

Rev. Rul. 82-196

Section 106. -- Contributions by Employer to Accident and Health Plans

26 CFR 1.106-1: Contributions by employer to accident and health plans.

1982-2 C.B. 53

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Employer contributions to health and accident plan; deceased employee's surviving spouse and dependents. Contributions by an employer to a health and accident plan, which was adopted during the employee's employment and continues to provide benefits to the spouse and dependents after the employee's death, are excludable from gross income under section 106 of the Code.

ISSUES

(1) Whether contributions by an employer to a plan that provides accident and health benefits for an employee and the employee's spouse and dependents before and after the employee's retirement and that also provides benefits for a deceased employee's surviving spouse and dependents are excludable from the employee's gross income under section 106 of the Internal Revenue Code.

(2) Whether, after an employee's death, contributions by an employer to a plan that provides accident and health benefits for a surviving spouse and dependents of the deceased employee are excludable from the survivors' gross incomes under section 106 of the Code.

(3) Whether the taxation of health benefit payments made by an insurance company to the surviving spouse and dependents of a deceased employee-participant in an employer-funded health and accident plan is determined under section 105 of the Code.

FACTS

A, an individual, is an employee whose employer pays the entire cost of accident and health insurance coverage for its employees, their spouses, and dependents. Under the health plan each employee and the employee's spouse and dependents are covered before and after the employee's retirement. Upon the death of an employee, the employer is obligated to pay the entire cost of the accident and health insurance coverage for the benefit of the employee's spouse and dependents.

No employee covered under the plan is a "highly compensated individual" within the meaning of section 105 of the Code.

LAW AND ANALYSIS

Section 106 of the Code provides that gross income does not include contributions by an employer to accident or health plans for compensation (through insurance or otherwise) to employees for personal injuries or sickness.

Section 1.106-1 of the Income Tax Regulations provides that the gross income of an employee does not include contributions that an employer makes to an accident or health plan for compensation (through insurance or otherwise) to the employee for personal injuries or sickness incurred by the employee, the employee's spouse, or the employee's dependents, as defined in section 152 of the Code.

An employer's contributions to an accident and health plan that provides benefits for a retired employee are excludable from the retired employee's gross income. Rev. Rul. 62-199, 1962-2 C.B. 38; Rev. Rul. 75-539, 1975-2 C.B. 45. This is true whether or not coverage extends to the retired employee's spouse and dependents. Therefore, employer contributions to a plan that provides accident and health benefits for an employee and the employee's spouse and

dependents before and after the employee's retirement and that also provides benefits for a deceased employee's surviving spouse and dependents are excludable from the employee's gross income under section 106 of the Code for the taxable years during which they are made.

Section 691(a)(1) of the Code sets forth rules concerning the inclusion in gross income of recipients of income in respect of decedents.

Section 1.691(a)-1(d) of the regulations provides that items excludable from gross income are not income in respect of a decedent. Accordingly, since the employer's contribution to the accident and health plan would have been excludable from the decedent's gross income under section 106 of the Code had it been made prior to the employee's death, and since the employer's contributions to the plan after the employee's death represent a mere continuation of the employee's health and accident benefit package, the value of the employer's contributions to the accident and health plan on behalf of the surviving spouse and dependents of the deceased employee is not income in respect of a decedent, and is excluded under section 106 from the gross income of the surviving spouse or dependent. Rev. Rul. 59-64, 1959-1 C.B. 31.

Section 691(a)(3) of the Code provides that any amount acquired by reason of the death of the decedent is considered to have the same character in the hands of the recipient that it would have had the decedent lived. Accordingly, the character of any payments received by a surviving spouse and dependents of a deceased employee under the plan described above will be the same as the character of such payment in the hands of the employee has the employee lived. See Rev. Rul. 59-64.

Section 105 of the Code governs the taxation of amounts received by an employee under an employer-funded accident and health plan. Since an accident and health plan that extends coverage to the surviving spouse and dependents of a deceased employee is treated as a continuation of the employee's accident and health benefit package, taxation of amounts received by the survivors as insurance benefits is also determined under section 105.

## HOLDINGS

(1) Employer contributions to an accident and health plan that provides coverage for an employee and the employee's spouse and dependents before and after the employee's retirement and that also provides coverage for a deceased employee's surviving spouse and dependents are excludable from the employee's gross income under section 106 of the Code.

(2) After an employee's death, contributions by an employer to an accident and health plan that provides coverage for a surviving spouse and dependents of the deceased employee are excludable from the survivors' gross income under section 106 of the Code.

(3) The taxation of health benefit payments made by an insurance company to the surviving spouse and dependents of a deceased employee-participant in an employer-funded health and accident plan is determined under section 105 of the Code.