

Internal Revenue Code Section 72(p)(2)(A)

Annuities; certain proceeds of endowment and life insurance contracts

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(p) Loans treated as distributions.


For purposes of this section -

(1) Treatment as distributions.

(A) Loans. If during any taxable year a participant or beneficiary receives (directly or indirectly) any amount as a loan from a qualified employer plan, such amount shall be treated as having been received by such individual as a distribution under such plan.

(B) Assignments or pledges. If during any taxable year a participant or beneficiary assigns (or agrees to assign) or pledges (or agrees to pledge) any portion of his interest in a qualified employer plan, such portion shall be treated as having been received by such individual as a loan from such plan.

(2) Exception for certain loans.



(A) General rule. Paragraph (1) shall not apply to any loan to the extent that such loan (when added to the outstanding balance of all other loans from such plan whether made on, before, or after August 13, 1982), does not exceed the lesser of-

(i) \$50,000, reduced by the excess (if any) of-

(I) the highest outstanding balance of loans from the plan during the 1-year period ending on the day before the date on which such loan was made, over

(II) the outstanding balance of loans from the plan on the date on which such loan was made, or

(ii) the greater of (I) one-half of the present value of the nonforfeitable accrued benefit of the employee under the plan, or (II) \$10,000.

For purposes of clause (ii), the present value of the nonforfeitable accrued benefit shall be determined without regard to any accumulated deductible employee contributions (as defined in subsection (o)(5)(B)).

(B) Requirement that loan be repayable within 5 years.

(i) In general. Subparagraph (A) shall not apply to any loan unless such loan, by its terms, is required to be repaid within 5 years.

(ii) Exception for home loans. Clause (i) shall not apply to any loan used to acquire any dwelling unit which within a reasonable time is to be used (determined at the time the loan is made) as the principal residence of the participant.

(C) Requirement of level amortization. Except as provided in regulations, this paragraph shall not apply to any loan unless substantially level amortization of such loan (with payments not less frequently than quarterly) is required over the term of the loan.

(D) Prohibition of loans through credit cards and other similar arrangements. Subparagraph (A) shall not apply to any loan which is made through the use of any credit card or any other similar arrangement.

(E) Related employers and related plans. For purposes of this paragraph -
(i) the rules of subsections (b) , (c) , and (m) of section 414 shall apply, and

(ii) all plans of an employer (determined after the application of such subsections) shall be treated as 1 plan.

(3) Denial of interest deductions in certain cases.

(A) In general. No deduction otherwise allowable under this chapter shall be allowed under this chapter for any interest paid or accrued on any loan to which paragraph (1) does not apply by reason of paragraph (2) during the period described in subparagraph (B) .

(B) Period to which subparagraph (A) applies. For purposes of subparagraph (A) , the period described in this subparagraph is the period-

(i) on or after the 1st day on which the individual to whom the loan is made is a key employee (as defined in section 416(i)), or

(ii) such loan is secured by amounts attributable to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) .

(4) Qualified employer plan, etc.

For purposes of this subsection -

(A) Qualified employer plan.-

(i) In general. The term "qualified employer plan" means-

(I) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a) ,

(II) an annuity plan described in section 403(a) , and

(III) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b) .

(ii) Special rule. The term "qualified employer plan" shall include any plan which was (or was determined to be) a qualified employer plan or a government plan.

(B) Government plan. The term "government plan" means any plan, whether or not qualified, established and maintained for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing.

(5) Special rules for loans, etc., from certain contracts.

For purposes of this subsection, any amount received as a loan under a contract purchased under a qualified employer plan (and any assignment or pledge with respect to such a contract) shall be treated as a loan under such employer plan.

(6) Increase in limit on loans not treated as distributions.

(A) In general. In the case of any loan from a qualified employer plan to a qualified individual made during the applicable period-

(i) clause (i) of paragraph (2)(A) shall be applied by substituting "\$100,000" for "\$50,000", and

(ii) clause (ii) of such paragraph shall be applied by substituting "the present value of the nonforfeitable accrued benefit of the employee under the plan" for "one-half of the present value of the nonforfeitable accrued benefit of the employee under the plan".

(B) Delay of repayment. In the case of a qualified individual with respect to any qualified disaster with an outstanding loan from a qualified employer plan on or after the applicable date with respect to the qualified disaster-

(i) if the due date pursuant to subparagraph (B) or (C) of paragraph (2) for any repayment with respect to such loan occurs during the period beginning on the first day of the incident period of such qualified disaster and ending on the date which is 180 days after the last day of such incident period, such due date may be delayed for 1 year,

(ii) any subsequent repayments with respect to any such loan may be appropriately adjusted to reflect the delay in the due date under clause (i) and any interest accruing during such delay, and

(iii) in determining the 5-year period and the term of a loan under subparagraph (B) or (C) of paragraph (2), the period described in clause (i) may be disregarded.

(C) Definitions. For purposes of this paragraph-

(i) Qualified individual. The term "qualified individual" means any individual-

(I) whose principal place of abode at any time during the incident period of any qualified disaster is located in the qualified disaster area with respect to such qualified disaster, and

(II) who has sustained an economic loss by reason of such qualified disaster.

(ii) Applicable period. The applicable period with respect to any disaster is the period-

(I) beginning on the applicable date with respect to such disaster, and

(II) ending on the date that is 180 days after such applicable date.

(iii) Other terms. For purposes of this paragraph-

(I) the terms "applicable date", "qualified disaster", "qualified disaster area", and "incident period" have the meaning given such terms under subsection (t)(11) , and

(II) the term "applicable period" has the meaning given such term under subsection (t)(8) .

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