31, 1962, see section 9(e) of Pub. L. 87–834, set out as an Effective Date of 1962 Amendment note under section 902 of this title.

§ 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.

(Added Pub. L. 88–272, title II, § 204(a)(1), Feb. 26, 1964, 78 Stat. 36; amended Pub. L. 89–97, title I, § 106(d)(3), July 30, 1965, 79 Stat. 337; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–248, title II, § 244(a), Sept. 3, 1982, 96 Stat. 523; Pub. L. 98–369, div. A, title II, § 223(a), (b), July 18, 1984, 98 Stat. 775; Pub. L. 99–514, title XI, § 1151(c)(1), title XVIII, § 1827(a)(1), (c), (d), Oct. 22, 1986, 100 Stat. 2503, 2850, 2851; Pub. L. 100–647, title V, § 5013(a), Nov. 10, 1988, 102 Stat. 3666; Pub. L. 101–140, title II, § 203(a)(1), (b)(1)(A), Nov. 8, 1989, 103 Stat. 830, 831; Pub. L. 101–508, title XI, § 11703(e)(1), Nov. 5, 1990, 104 Stat. 1388–517.)

AMENDMENTS

1990—Subsec. (d)(6). Pub. L. 101–508 substituted ''any former employee'' for ''any retired employee''.

1989—Subsec. (d). Pub. L. 101–140, § 203(a)(1), amended subsec. (d) to read as if amendments by Pub. L. 99–514, § 1151(c)(1), had not been enacted, see 1986 Amendment note below.

Subsec. (d)(7). Pub. L. 101–140, § 203(b)(1)(A), amended par. (7) generally. Prior to amendment, par. (7) read as follows: ''All employees who are treated as employed by a single employer under subsection (b), (c), or (m) of section 414 shall be treated as employed by a single employer for purposes of this section.''

1988—Subsec. (c). Pub. L. 100–647 struck out at end ''In the case of an employee who has attained age 64, the cost prescribed shall not exceed the cost with respect to such individual if he were age 63.''

1986—Subsec. (d). Pub. L. 99–514, § 1151(c)(1), amended subsec. (d) generally, substituting ''In the case of a group-term life insurance plan which is a discriminatory employee benefit plan, subsection (a)(1) shall apply only to the extent provided in section 89.'' for provisions formerly designated as pars. (1)(A) and (B) that in the case of a discriminatory group-term life insurance plan subsec. (a)(1) shall not apply with respect to any key employee and the cost of group-term life insurance on the life of any key employee shall be determined without regard to subsec. (c), and striking out pars. (2) to (7) relating to classifications and eligibility classifications of nondiscriminatory plans.

Subsec. (d)(1)(B). Pub. L. 99–514, § 1827(a)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''the cost of group-term life insurance on the life of any key employee shall be determined without regard to subsection (c).''

Subsec. (d)(6). Pub. L. 99–514, § 1827(c), struck out '', except that subparagraph (A)(iv) of such paragraph shall be applied by not taking into account employees described in paragraph (3)(B) who are not participants in the plan'' from first sentence and inserted provision that such term also includes any retired employee if such employee when he retired or separated from service was a key employee.

Subsec. (d)(8). Pub. L. 99–514, § 1827(d), added par. (8).

1984—Subsec. (b)(1). Pub. L. 98–369, § 223(a)(2), struck out ''either has reached the retirement age with respect to such employer or'' before ''is disabled''.

Subsec. (d)(1). Pub. L. 98–369, § 223(b), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (e). Pub. L. 98–369, § 223(a)(1), added subsec. (e).

1982—Subsec. (d). Pub. L. 97–248 added subsec. (d).

