
Section 127.— Educational Assistance Programs

26 CFR 1.127-2: Educational Assistance Programs.

Educational assistance after termination of employment Educational assistance plans that provide benefits to participants by reason of their employment with the employer will not fail to qualify as educational assistance programs described in section 127(b) of the Code merely because eligible participants include former employees.

Rev. Rul. 96-41

ISSUE

Does a plan fail to qualify as an educational assistance program described in section 127(b) of the Internal Revenue Code if the plan provides benefits to individuals after their employment has terminated, regardless of the reason for termination?

FACTS

Situation (1). Employer X maintains a plan that is intended to be a qualified educational assistance program. The plan provides educational assistance to participants to help them obtain education and training. Under the plan, X pays expenses incurred by or on behalf of plan participants for instruction and training (including instruction that is part of a degree program as well as vocational and technical training) that constitutes “education” as that term is used in section 127 and the regulations thereunder. Employees who qualify as participants earn educational benefits for hours of service according to a schedule of benefits. The participants are current and former employees of X, and a participant may take courses of instruction either during employment or after termination of employment with X. The former employees who are participants include individuals who terminated their employment voluntarily (including by retirement), were laid off, were terminated involuntarily, or terminated because of disability.

Situation (2). In connection with its corporate “downsizing” efforts, employer Y adopts a plan that is intended to be a qualified educational assistance program. The plan provides educational assistance to participants to help them obtain education and training. The participants are former employees of Y whose employment with Y has terminated in connection with a cutback in operations affecting a broad range of personnel. Under the plan, Y pays expenses incurred by or on behalf of plan participants after termination of employment for instruction and training (including instruction that is part of a degree program as well as vocational and technical training) that constitutes “education” as that term is used in section 127 and the regulations thereunder.

LAW AND ANALYSIS

Section 127(a) provides that gross income of an employee does not include amounts paid or expenses incurred by the employer for educational assistance to the employee if the assistance is furnished pursuant to a program described in § 127(b). Section 127(b)(1) provides that, for purposes of § 127, an educational assistance program is a separate written plan of an employer for the exclusive benefit of his employees to provide such employees with educational assistance, and that the program must meet the other requirements set forth in § 127(b).

A qualified educational assistance program is permitted to provide benefits only to employees, and not to spouses or dependents of employees. Section 1.127-2(d) of the Income Tax Regulations provides that a qualified educational assistance program is only permitted to benefit employees of the employer, including, at the employer’s option, individuals who are employees within the meaning of section 1.127-2(h)(1) of the regulations. Under section 1.127-2(h)(1)(i) of the regulations, the term “employee” includes a retired, disabled or laid-off employee.

HOLDING

In both *Situations (1)* and *(2)*, the plans provide benefits to participants by reason of their employment with the employer and, accordingly, will not fail to qualify as educational assistance programs described in section 127(b) merely because eligible participants include

former employees, regardless of the reason for termination of employment.

FURTHER INFORMATION

For further information regarding this Revenue Ruling contact Monice Rosenbaum of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations) at (202) 622-6070 (not a toll-free call).

Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of November 1996. See Rev. Rul. 96-52, page 5.

Section 382.—Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change

The adjusted federal long-term rate is set forth for the month of November 1996. See Rev. Rul. 96-52, page 5.

Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 1996. See Rev. Rul. 96-52, page 5.

Section 467.—Certain Payments for the Use of Property or Services

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 1996. See Rev. Rul. 96-52, page 5.

Section 468.—Special Rules for Mining and Solid Waste Reclamation and Closing Costs

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 1996. See Rev. Rul. 96-52, page 5.

Section 483.—Interest on Certain Deferred Payments

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 1996. See Rev. Rul. 96-52, page 5.

Section 807.—Rules for Certain Reserves

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 1996. See Rev. Rul. 96-52, page 5.

Section 846.—Discounted Unpaid Losses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 1996. See Rev. Rul. 96–52, this page.