 1545-BG59

Information Reporting on Employer-Owned Life Insurance Contracts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations concerning information reporting on employer-owned life insurance contracts under section 6039I of the Internal Revenue Code (Code). This temporary regulation is necessary to provide taxpayers with immediate guidance as to how the requirements of section 6039I should be applied. The temporary regulations generally apply to taxpayers that are engaged in a trade or business and that are directly or indirectly a beneficiary of a life insurance contract covering the life of an insured who is an employee of the trade or business on the date the contract is issued. The text of these temporary regulations also serves as the text of proposed regulations set forth in the notice of proposed rulemaking on this subject elsewhere in this issue of the **Federal Register**.

DATES: Effective Date: These regulations are effective on November 13, 2007.

Applicability Date: For date of applicability, see §1.6039I-1T(b).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Linda K. Boyd, 202-622-3970 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

The Pension Protection Act of 2006, Public Law 109-280, 120 Stat. 780 (2006), added sections 101(j) and 6039I to the Internal Revenue Code (Code) concerning employer-owned life insurance contracts.

Section 101(j)(1) provides that, in the case of an employer-owned life insurance contract, the amount of death benefits excluded from gross income under section 101(a)(1) shall not exceed an amount equal to the sum of the premiums and other amounts paid by the policyholder for the contract. For this purpose, an employer-owned life insurance contract is a life insurance contract that (i) is owned by a person engaged in a trade or business and under which such person 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 on the date the contract is issued. An applicable policyholder is generally a person who owns an employer-owned life insurance contract, or a related person as described in section 101(j)(3).

Section 101(j)(2) provides exceptions to the general rule of section 101(j)(1) in the case of certain employer-owned life insurance contracts with respect to which certain notice and consent requirements are met. Those exceptions are based either on (i) the insured's status as an employee within 12

months of death or as a highly compensated employee or highly compensated individual, or (ii) the extent to which death benefits are paid to a family member, trust, or estate of the insured employee, or are used to purchase an equity interest in the applicable policyholder from a family member, trust or estate.

Section 6039I provides that every applicable policyholder that owns one or more employer-owned life insurance contracts shall file a return, at such time and in such manner as the Secretary shall prescribe by regulations, showing for each year the contracts are owned--

(1) The number of employees of the applicable policyholder at the end of the year;

(2) The number of such employees insured under such contracts at the end of the year;

(3) The total amount of insurance in force at the end of the year under such contracts;

(4) The name, address, and taxpayer identification number of the applicable policyholder and the type of business in which the policyholder is engaged; and

(5) That the policyholder has a valid consent for each insured employee (or, if not all such consents are obtained, the number of insured employees for whom such consent was not obtained).

Section 6039I(c) provides that any term used in section 6039I that is used in section 101(j) has the same meaning given that term by section 101(j).

Sections 101(j) and 6039I apply to life insurance contracts issued after August 17, 2006, except for a contract issued after that date pursuant to a section 1035 exchange for a contract issued before that date. For this purpose, a material increase in the death benefit or other material change causes the contract to be treated as a new contract except that, in the case of a master contract within the meaning of section 264(f)(4)(E), the addition of covered lives is treated as a new contract only with respect to those additional covered lives.

These temporary regulations provide that the Commissioner may prescribe the form and manner of satisfying the reporting requirements imposed by section 6039I on applicable policyholders owning one or more employer-owned life insurance contracts issued after August 17, 2006. The regulations are effective on November 13, 2007, and apply to taxable years ending after that date.

Special Analyses

It has been determined that this temporary regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation.

The Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply to this temporary regulation because the regulation does not impose a collection of information on small entities. Even though a substantial number of small

businesses may be subject to the requirements of section 6039I, it is anticipated that whatever requirements the Commissioner may prescribe pursuant to this regulation will not impose a "significant economic impact" because the information requested will already be available to taxpayers and the burden of compliance will be minimal.

Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Linda K. Boyd, Office of Associate Chief Counsel (Financial Institutions & Products). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements

Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.6039I-1T also issued under 26 U.S.C. 6039I. * * *

Par. 2. Section 1.6039I-1T is added to read as follows:

§1. 6039I-1T Reporting of certain employer-owned life insurance contracts (temporary).

(a) In general. The Commissioner may prescribe the form and manner of satisfying the reporting requirements imposed by section 6039I on applicable policyholders owning one or more employer-owned life insurance contracts issued after August 17, 2006.

(b) Effective/applicability date. These regulations are applicable for tax years ending after November 13, 2007.

(c) Expiration date. The applicability of this section expires on or before November 9, 2010.

Deputy Commissioner for Services and Enforcement.

Linda E. Stiff

Approved: November 2, 2007

Assistant Secretary of the Treasury (Tax Policy).

Eric Solomon

Caution: DRAFT FORM

This is an advance proof copy of an IRS tax form. It is subject to change and OMB approval before it is officially released. You can check the scheduled release date on our web site (www.irs.gov).

If you have any comments on this draft form, you can submit them to us on our web site. Include the word DRAFT in your response. You may make comments anonymously, or you may include your name and e-mail address or phone number. We will be unable to respond to all comments due to the high volume we receive. However, we will carefully consider each suggestion. So that we can properly consider your comments, please send them to us within 30 days from the date the draft was posted.

(December 2007)

Department of the Treasury
Internal Revenue Service (99)

▶ **Attach to the policyholder's tax return—See instructions.**

Attachment
Sequence No. **160**

Name(s) shown on return		Identifying number
Name of policyholder, if different from above		Identifying number, if different from above
Type of business		
1	Enter the number of employees the policyholder had at the end of the tax year	1
2	Enter the number of employees included on line 1 who were insured under the policyholder's employer-owned life insurance contract(s) at the end of the tax year	2
3	Enter the total amount of employer-owned life insurance in force at the end of the tax year for employees included on line 2	3
4a	Does the policyholder have a valid consent (see instructions) for each employee included on line 2? <input type="checkbox"/> Yes <input type="checkbox"/> No	
b	If "No," enter the number of employees included on line 2 for whom the policyholder does not have a valid consent	4b