1976—Subsec. (c). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1965—Subsec. (b)(1). Pub. L. 89–97 substituted ''section 72(m)(7)'' for ''paragraph (3) of section 213(g), determined without regard to paragraph (4) thereof''.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11703(e)(2) of Pub. L. 101–508 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply to employees separating from service after the date of the enactment of this Act [Nov. 5, 1990].''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 203(c) of Pub. L. 101–140 provided that: ''The amendments made by this section [amending this section and sections 105, 117, 120, 125, 127, 129, 132, 162, 401, 414, 505, 3121, 3231, 3306, 3401, 4976, and 6652 of this title, section 409 of title 42, The Public Health and Welfare, and provisions set out as notes under sections 89 and 3121 of this title] shall take effect as if included in section 1151 of the Tax Reform Act of 1986 [Pub. L. 99–514, see section 1151(k) set out below].''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 5013(b) of Pub. L. 100–647 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1988.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1151(k) of Pub. L. 99–514, as amended by Pub. L. 100–647, title I, § 1011B(a)(25), (26), Nov. 10, 1988, 102 Stat. 3486, provided that:

''(1) IN GENERAL.—The amendments made by this section [enacting section 89 of this title and amending this section and sections 105, 106, 117, 120, 125, 127, 129, 132, 414, 505, 6039D, and 6652 of this title] shall apply to years beginning after the later of—

''(A) December 31, 1987, or

''(B) the earlier of—

''(i) the date which is 3 months after the date on which the Secretary of the Treasury or his delegate issues such regulations as are necessary to carry out the provisions of section 89 of the Internal Revenue Code of 1986 (as added by this section), or

''(ii) December 31, 1988.

Notwithstanding the preceding sentence, the amendments made by subsections (e)(1) and (i)(3)(C) [amend-

ing section 414 of this title] shall, to the extent they relate to sections 106, 162(i)(2), and 162(k) of the Internal Revenue Code of 1986, apply to years beginning after 1986.

''(2) SPECIAL RULE FOR COLLECTIVE BARGAINING PLAN.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section [enacting section 89 of this title and amending this section and sections 105, 106, 117, 120, 125, 127, 129, 132, 414, 505, 6039D, and 6652 of this title] shall not apply to employees covered by such an agreement in years beginning before the earlier of—

''(A) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

''(B) January 1, 1991.

A plan shall not be required to take into account employees to which the preceding sentence applies for purposes of applying section 89 of the Internal Revenue Code of 1986 (as added by this section) to employees to which the preceding sentence does not apply for any year preceding the year described in the preceding sentence.

''(3) EXCEPTION FOR CERTAIN GROUP-TERM INSURANCE PLANS.—In the case of a plan described in section 223(d)(2) of the Tax Reform Act of 1984 [section 232(d)(2) of Pub. L. 98–369, set out as an Effective Date of 1984 Amendment note below], such plan shall be treated as meeting the requirements of section 89 of the Internal Revenue Code of 1986 (as added by this section) with respect to individuals described in section 223(d)(2) of such Act. An employer may elect to disregard such individuals in applying section 89 of such Code (as so added) to other employees of the employer.

''(4) SPECIAL RULE FOR CHURCH PLANS.—In the case of a church plan (within the meaning of section 414(e)(3) of the Internal Revenue Code of 1986) maintaining an insured accident and health plan, the amendments made by this section [enacting section 89 of this title and amending this section and sections 105, 106, 117, 120, 125, 127, 129, 132, 414, 505, 6039D, and 6652 of this title] shall apply to years beginning after December 31, 1988.

''(5) CAFETERIA PLANS.—The amendments made by subsection (d)(2) [amending sections 3121 and 3306 of this title and section 409 of Title 42, The Public Health and Welfare] shall apply to taxable years beginning after December 31, 1983.

''(6) CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—If an educational organization described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986 makes an election under this paragraph with respect to a plan described in section 125(c)(2)(C) of such Code, the amendments made by this section shall apply with respect to such plan for plan years beginning after the date of the enactment of this Act [Oct. 22, 1986].''

Section 1827(a)(2) of Pub. L. 99–514 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Oct. 22, 1986].''

