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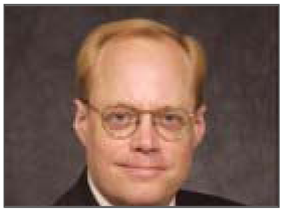

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Will IRS Get A Piece Of Google's Generous Death Benefits?

(Image credit: AFP/Getty Images via @daylife)

Like a lot of people, I am astounded over Google's employee death benefits. Forbes' Meghan Casserly's interview with Google's Chief People Officer Laszlo Bock is must reading: Here's What Happens To Google Employees When They Die. It's all the more awe-inspiring as a simple disclosure long after the fact, not a recruiting stunt or PR move.

If a U.S. Google employee passes away while employed there, his or her surviving spouse or domestic partner gets a check for 50% of the employee's salary every year for 10 years. There's no tenure requirement so most of the 34,000 employees qualify. That's a big benefit and big-hearted, but is it taxed?

That turns out to be a more confusing question than you might think. Much may depend on how Google set it up. If it is funded as group term life insurance (as seems likely), is it part of a Googler's compensation? In a sense, sure. But whether it's taxable depends on how much it's worth.

Section 79 of the tax code provides an exclusion for the first $50,000 of group-term life insurance coverage provided under a policy by an employer. Google can deduct the cost and there's no income to Googlers if the total coverage doesn't exceed $50,000. Presumably 10 years of half salary coverage is more than $50,000.

That means the IRS can tax Googlers on the imputed cost of the coverage in excess of $50,000. What's more, it's also subject to Social Security and Medicare taxes. An IRS premium table tells Google how much tax to collect. See IRS Publication 15-B at page 14. You might encounter this tax rule and not know it.

Say your employer covers you for a death benefit equal to a one times your salary. If that is more than $50,000 a year, the benefit is wages so goes on your Form W-2. Due to the way the IRS computes its value the tax hit is normally small but it's there.

When a Googler dies, is the estate, surviving spouse or partner taxed on the 10 year payout? Unlikely. Generally, life insurance death benefits paid to a beneficiary in a lump sum are not treated as income to the recipient. This tax-free exclusion covers death benefit payments made under endowment contracts, worker's compensation insurance contracts, employer's group plans or accident and health insurance contracts.

In the vast majority of cases, death benefits aren't subject to ***income*** tax. Estate tax is another matter. If no beneficiary is named, the payout is included in the decedent's gross estate, so estate taxes could be owed on the death benefit. But if a Googler's spouse or partner is named and gets the payout and if the policy is assigned by the Googler to an irrevcable life insurance trust more than 3 years before death, there should be no income tax and no estate tax.

Pretty neat benefit, especially with a 10-year payout.

Robert W. Wood practices law with Wood LLP, in San Francisco. The author of more than 30 books, including Taxation of Damage Awards & Settlement Payments (4th Ed. 2009 with 2012 Supplement, Tax Institute), he can be reached at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.