

insurance contract (or an undivided interest therein) that is part of a split-dollar life insurance arrangement (as defined in § 1.61-22(b)(1) or (2)), *see* § 1.61-22(g).

\* \* \* \* \*

(e) \* \* \* Notwithstanding the previous sentence, in the case of a transfer of a life insurance contract, retirement income contract, endowment contract, or other contract providing life insurance protection, or any undivided interest therein, that is part of a split-dollar life insurance arrangement (as defined in § 1.61-22(b)(1) or (2)) that is entered into, or materially modified (within the meaning of § 1.61-22(j)(2)), after September 17, 2003, the policy cash value and all other rights under such contract (including any supplemental agreements thereto and whether or not guaranteed), other than current life insurance protection, are treated as property for purposes of this section. \* \* \*

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■ **Par. 6.** Section 1.83-6 is amended as follows:

■ 1. Redesignating paragraph (a)(5) as paragraph (a)(6).

■ 2. Adding a new paragraph (a)(5).

The addition reads as follows:

**§ 1.83-6 Deduction by employer.**

(a) \* \* \*

(5) *Transfer of life insurance contract (or an undivided interest therein)*—(i) *General rule.* In the case of a transfer of a life insurance contract (or an undivided interest therein) described in § 1.61-22(c)(3) in connection with the performance of services, a deduction is allowable under paragraph (a)(1) of this section to the person for whom the services were performed. The amount of the deduction, if allowable, is equal to the sum of the amount included as compensation in the gross income of the service provider under § 1.61-22(g)(1) and the amount determined under § 1.61-22(g)(1)(ii).

(ii) *Effective date*—(A) *General rule*—Paragraph (a)(5)(i) of this section applies to any split-dollar life insurance arrangement (as defined in § 1.61-22(b)(1) or (2)) entered into after September 17, 2003. For purposes of this paragraph (a)(5), an arrangement is entered into as determined under § 1.61-22(j)(1)(ii).

(B) *Modified arrangements treated as new arrangements.* If an arrangement entered into on or before September 17, 2003 is materially modified (within the meaning of § 1.61-22(j)(2)) after September 17, 2003, the arrangement is

treated as a new arrangement entered into on the date of the modification.

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■ **Par. 7.** In § 1.301-1, paragraph (q) is added to read as follows:

**§ 1.301-1 Rules applicable with respect to distributions of money and other property.**

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(q) *Split-dollar and other life insurance arrangements*—(1) *Split-dollar life insurance arrangements*—(i) *Distribution of economic benefits.* The provision by a corporation to its shareholder pursuant to a split-dollar life insurance arrangement, as defined in § 1.61-22(b)(1) or (2), of economic benefits described in § 1.61-22(d) or of amounts described in § 1.61-22(e) is treated as a distribution of property, the amount of which is determined under § 1.61-22(d) and (e), respectively.

(ii) *Distribution of entire contract or undivided interest therein.* A transfer (within the meaning of § 1.61-22(c)(3)) of the ownership of a life insurance contract (or an undivided interest therein) that is part of a split-dollar life insurance arrangement is a distribution of property, the amount of which is determined pursuant to § 1.61-22(g)(1) and (2).

(2) *Other life insurance arrangements.* A payment by a corporation on behalf of a shareholder of premiums on a life insurance contract or an undivided interest therein that is owned by the shareholder constitutes a distribution of property, even if such payment is not part of a split-dollar life insurance arrangement under § 1.61-22(b).

(3) *When distribution is made*—(i) *In general.* Except as provided in paragraph (q)(3)(ii) of this section, paragraph (b) of this section shall apply to determine when a distribution described in paragraph (q)(1) or (2) of this section is taken into account by a shareholder.

(ii) *Exception.* Notwithstanding paragraph (b) of this section, a distribution described in paragraph (q)(1)(ii) of this section shall be treated as made by a corporation to its shareholder at the time that the life insurance contract, or an undivided interest therein, is transferred (within the meaning of § 1.61-22(c)(3)) to the shareholder.

(4) *Effective date*—(i) *General rule.* This paragraph (q) applies to split-dollar and other life insurance arrangements entered into after September 17, 2003. For purposes of this paragraph (q)(4), a split-dollar life insurance arrangement is entered into as determined under § 1.61-22(j)(1)(ii).

(ii) *Modified arrangements treated as new arrangements.* If a split-dollar life

insurance arrangement entered into on or before September 17, 2003 is materially modified (within the meaning of § 1.61-22(j)(2)) after September 17, 2003, the arrangement is treated as a new arrangement entered into on the date of the modification.

■ **Par. 8.** Section 1.1402(a)-18 is added to read as follows:

**§ 1.1402(a)-18 Split-dollar life insurance arrangements.**

*See* §§ 1.61-22 and 1.7872-15 for rules relating to the treatment of split-dollar life insurance arrangements.

■ **Par. 9.** Section 1.7872-15 is added to read as follows:

**§ 1.7872-15 Split-dollar loans.**

(a) *General rules*—(1) *Introduction.* This section applies to split-dollar loans as defined in paragraph (b)(1) of this section. If a split-dollar loan is not a below-market loan, then, except as provided in this section, the loan is governed by the general rules for debt instruments (including the rules for original issue discount (OID) under sections 1271 through 1275 and the regulations thereunder). If a split-dollar loan is a below-market loan, then, except as provided in this section, the loan is governed by section 7872. The timing, amount, and characterization of the imputed transfers between the lender and borrower of a below-market split-dollar loan depend upon the relationship between the parties and upon whether the loan is a demand loan or a term loan. For additional rules relating to the treatment of split-dollar life insurance arrangements, *see* § 1.61-22.

(2) *Loan treatment*—(i) *General rule.* A payment made pursuant to a split-dollar life insurance arrangement is treated as a loan for Federal tax purposes, and the owner and non-owner are treated, respectively, as the borrower and the lender, if—

(A) The payment is made either directly or indirectly by the non-owner to the owner (including a premium payment made by the non-owner directly or indirectly to the insurance company with respect to the policy held by the owner);

(B) The payment is a loan under general principles of Federal tax law or, if it is not a loan under general principles of Federal tax law (for example, because of the nonrecourse nature of the obligation or otherwise), a reasonable person nevertheless would expect the payment to be repaid in full to the non-owner (whether with or without interest); and

(C) The repayment is to be made from, or is secured by, the policy's death