Amendment by section 1827(c), (d) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 223(d) of Pub. L. 98–369, as amended by Pub. L. 99–514, § 2, title XVIII, § 1827(b), Oct. 22, 1986, 100 Stat. 2095, 2850, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 83 of this title] shall apply to taxable years beginning after December 31, 1983.

''(2) INCLUSION OF FORMER EMPLOYEES IN THE CASE OF EXISTING GROUP-TERM INSURANCE PLANS.—

''(A) IN GENERAL.—The amendments made by subsection (a) [amending this section] shall not apply—

''(i) to any group-term life insurance plan of the employer in existence on January 1, 1984, or

''(ii) to any group-term life insurance plan of the employer (or a successor employer) which is a comparable successor to a plan described in clause (i),

but only with respect to an individual who attained age 55 on or before January 1, 1984, and was employed by such employer (or a predecessor employer) at any time during 1983. Such amendments also shall not apply to any employee who retired from employment on or before January 1, 1984, and who, when he retired, was covered by the plan (or a predecessor plan).

''(B) SPECIAL RULE IN THE CASE OF DISCRIMINATORY GROUP-TERM LIFE INSURANCE PLAN.—In the case of any plan which, after December 31, 1986, is a discriminatory group-term life insurance plan (as defined in section 79(d) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]), subparagraph (A) shall not apply in the case of any individual retiring under such plan after December 31, 1986.

''(C) BENEFITS TO CERTAIN RETIRED INDIVIDUALS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DETERMINING WHETHER PLAN IS DISCRIMINATORY.—For purposes of determining whether a plan described in subparagraph (A) meets the requirements of section 79(d) of the Internal Revenue Code of 1986 with respect to group-term life insurance for former employees, coverage provided to employees who retired on or before December 31, 1986, may, at the employer's election, be disregarded.

''(D) COMPARABLE SUCCESSOR PLANS.—For purposes of subparagraph (A), a plan shall not fail to be treated as a comparable successor to a plan described in subparagraph (A)(i) with respect to any employee whose benefits do not increase under the successor plan.''

EFFECTIVE DATE OF 1982 AMENDMENT

Section 244(b) of Pub. L. 97–248 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1983.''

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–97 applicable to taxable years beginning after Dec. 31, 1966, see section 106(e) of Pub. L. 89–97, set out as a note under section 213 of this title.

EFFECTIVE DATE

Section 204(d) of Pub. L. 88–272, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by subsections (a) [amending this section and section 7701 of this title] and (c) [amending sections 6052 and 6678 of this title] and paragraph (3) of section 6652(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by section 221(b)(2) of this Act), shall apply with respect to group-term life insurance provided after December 31, 1963, in taxable years ending after such date. The amendments made by subsection (b) [amending section 3401 of this title] shall apply with respect to remuneration paid after December 31, 1963, in the form of group-term life insurance provided after such date. In applying section 79(b) of the Internal Revenue Code of 1986 (as added by subsection (a)(1) of this section) to a taxable year beginning before May 1, 1964, if paragraph (2)(B) of such section applies with respect to an employee for the period beginning May 1, 1964, and ending with the close of his first taxable year ending after April 30, 1964, such paragraph (2)(B) shall be treated as applying with respect to such employee for the period beginning January 1, 1964, and ending April 30, 1964.''

NONENFORCEMENT OF AMENDMENT MADE BY SECTION 1151 OF PUB. L. 99–514 FOR FISCAL YEAR 1990

No monies appropriated by Pub. L. 101–136 to be used to implement or enforce section 1151 of Pub. L. 99–514 or the amendments made by such section, see section

528 of Pub. L. 101–136, set out as a note under section 89 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101–1147 and 1171–1177] or title XVIII [§§ 1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

§ 80. Restoration of value of certain securities

(a) General rule

In the case of a domestic corporation subject to the tax imposed by section 11 or 801, if the value of any security (as defined in section 165(g)(2))—

(1) which became worthless by reason of the expropriation, intervention, seizure, or similar taking by the government of any foreign country, any political subdivision thereof, or any agency or instrumentality of the foregoing of property to which such security was related, and

(2) which was taken into account as a loss from the sale or exchange of a capital asset or with respect to which a deduction for a loss was allowed under section 165,

is restored in whole or in part during any taxable year by reason of any recovery of money or other property in respect of the property to which such security was related, the value so restored (to the extent that, when added to the value so restored during prior taxable years, it does not exceed the amount of the loss described in paragraph (2)) shall, except as provided in subsection (b), be included in gross income for the taxable year in which such restoration occurs.

