

proceeds of the term insurance, it is a payment of an amount held by the insurer and paid on a date later than the death of the insured to which section 101(d) and this section applies (including the \$1,000 exclusion allowed the surviving spouse under section 101(d)(1)(B)). The proceeds of the basic policy, when received in a lump sum at the end of the term period, are excludable from gross income under section 101(a).

(2) *Example of tax treatment of amounts received under a family income rider.* The following example illustrates the application of the principles contained in subparagraph (1) of this paragraph to payments received under a permanent life insurance policy with a family income rider attached:

Example. The sole life insurance policy of the insured provides for the payment of \$100,000 to the beneficiary (the insured's spouse) on his death. In addition, there is attached to the policy a family income rider which provides that, if the insured dies before the 20th anniversary of the basic policy, the beneficiary shall receive (i) monthly payments of \$1,000 commencing on the date of the insured's death and ending with the payment prior to the 20th anniversary of the basic policy, and (ii) a single payment of \$100,000 payable on the 20th anniversary of the basic policy. On the date of the insured's death, the beneficiary (surviving spouse of the insured) is entitled to 36 monthly payments of \$1,000 and to the single payment of \$100,000 on the 20th anniversary of the basic policy. The value of the proceeds of the term insurance at the date of the insured's death is \$28,409.00 (the present value of the portion of the monthly payments to which section 101(d) applies computed on the basis that the interest rate used by the insurer in determining the benefits to be paid under the contract is 2¼ percent). The amount of each monthly payment of \$1,000 which is includable in the beneficiary's gross income is determined in the following manner:

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| (a) Total amount of monthly payment | \$1,000.00 |
| (b) Amount includible in gross income under section 101(c) as interest on the \$100,000 proceeds under the basic policy held by the insurer until 20th anniversary of the basic policy (computed on the basis that the interest rate used by the insurer in determining the benefits to be paid under the contract is 2¼ percent) | 185.00 |
| (c) Amount to which section 101(d) applies ((a) minus (b)) | 815.00 |
| (d) Amount excludable from gross income under section 101(d) (\$28,409÷36) | 789.14 |

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| (e) Amount includible in gross income under section 101(d) without taking into account the \$1,000 exclusion allowed the beneficiary as the surviving spouse ((c) minus (d)) | 25.86 |
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The beneficiary, as the surviving spouse of the insured, is entitled to exclude the amounts otherwise includible in gross income under section 101(d) (item (e)) to the extent such amounts do not exceed \$1,000 in the taxable year of receipt. This exclusion is not applicable, however, with respect to the amount of each payment which is includible in gross income under section 101(c) (item (b)). In this example, therefore, the beneficiary must include \$185 of each monthly payment in gross income (amount includible under section 101(c)), but may exclude the \$25.86 which is otherwise includible under section 101(d). The payment of \$100,000 which is payable to the beneficiary on the 20th anniversary of the basic policy will be entirely excludable from gross income under section 101(a).

(3) *Limitation on amount considered to be an "amount held by an insurer"*. See paragraph (b)(3) of this section for a limitation on the amount which shall be considered an "amount held by an insurer" in the case of proceeds of life insurance which are paid subsequent to the transfer of the policy for a valuable consideration.

(4) *Effective date.* The provisions of this paragraph are applicable only with respect to amounts received during taxable years beginning after October 28, 1961, irrespective of the date of the death of the insured.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 6577, 26 FR 10127, Oct. 28, 1961; 26 FR 10275, Nov. 2, 1961]

§ 1.101-5 Alimony, etc., payments.

Proceeds of life insurance policies paid by reason of the death of the insured to his separated wife, or payment excludable as death benefits under section 101(b) paid to a deceased employee's separated wife, if paid to discharge legal obligations imposed by a decree of divorce or separate maintenance, by a written separation agreement executed after August 16, 1954, or by a decree of support entered after March 1, 1954, shall be included in the gross income of the separated wife if section 71 or 682 is applicable to the payments made. For definition of "wife", see section 7701(a)(17) and the regulations thereunder.