
EMPLOYER: Sample Client

PLAN: Executive Deferred Compensation Plan

REPORT: Returns and Records with Respect to Employer-Owned Insurance Contracts

FOR THE PERIOD ENDING: 12/31/2017

IMPORTANT

The COLI Best Practices Act was signed into law on August 17, 2006. It was designed to codify the life insurance industry's "best practices" regarding uses of employer-owned life insurance and amends the Internal Revenue Code of 1986 to exclude from gross income the proceeds from certain employer-owned life insurance policies. The Act amended Section 101 by adding subsection (j), "Treatment of Certain Employer-Owned Life Insurance Contracts," and added Section 6039I, "Returns and Records With Respect to Employer-Owned Life Insurance Contracts." The IRS has created new forms to be included with employer tax returns. Regulations require that the policy owner file an annual return using Form 8925: "Report of Employer-Owned Life Insurance Contracts."

Form 8925 contains the following instruction to employers: "Purpose of Form - Use Form 8925 to report the number of employees covered by employer-owned life insurance contracts issued after August 17, 2006, and the total amount of employer-owned life insurance in force on those employees at the end of the tax year. Policyholders must also indicate whether a valid consent has been received from each covered employee, and the number of covered employees for which a valid consent has not been received."

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| IF THE REQUIREMENTS OF IRC §101(j) ARE NOT MET, THEN THE LIFE INSURANCE PROCEEDS RECEIVED BY THE EMPLOYER WILL BE SUBJECT TO INCOME TAX TO THE EXTENT THAT THE PROCEEDS EXCEED THE EMPLOYER'S COST BASIS IN THE POLICY |
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The following reports are intended to assist you in compiling data on policies administered by The Pangburn Group. This data needs to be combined with similar data on all policies you own on the lives of employees. The following reports identify policies that we recordkeep in three categories:

Section I - Policies issued after 08/17/2006 and presumably subject to reporting on Form 8925

Section II - Policies issued prior to 08/17/2006, exchanged after that date, and possibly subject to reporting if materially modified*

Section III - Policies issued on or before August 17, 2006 which should not be subject to IRC section 101(j) reporting, if not materially modified*

(If our records do not include 1 or more policies in a given Section, that Section will be intentionally omitted.)

IT IS YOUR EXCLUSIVE RESPONSIBILITY TO OBTAIN VALID CONSENT FROM APPLICABLE EMPLOYEES AND TO TIMELY AND ACCURATELY FILE FORM 8925. YOU ARE URGED TO CONSULT YOUR TAX AND ACCOUNTING PROFESSIONALS FOR THE MOST CURRENT REPORTING REQUIREMENTS.

*Materially Modified - within the meaning of section 863(d) of Pension Protection Act of 2006 (P.L. 109-280). For more information on material modification, see Q&A-14 in Notice 2009-48.

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SECTION I

Policies Issued after 08/17/2006

| <u>Insured</u> | <u>Carrier</u> | <u>Policy Number</u> | <u>Issue / Exchange Date</u> | <u>Total Amount Of Insurance In Force*</u> |
|----------------|----------------|--------------------------|--|--|
| 1 . Doe, Jill | ABC Life | 852963741 | 01/01/2009 | 354,384 |
| 2 . Jones, Bob | ABC Life | 741852963 | 01/01/2007 | 2,337,749 |
| | | | Total: | 2,692,133 |
| | | | TOTAL Death Benefit Amounts under Sections I & II: | 2,692,133 |

*The policies listed in all three sections of this report include all the policies administered by The Pangburn Group irrespective of the insured's employment status at the end of the tax year. Please refer to the General Instructions attached to IRS Tax Form 8925.

COLI Best Practices Summary

Under Section 101(j), in the case of an employer-owned life insurance contract, the amount of death benefit an employer is allowed to exclude from gross income is equal to the sum of the premiums and other amounts paid for the contract unless the following requirements are met:

1. Before a policy is issued, the employee must:

- a) be notified in writing that the employer intends to insure the employee's life and the maximum face amount for which the employee could be insured at the time the contract was issued.
- b) provide written consent to be insured under the contract during and after active employment.
- c) be informed in writing that the employer will be the beneficiary of any death benefits.