(b) Reduction for failure to receive tax benefit

The amount otherwise includible in gross income under subsection (a) in respect of any security shall be reduced by an amount equal to the amount (if any) of the loss described in subsection (a)(2) which did not result in a reduction of the taxpayer's tax under this subtitle for any taxable year, determined under regulations prescribed by the Secretary.

(c) Character of income

For purposes of this subtitle—

(1) Except as provided in paragraph (2), the amount included in gross income under this section shall be treated as ordinary income.

(2) If the loss described in subsection (a)(2) was taken into account as a loss from the sale or exchange of a capital asset, the amount included in gross income under this section shall be treated as long-term capital gain.

(d) Treatment under foreign expropriation loss recovery provisions

This section shall not apply to any recovery of a foreign expropriation loss to which section 1351 applies.

(Added Pub. L. 89–384, § 1(b)(1), Apr. 8, 1966, 80 Stat. 101; amended Pub. L. 94–455, title XIX, §§ 1901(b)(3)(K), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1793, 1834; Pub. L. 98–369, div. A, title II, § 211(b)(2), July 18, 1984, 98 Stat. 754.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–369 substituted ''801'' for ''802''.

1976—Subsec. (b). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (c)(1). Pub. L. 94–455, § 1901(b)(3)(K), substituted ''ordinary income'' for ''gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231''.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98–369, set out as an Effective Date note under section 801 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(b)(3)(K) of Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

EFFECTIVE DATE

Section 1(b)(3) of Pub. L. 89–384, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this subsection [enacting this section] shall apply to taxable years beginning after December 31, 1965, but only with respect to losses described in section 80(a)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by paragraph (1) of this subsection) which were sustained after December 31, 1958.''

[§ 81. Repealed. Pub. L. 100–203, title X, § 10201(b)(1), Dec. 22, 1987, 101 Stat. 1330–387]

Section, added Pub. L. 89–722, § 1(b)(1), Nov. 2, 1966, 80 Stat. 1152; amended Pub. L. 93–625, § 4(c)(1), Jan. 3, 1975, 88 Stat. 2111; Pub. L. 94–455, title VI, § 605(b), Oct. 4, 1976, 90 Stat. 1575; Pub. L. 99–514, title VIII, § 805(c)(1)(A), Oct. 22, 1986, 100 Stat. 2362, included increase in vacation pay suspense account in gross income.

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 1987, see section 10201(c)(1) of Pub. L. 100–203, set out as an Effective Date of 1987 Amendment note under section 404 of this title.

§ 82. Reimbursement for expenses of moving

Except as provided in section 132(a)(6), there shall be included in gross income (as compensation for services) any amount received or accrued, directly or indirectly, by an individual as a payment for or reimbursement of expenses of moving from one residence to another residence which is attributable to employment or self-employment.

(Added Pub. L. 91–172, title II, § 231(b), Dec. 30, 1969, 83 Stat. 579; amended Pub. L. 103–66, title XIII, § 13213(d)(3)(A), Aug. 10, 1993, 107 Stat. 474.)

AMENDMENTS

1993—Pub. L. 103–66 substituted ''Except as provided in section 132(a)(6), there shall'' for ''There shall''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 applicable to reimbursements or other payments in respect of expenses incurred after Dec. 31, 1993, see section 13213(e) of Pub. L. 103–66, set out as a note under section 62 of this title.