



NYLEX News

News and Events in the Executive Benefit Program Marketplace

IRS Issues Final “Report of Employer-Owned Life Insurance Contracts”, Form 8925

TO OUR CLIENTS AND FRIENDS

THIS ISSUE OF NYLEX NEWS DISCUSSES FORM 8925, PREVIOUSLY ISSUED BY THE IRS AS A DRAFT. BEGINNING WITH TAX YEARS ENDING AFTER NOVEMBER 13, 2007, THIS FORM MUST BE USED BY EMPLOYERS TO REPORT CERTAIN EMPLOYER-OWNED LIFE INSURANCE CONTRACTS.

PLEASE SEND COMMENTS ABOUT THIS EDITION OF NYLEX NEWS, AS WELL AS SUGGESTIONS FOR FUTURE ISSUES, TO OUR STAMFORD, CT OFFICE.

Statutory Income Tax Requirements for Employer-Owned Life Insurance Contracts

Section 101(j) of the Internal Revenue Code provides certain requirements in order for death proceeds from employer-owned life insurance contracts to be received income tax-free. Section 101(j) requires, for example, that when the policy is issued that the insured is a director or a highly compensated individual, and that certain notice and consent requirements are satisfied.

Section 101(j) requires that before the policy is issued (1) the employee must be notified in writing of the employer’s intention to in-

sure the employee and the maximum face value of such insurance, (2) the employee must consent in writing to be insured under the contract and (3) the employee must be informed in writing that the employer/policyholder will be the beneficiary of any death proceeds payable on the death of the employee.

Requirement to Report Employer-Owned Life Insurance Contracts

At the same time as Section 101(j) was passed, Congress enacted Section 6039I which established reporting requirements with respect to employer-owned life insurance contracts. The reporting requirements generally are applicable to life insur-

ance contracts issued after August 17, 2006, the date the statute was enacted.

A previous issue of NYLEX News advised readers of draft Form 8925 that IRS had released for reporting employer-owned life insurance contracts. This document now has been issued in final form. A copy of this form is attached.

Form 8925 is required for tax years ending on or after November 14, 2007 and must be filed by any policyholder who owns an employer-owned life insurance contract that was issued after August 17, 2006. Life insurance contracts issued prior to that date that are materially modified also are subject to reporting.

Form 8925 requires reporting (1) the total number of the policyholder's employees at the end of the tax year, (2) the number of employees insured under employer-owned life insurance contracts issued after August 17, 2006 and (3) the total amount of life insurance on those policies disclosed in the answer to Question 2.

Form 8925 also asks whether the policyholder has valid consents for all employees referred to in Question 2 and the number of employees for whom the policyholder does not have valid consents.

Form 8925 is filed with the policyholder's income tax return for years ending after November 13, 2007.

Information for Our Clients

NYLEX Benefits will provide to our clients the information required to complete Form 8925, beginning with the year ended December 31, 2007. These reports will be generated automatically for any NYLEX policies issued after August 17, 2006.

About **NYLEX**Benefits

NYL Executive Benefits LLC ("NYLEX Benefits") provides supplemental executive benefit programs to a wide range of commercial clients. We focus on developing cost effective executive benefit solutions that are designed to attract, reward and retain key employees. Our services are designed to assist clients at all stages in the adoption and operation of executive benefit programs and include:

- Initial assessment
- Plan design
- Funding
- Plan implementation
- Ongoing administration

NYLEX Benefits' professional staff includes the following professional disciplines, all

dedicated to supporting our client's programs, processes, systems and services:

- Accountants
- Actuaries
- Attorneys
- Benefit specialists
- Insurance specialists

We take great care to assure that client programs are practical and cost effective and that they are designed to achieve our clients' strategic and operational goals.

NYLEX Benefits
281 Tresser Boulevard, Suite 1110
Stamford, CT 06901
(203) 353-5800 FAX (203) 353-5844

www.nylexbenefits.com

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Report of Employer-Owned Life Insurance Contracts

OMB No. 1545-2089

▶ Attach to the policyholder's tax return—See instructions.

Attachment
Sequence No. **160**

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> below 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 (see instructions) for each employee included on line 2? <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

General Instructions

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

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. See section 6039I for more information.

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. Generally, a policyholder is a person 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.
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.

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. However, you are not required to file Form 8925 for any tax year ending before November 14, 2007.

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.

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. 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) for more information.

How To File

Attach Form 8925 to the policyholder's income tax return for each tax year ending after November 13, 2007, 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.

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 taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

Recordkeeping . . . 2 hrs., 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.