Reg. Section 1.219-1(c)(1)

Deduction for retirement savings.

(a) In general. Subject to the limitations and restrictions of paragraph (b) and the special rules of paragraph (c)(3) of this section, there shall be allowed a deduction under section 62 [26 USCS § 62] from gross income of amounts paid for the taxable year of an individual on behalf of such individual to an individual retirement account described in section 408(a) [26 USCS § 408(a)], for an individual retirement annuity described in section 408(b) [26 USCS § 408(b)], or for a retirement bond described in section 409 [26 USCS § 409]. The deduction described in the preceding sentence shall be allowed only to the individual on whose behalf such individual retirement account, individual retirement annuity, or retirement bond is maintained. The first sentence of this paragraph shall apply only in the case of a contribution of cash. A contribution of property other than cash is not allowable as a deduction under this section. In the case of a retirement bond, a deduction will not be allowed if the bond is redeemed within 12 months of its issue date.

(b) Limitations and restrictions--(1) Maximum deduction. The amount allowable as a deduction under section 219(a) [26 USCS § 219(a)] to an individual for any taxable year cannot exceed an amount equal to 15 percent of the compensation includible in the gross income of the individual for such taxable year, or $ 1,500, whichever is less.

(2) Restrictions--(i) Individuals covered by certain other plans. No deduction is allowable under section 219(a) [26 USCS § 219(a)] to an individual for the taxable year if for any part of such year:

(A) He was an active participant in:

(1) A plan described in section 401(a) [26 USCS § 401(a)] which includes a trust exempt from tax under section 501(a) [26 USCS § 501(a)],

(2) An annuity plan described in section 403(a) [26 USCS § 403(a)],

(3) A qualified bond purchase plan described in section 405(a) [26 USCS § 405(a)], or

(4) A retirement plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing, or

(B) Amounts were contributed by his employer for an annuity contract described in section 403(b) [26 USCS § 403(b)] (whether or not the individual's rights in such contract are nonforfeitable).

(ii) Contributions after age 701/2. No deduction is allowable under section 219 (a) [26 USCS § 219(a)] to an individual for the taxable year of the individual, if he has attained the age of 701/2 before the close of such taxable year.

(iii) Rollover contributions. No deduction is allowable under section 219 [26 USCS § 219] for any taxable year of an individual with respect to a rollover contribution described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 408(d)(3), or 409(b)(3)(C) [26 USCS § 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 408(d)(3), or 409(b)(3)(C)].

(3) Amounts contributed under endowment contracts. (i) For any taxable year, no deduction is allowable under section 219(a) [26 USCS § 219(a)] for amounts paid under an endowment contract described in § 1.408-3(e) which is allocable under subdivision (ii) of this subparagraph to the cost of life insurance.

(ii) For any taxable year, the cost of current life insurance protection under an endowment contract described in paragraph (b)(3)(i) of this section is the product of the net premium cost, as determined by the Commissioner, and the excess, if any, of the death benefit payable under the contract during the policy year beginning in the taxable year over the cash value of the contract at the end of such policy year.

(iii) The provisions of this subparagraph may be illustrated by the following examples:

Example 1. A, an individual who is otherwise entitled to the maximum deduction allowed under section 219 [26 USCS § 219], purchases, at age 20, an endowment contract described in § 1.408-3(e) which provides for the payment of an annuity of $ 100 per month, at age 65, with a minimum death benefit of $ 10,000, and an annual premium of $ 220. The cash value at the end of the first policy year is 0. The net premium cost, as determined by the Commissioner, for A's age is $ 1.61 per thousand dollars of life insurance protection. The cost of current life insurance protection is $ 16.10 ($ 1.6110). A's maximum deduction under section 219 [26 USCS § 219] with respect to amounts paid under the endowment contract for the taxable year in which the first policy year begins is $ 203.90 ($ 220 - $ 16.10).

Example 2. Assume the same facts as in example (1), except that the cash value at the end of the second policy year is $ 200 and the net premium cost is $ 1.67 per thousand for A's age. The cost of current life insurance protection is $ 16.37 ($ 1.679.8). A's maximum deduction under section 219 [26 USCS § 219] with respect to amounts paid under the endowment contract for the taxable year in which the second policy year begins is $ 203.63 ($ 220 - $ 16.37).

(c) Definitions and special rules-- (1) Compensation. For purposes of this section, the term "compensation" means wages, salaries, professional fees, or other amounts derived from or received for personal service actually rendered (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, and bonuses) and includes earned income, as defined in section 401 (c)(2) [26 USCS § 401 (c) (2)], but does not include amounts derived from or received as earnings or profits from property (including, but not limited to, interest and dividends) or amounts not includible in gross income.

(2) Active participant. For the definition of active participant, see § 1.219-2.

(3) Special rules. (i) The maximum deduction allowable under section 219(b)(1) [26 USCS § 219(b)(1)] is computed separately for each individual. Thus, if a husband and wife each has compensation of $ 10,000 for the taxable year and they are each otherwise eligible to contribute to an individual retirement account and they file a joint return, then the maximum amount allowable as a deduction under section 219 [26 USCS § 219] is $ 3,000, the sum of the individual maximums of $ 1,500. However, if, for example, the husband has compensation of $ 20,000, the wife has no compensation, each is otherwise eligible to contribute to an individual retirement account for the taxable year, and they file a joint return, the maximum amount allowable as a deduction under section 219 [26 USCS § 219] is $ 1,500.

(ii) Section 219 [26 USCS § 219] is to be applied without regard to any community property laws. Thus, if, for example, a husband and wife, who are otherwise eligible to contribute to an individual retirement account, live in a community property jurisdiction and the husband alone has compensation of $ 20,000 for the taxable year, then the maximum amount allowable as a deduction under section 219 [26 USCS § 219] is $ 1,500.

(4) Employer contributions. For purposes of this chapter, any amount paid by an employer to an individual retirement account or for an individual retirement annuity or retirement bond constitutes the payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1) [26 USCS § 401(c)(1)]) includible in his gross income, whether or not a deduction for such payment is allowable under section 219 [26 USCS § 219] to such employee after the application of section 219(b) [26 USCS § 219(b)]. Thus, an employer will be entitled to a deduction for compensation paid to an employee for amounts the employer contributes on the employee's behalf to an individual retirement account, for an individual retirement annuity, or for a retirement bond if such deduction is otherwise allowable under section 162 [26 USCS § 162].