2. Any one of the following must apply:

- a) The insured was an employee at any time during the 12-month period before the insured's death.
- b) At the time of issuance, the insured was:
 - i) a director.
 - ii) a highly compensated employee.*
 - iii) a highly compensated individual.**
- c) Death benefits are paid to:
 - i) a family member of the insured.
 - ii) a designated non-employer beneficiary of the insured under the contract.
 - iii) a trust established for a family member or other named beneficiary.
 - iv) the estate of the insured.
- d) Death benefits are used to purchase an equity (or partnership capital or profits) interest in the applicable policyholder from such a family member, beneficiary, trust, or estate.

Under Section 6039I, every applicable policyholder owning one or more employer-owned life insurance contracts, issued after the date of the enactment of this section, must file a return (at such time and in such manner as the Secretary shall by regulations prescribe) showing, for each year such contracts that are owned, the following:

1. the number of employees of the applicable policyholder at the end of the year.
2. the number of such employees insured under such contracts.
3. the total amount of insurance in force at the end of the year under such contracts.
4. the name, address, and taxpayer identification number of the applicable policyholder, and the type of business in which the policyholder is engaged.
5. that the applicable policyholder has a valid consent for each insured employee (or, if all such consents are not obtained, the number of insured employees for whom such consent was not obtained).

DEFINITIONS:

Employees - The term "employee" includes an officer, director, and highly compensated employee (within the meaning of section 414(q) (without regard to paragraph (1)(B)(ii) thereof) of the Internal Revenue Code).

Insured - The term "insured" means, with respect to an employer-owned life insurance contract, an individual covered by the contract who is a United States citizen or resident. In the case of a contract covering the joint lives of two individuals, references to an insured include both of the individuals.

*Highly Compensated Employee - within the meaning of section 414(q) (without regard to paragraph (1)(B)(ii) thereof) of the Internal Revenue Code.

**Highly Compensated Individual - within the meaning of section 105(h)(5) of the Internal Revenue Code, except that "35 percent" shall be substituted for "25 percent" in subparagraph (C) .

Report of Employer-Owned Life Insurance Contracts

▶ **Attach to the policyholder's tax return. See instructions.**
 ▶ **Go to www.irs.gov/Form8925 for the latest information.**

| | |
|---|---|
| Name(s) shown on return | Identifying number |
| Name of policyholder, if different from above | Identifying number, if different from above |

Type of business

| | | |
|---|-----------|--|
| 1 Enter the number of employees the policyholder had at the end of the tax year | 1 | |
| 2 Enter the number of employees included on line 1 who were insured at the end of the tax year under the policyholder's employer-owned life insurance contract(s) issued after August 17, 2006. See <i>Section 1035 exchanges</i> on page 2 for an exception | 2 | |
| 3 Enter the total amount of employer-owned life insurance in force at the end of the tax year for employees who were insured under the contract(s) specified on line 2 | 3 | |
| 4a Does the policyholder have a valid consent for each employee included on line 2? See instructions <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| b If "No," enter the number of employees included on line 2 for whom the policyholder does not have a valid consent | 4b | |

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Form 8925 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/Form8925.

General Instructions

Purpose of Form

Use Form 8925 to report the number of employees covered by employer-owned life insurance contracts issued after August 17, 2006, and the total amount of employer-owned life insurance in force on those employees at the end of the tax year. Policyholders must also indicate whether a valid consent has been received from each covered employee, and the number of covered employees for which a valid consent has not been received.

For more information, see sections 101(j) and 6039I, and Notice 2009-48, 2009-24 I.R.B. 1085, available at www.irs.gov/irb/2009-24_IRB/ar11.html.

Definitions

Employer-owned life insurance contract. For purposes of Form 8925, an insurance contract is an employer-owned life insurance contract if it is owned by a policyholder as defined below, and covers the life of the policyholder's employee(s) on the date the life insurance contract is issued. If you have master contracts, see section 101(j)(3) for additional information.

Policyholder. For purposes of Form 8925 and these instructions, a policyholder is an "applicable policyholder" as defined in section 101(j)(3)(B). Generally, a policyholder is the person who owns the employer-owned life insurance contract, and who is (a) engaged in a trade or business that employs the person insured under the employer-owned life insurance contract and (b) the direct or indirect beneficiary of the employer-owned life insurance contract.

