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PLR-102028-15

Date:  
July 06, 2015

LEGEND

Taxpayer =

State =

Dear :

This is in response to a request submitted on behalf of Taxpayer by its authorized representatives. Taxpayer is asking for rulings regarding the federal income tax consequences of offering to Taxpayer's employees group term life insurance coverage on the lives of these employees

FACTS

Taxpayer is a life insurance company organized under the laws of State. Taxpayer provides basic group term life insurance coverage for its employees at no cost to them.

In addition, Taxpayer's employees are offered the ability to purchase optional group term life insurance.

The employees purchase the optional insurance from Taxpayer on an after-tax basis. The rates charged to active employees are higher for those who use tobacco than for those who do not use tobacco. The rates charged to those employees are all the same as, or below, the Table I uniform premium rates found in section 1.79-3(d)(2) of the Income Tax Regulations.

Taxpayer represents that the premiums charged for optional life insurance are determined independently of the basic coverage; no premium loading expenses are allocated between the policies; and dividends and rate credits for the policies are determined separately. Taxpayer further represents that the premiums charged under the optional life insurance policy are the same as the company charges unrelated employers with similar coverage and terms.

#### LAW AND ANALYSIS

The taxation of group term insurance on the life of an employee carried directly or indirectly by an employer is governed by section 79 of the Internal Revenue Code. For this purpose, section 1.79-0 of the regulations defines the term "employee" as (a) a person who performs services if his or her relationship to the person for whom services are performed is the legal relationship of employer and employee described in section 31.3401(c)-1; or (b) a person who formerly performed services as an employee.

Assuming a group term plan meets the non-discrimination requirements of section 79(d), the cost of \$50,000 of such coverage is excludable from each employee's income. For coverage above \$50,000, section 79 requires an employee to include in income an amount equal to the cost of life insurance provided under a policy carried directly or indirectly by his or her employer (less any amounts paid by the employee toward the purchase of such insurance). Section 79(c) requires the "cost" of the insurance to be computed by using the uniform premiums prescribed in Table I of the section 79 regulations.

Life insurance is subject to section 79 only if it is provided under a policy carried directly or indirectly by the employer. Reg. section 1.79-1(a)(3).

Section 1.79-0 of the regulations provides that a policy of life insurance is "carried directly or indirectly" by an employer if: (a) the employer pays any part of the cost of the life insurance directly or through another person; or (b) the employer or two or more employers arrange for payment of the cost of the life insurance by their employees and charge at least one employee less than the cost of his or her insurance, as determined

under Table I of section 1.79-3(d)(2), and at least one other employee more than the cost of his or her insurance, determined in the same way.

Section 1.79-0 of the regulations provides that the term "policy" includes two or more obligations of an insurer (or its affiliates) that are sold in conjunction. Obligations that are offered or available to members of a group of employees are sold in conjunction if they are offered or available because of the employment relationship. The actuarial sufficiency of the premium charged for each obligation is not taken into account in determining whether the obligations are sold in conjunction, whether or not the obligations are contained in separate documents. Thus, as a general rule, to test whether insurance coverage is provided under a policy carried directly or indirectly by the employer, all obligations of the same insurer that are offered to members of a group of employees must be aggregated and treated as one policy. The regulations, however, allow an employer to elect to treat two or more obligations each of which provides no permanent benefits as separate policies if the premiums are properly allocated among such policies.

Provided premiums are properly allocated among two or more obligations of an insurer that provide no permanent benefits, and provided further that the employer elects to treat them as separate policies, each policy is tested separately to determine if it is "carried directly or indirectly by the employer." If a policy is not carried directly or indirectly by the employer, no income will be imputed to an employee under section 79 of the Code on account of the insurance provided under that policy.

Applying the above rules to the group term life insurance on the lives of Taxpayer's employees, both the Taxpayer's basic insurance coverage and the optional insurance coverage are available to the eligible employees

because of the employment relationship.

In addition, both the basic insurance coverage and the optional coverage are purchased from the same insurer. Therefore, the obligations contained in Taxpayer's basic coverage and optional coverage will be treated as a single "policy" for purposes of section 79, unless the requirements have been met to allow Taxpayer to elect to treat such obligations as separate policies, and Taxpayer so elects. Because neither the basic coverage nor the optional coverage contains permanent benefits, the only requirement for Taxpayer electing to treat the optional insurance as a separate policy for purposes of determining whether or not the optional coverage is "carried directly or indirectly by the employer" (and, thus, whether or not that coverage is subject to imputed income under section 79) is that the premiums be properly allocated among the policies. If optional insurance coverage offered by Taxpayer is treated as a separate policy, the optional insurance on the life of an employee is not treated as "carried directly or indirectly" by Taxpayer because Taxpayer pays no part of the insurance and all premium rates charged to the employees for the optional insurance are the same as or less than the Table I rates.

Accordingly, based on the information submitted, representations made and authorities cited above, we conclude as follows:

1. The premiums for the basic insurance and the optional insurance are properly allocated so that Taxpayer can elect to treat the optional insurance as separate from the basic insurance.
2. Provided that the Taxpayer elects to treat the optional insurance separately from the basic, optional insurance on the life of an employee  
will not be treated as provided under a policy carried directly or indirectly by Taxpayer within the meaning of section 79(a) of the Code. Accordingly, no income will be imputed under section 79(a) of the Code to those employees purchasing the optional life insurance.

Except as expressly provided herein, no opinion is expressed or implied concerning the federal tax consequences of the transaction under any other provision of the Code or regulations. In particular, no opinion is expressed concerning the tax consequences of coverage on the life of any individual who is not an employee within the meaning of section 1.79-0 of the regulations.

This letter ruling is directed only to the taxpayer who requested it. Code section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to the taxpayer's representatives.

Sincerely,

/S/

Harry Beker  
Chief, Health and Welfare Branch  
Office of Associate Chief Counsel  
(Tax Exempt and Government Entities)

cc: