

date the loan is made, *T* is treated as transferring to *G* \$23,710.48 (the imputed transfer) as compensation. In addition, *T* must take into account as OID an amount equal to the imputed transfer. See § 1.1272-1 for the treatment of OID.

**Example 2.** (i) Assume, in addition to the facts in *Example 1*, that on December 31, 2013, *T* receives \$115,000 (its premium payment of \$100,000 plus \$15,000).

(ii) Under the contingent split-dollar method, when the loan is repaid, there is a \$15,000 positive adjustment (\$15,000 actual payment minus \$0 projected payment). Under paragraph (j)(4) of this section, because *T* accrued imputed interest under section 7872 on this split-dollar loan to *G* and this interest would not have accrued in the absence of section 7872, *T* is not required to include the positive adjustment in income, and *G* is not treated as having interest expense for the positive adjustment. To the same extent, *T* must include in income, and *G* is entitled to deduct, \$15,000 to reverse their respective prior tax consequences imposed under paragraph (e) of this section (*T*'s prior deduction for imputed compensation deemed paid to *G* and *G*'s prior inclusion of this amount). *G* takes the reversal into account in determining adjusted gross income. That is, the \$15,000 is an "above-the-line" deduction, whether or not *G* itemizes deductions.

**Example 3.** (i) Assume the same facts as in *Example 2*, except that on December 31, 2013, *T* receives \$127,000 (its premium payment of \$100,000 plus \$27,000).

(ii) Under the contingent split-dollar method, when the loan is repaid, there is a \$27,000 positive adjustment (\$27,000 actual payment minus \$0 projected payment). Under paragraph (j)(4) of this section, because *T* accrued imputed interest of \$23,710.48 under section 7872 on this split-dollar loan to *G* and this interest would not have accrued in the absence of section 7872, *T* is not required to include \$23,710.48 of the positive adjustment in income, and *G* is not treated as having interest expense for the positive adjustment. To the same extent, in 2013, *T* must include in income, and *G* is entitled to deduct, \$23,710.48 to reverse their respective prior tax consequences imposed under paragraph (e) of this section (*T*'s prior deduction for imputed compensation deemed paid to *G* and *G*'s prior inclusion of this amount). *G* and *T* take these reversals into account in determining adjusted gross income. Under the contingent split-dollar method, *T* must include in income \$3,289.52 upon resolution of the contingency (\$27,000 positive adjustment minus \$23,710.48).

(k) **Payment ordering rule.** For purposes of this section, a payment made by the borrower to or for the benefit of the lender pursuant to a split-dollar life insurance arrangement is applied to all direct and indirect split-dollar loans in the following order—

(1) A payment of interest to the extent of accrued but unpaid interest (including any OID) on all outstanding split-dollar loans in the order the interest accrued;

(2) A payment of principal on the outstanding split-dollar loans in the order in which the loans were made;

(3) A payment of amounts previously paid by a non-owner pursuant to a split-dollar life insurance arrangement that were not reasonably expected to be repaid by the owner; and

(4) Any other payment with respect to a split-dollar life insurance arrangement, other than a payment taken into account under paragraphs (k)(1), (2), and (3) of this section.

(l) [Reserved]

(m) **Repayments received by a lender.** Any amount received by a lender under a life insurance contract that is part of a split-dollar life insurance arrangement is treated as though the amount had been paid to the borrower and then paid by the borrower to the lender. Any amount treated as received by the borrower under this paragraph (m) is subject to other provisions of the Internal Revenue Code as applicable (for example, sections 72 and 101(a)). The lender must take the amount into account as a payment received with respect to a split-dollar loan, in accordance with paragraph (k) of this section. No amount received by a lender with respect to a split-dollar loan is treated as an amount received by reason of the death of the insured.

(n) **Effective date—(1) General rule.** This section applies to any split-dollar life insurance arrangement entered into after September 17, 2003. For purposes of this section, an arrangement is entered into as determined under § 1.61-22(j)(1)(ii).

(2) **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.

## PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

■ **Par. 10.** The authority citation for part 31 continues to read in part as follows:

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

■ **Par. 11.** In § 31.3121(a)-1, paragraph (k) is added to read as follows:

§ 31.3121(a)-1 **Wages.**

\* \* \* \* \*

(k) **Split-dollar life insurance arrangements.** Except as otherwise provided under section 3121(v), see §§ 1.61-22 and 1.7872-15 of this chapter for rules relating to the treatment of split-dollar life insurance arrangements.

■ **Par. 12.** In § 31.3231(e)-1, paragraph (a)(6) is added to read as follows:

§ 31.3231(e)-1 **Compensation.**

(a) \* \* \*

(6) **Split-dollar life insurance arrangements.** See §§ 1.61-22 and 1.7872-15 of this chapter for rules relating to the treatment of split-dollar life insurance arrangements.

\* \* \* \* \*

■ **Par. 13.** In § 31.3306(b)-1, paragraph (l) is added to read as follows:

§ 31.3306(b)-1 **Wages.**

\* \* \* \* \*

(l) **Split-dollar life insurance arrangements.** Except as otherwise provided under section 3306(r), see §§ 1.61-22 and 1.7872-15 of this chapter for rules relating to the treatment of split-dollar life insurance arrangements.

■ **Par. 14.** In § 31.3401(a)-1, paragraph (b)(15) is added to read as follows:

§ 31.3401(a)-1 **Wages.**

\* \* \* \* \*

(b) \* \* \*

(15) **Split-dollar life insurance arrangements.** See § 1.61-22 of this chapter for rules relating to the treatment of split-dollar life insurance arrangements.

\* \* \* \* \*

## PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 15.** The authority citation for part 602 continues to read as follows:

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

■ **Par. 16.** In section 602.101, paragraph (b) is amended by adding an entry in numerical order for § 1.7872-15 to read as follows:

§ 602.101 **OMB Control numbers.**

\* \* \* \* \*

(b) \* \* \*

CFR part or section where identified and described	Current OMB control No.
* * *	* *
1.7872-15 .....	1545-1792
* * *	* *

Robert E. Wenzel,

Deputy Commissioner for Services and Enforcement.

Approved: September 11, 2003.

Pamela F. Olson,

Assistant Secretary of the Treasury.

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