Related person. A related person is considered a policyholder if that person is (a) related to the policyholder (defined earlier) under sections 267(b) or 707(b) (1), or (b) engaged in a trade or business under common control with the policyholder. See sections 52(a) and (b).

Employee. Employee includes an officer, director, or highly compensated employee under section 414(q).

Insured. An individual must be a U.S. citizen or resident to be considered insured under an employer-owned life insurance contract. Both individuals covered by a contract covering the joint lives of two individuals are considered insured.

Notice and consent requirements. To qualify as an employer-owned life insurance contract, the policyholder must meet the notice and consent requirements listed below before the issuance of the contract.

1. Provide written notification to the employee stating the policyholder intends to insure the employee's life and the maximum face amount for which the employee could be insured at the time the contract was issued.

The written notification must include a disclosure of the face amount of life insurance, either in dollars or as a multiple of salary, that the policyholder reasonably expects to purchase with regard to the employee during the course of the employee's tenure. Additional notice and consent are required if the aggregate face amount of the employer-owned life insurance contracts with regard to an employee exceeds the amount of which the employee was given notice and to which the employee consented. See Q&A-9 and Q&A-12 in Notice 2009-48.

2. Provide written notification to the employee that the policyholder will be a beneficiary of any proceeds payable upon the death of the employee.

3. Receive written consent from the employee. See *Valid consent* under the instructions for line 4a.

Electronic notification and consent. The written notification and consent requirement can be met electronically only if the system for electronic notification and consent meets requirements 1 through 3, above. See Q&A-11 in Notice 2009-48 for more information.

Issue date of contract. Generally, the issue date of a life insurance contract is the date on the policy assigned by the insurance company on or after the date of application. For purposes of meeting the notice and consent requirements, the issue date of the employer-owned life insurance contract is the later of (1) the date of application of coverage, (2) the effective date of coverage, or (3) the formal issuance of the contract. See Q&A-4 in Notice 2009-48 for more information.

Who Must File

Generally, every policyholder owning one or more employer-owned life insurance contracts issued after August 17, 2006, must file Form 8925 for each tax year the contract(s) is owned.

Section 1035 exchanges.

Policyholders are not required to complete Form 8925 for a life insurance contract issued after August 17, 2006, as part of a section 1035 exchange for a contract issued before August 18, 2006. See Q&A-15 in Notice 2009-48 for more information.

However, any material increase in the death benefit or other material change to the contract will cause it to be treated as a new contract and the policyholder is required to file Form 8925. See Q&A-14 in Notice 2009-48 for more information.

For master contracts under section 264(f)(4)(E), the addition of covered lives is treated as a new contract only for the additional covered lives.

See sections 1035 and 264(f)(4)(E) and Notice 2009-48 for more information.

When To File

Attach Form 8925 to the policyholder's income tax return for each tax year during which the policyholder has employer-owned life insurance contract(s) in force.

Recordkeeping

You must keep adequate records to support the information reported on Form 8925.

Specific Instructions

Name of Policyholder

Enter the name of the policyholder (defined earlier).

Identifying Number

The identifying number of an individual is a social security number. For all other taxpayers, it is an employer identification number.

Type of Business

Enter the policyholder's trade or business activity.

Line 4a

Valid consent. Before the issuance of the employer-owned life insurance contract, the employee must provide written consent (a) to be insured under the contract and (b) that coverage may continue after the insured terminates employment.

Note: The written consent is not valid unless the related employer-owned life insurance contract is issued (see *Issue date of contract* on page 1) within a year after the consent was executed, or before the employee terminates employment with the trade or business of the applicable policyholder, whichever is earlier. For additional notice and consent requirements that may apply, see item 1 under *Notice and consent requirements* on page 1. Also, see Q&A-9 in Notice 2009-48 for more information.

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual and business taxpayers filing this form is approved under OMB control numbers 1545-0074 and 1545-0123. The estimated burden for all other taxpayers who file this form is shown below.

Recordkeeping 2 hr., 23 min.

Learning about the law or the form 1 hr., 00 min.

Preparing the form 1 hr., 4 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.