

Revenue Ruling 74-307
Internal Revenue Service
1974-2 C.B. 126

Section 401. - Qualified Pension, Profit-Sharing and Stock Bonus Plans

26 CFR 1.401-1: Qualified pension, profit-sharing, and stock bonus plans.

Incidental benefits; life insurance . Preretirement death benefits under a qualified pension plan of any type will be considered "incidental" under section 1.401-1(b)(1)(i) of the regulations provided less than 50 percent of the employer contribution credited to each participant's account is used to purchase ordinary life insurance policies on the participant's life, even though the total death benefit equals the sum of the face amount of the policies and the participant's auxiliary fund account balance at the time of death; Rev. Ruls. 68-453 and 73-501 clarified and modified.

Rev. Rul. 74-307

The Internal Revenue Service has been requested to reconsider the conclusion of Rev. Rul. 68-453, 1968-2 C.B. 163 and to determine the applicability of the principle set forth in Rev. Rul. 73-501, 1973-2 C.B. 127, in a qualified pension plan. That principle is that death benefits under a profit-sharing plan will be considered incidental within the meaning of section 1.401-1(b)(1)(ii) of the Income Tax Regulations if less than 50 percent of the employer contribution credited to each participant's account is used to purchase ordinary life insurance policies on the participant's life, even if the total death benefit consists of both the face amount of the policies and the amount credited to the participants account at the time of death.

Section 1.401-1(b)(1)(i) of the regulations states that a qualified pension plan may provide for the payment of incidental death benefits through insurance or otherwise. Rev. Rul. 61-164, 1961-2 C.B. 99, and Rev. Rul. 66-143, 1966-1 C.B. 79, state that a 50 percent contribution used to pay premiums on ordinary life insurance policies is equivalent to a 25 percent pure insurance cost since only approximately one-half of the premiums paid for such policies are for pure insurance protection.

Rev. Rul. 70-611, 1970-2 C.B. 89, states that death benefits may be considered incidental in any type of pension plan if, for any individual, the cost of such benefits does not exceed 25 percent of the total cost. This is based on and is equivalent to the 50 percent limitation on contributions used to purchase ordinary life insurance policies.

Rev. Rul. 68-453, 1968-2 C.B. 163, states that in a split funded pension plan under which the total death benefit before normal retirement date is equal to the greater of (a) the proceeds of ordinary life insurance policies providing a death benefit of 100 times the anticipated monthly normal retirement benefit or (b) the sum of (i) the reserve under the ordinary life insurance policies plus (ii) the participant's account in the auxiliary fund, such total death benefit is incidental within the meaning of section 1.401-1(b)(1)(i) of the regulations, and would not preclude the plan from qualifying under section 401(a) of the Internal Revenue Code of 1954, but if the total death benefit were equal to the sum of the proceeds of such ordinary life insurance policies plus the participant's auxiliary fund account, such total death benefit would not be incidental within the meaning of the foregoing section of the regulations, and would preclude the plan from qualifying. Rev. Rul. 73-501 reinforces that position.

The conclusion stated in the preceding paragraph as to a total death benefit which is incidental has been set forth without regard to the portion of the employer contribution used to purchase ordinary life insurance policies on the participant's life. In accord with the above mentioned "50 percent contribution" and "25 percent cost" conclusions, however, a plan is not precluded from qualifying under section 401(a) of the Code merely because the death benefit thereunder is equal to the sum of the proceeds of such ordinary life insurance policies as were described in the preceding paragraph plus the participant's auxiliary fund account, if such total death benefit may be considered incidental within the meaning of section 1.401-1(b)(1)(i) of the regulations due to less than 50 percent of the employer contributions credited to each participant's account being used to purchase ordinary life insurance policies on the participant's life, with the balance of such contributions being made to an auxiliary fund with a separate account for each participant.

Accordingly, death benefits under a pension plan of any type will be considered incidental within the meaning of section 1.401-1(b)(1)(i) of the regulations if either (1) less than 50 percent of the employer contribution credited to each participant's account is used to purchase ordinary life insurance policies on the participant's life, even if the total death benefit consists of both the face amount of the policies and the amount credited to the participant's account at the time of death, or (2) such death benefits would be considered incidental under Rev. Rul. 68-453 and the total death benefit before normal retirement date is equal to the greater of (a) the proceeds of ordinary life insurance policies providing a death benefit of 100 times the anticipated monthly normal retirement benefit or (b) the sum of (i) the reserve under the ordinary life insurance policies plus (ii) the participant's account in the auxiliary fund.

This Revenue Ruling thus clarifies and modifies Rev. Rul. 68-453 and also clarifies and modifies Rev. Rul. 73-501 insofar as the latter Revenue Ruling refers to Rev. Rul. 68-453, in addition to extending the principle in Rev. Rul. 73-501 to all types of pension plans.