CASE IN POINT

Sales Tax Estate Planning Underwriting & Product Newsletter

Corporate owned insurance for personal estate planning

Francine is an incorporated marketing consultant and trainer. She has both personally owned insurance and a corporate policy set up for estate equalizaion and capital gains coverage. She wants to insure her father to provide for liquidity in his estate to cover capital gains and income taxes on his passing, thus preserving the balance of his estate for Francine and her brother. Francine also wants to insure her two minor children. She would like her company to pay the premiums, taking advantage of the qualified small business tax rates. What considerations come to mind?

Many situations arise where the shareholder of a corporation wants to insure a relative (most often a parent or sometimes a spouse) who has no connection with the corporation.

Situations may arise where corporate funds are used to pay for personally owned insurance:

1. on the life of a shareholder or employee or someone related to the shareholder or employee
2. where a shareholder or employee or person related to the shareholder or employee is the beneficiary of a corporate owned policy.

The main issue is whether the proposed owner of the life insurance policy, the corporation, has an insurable interest in the life insured such as a parent with no involvement or financial interest in the corporation.

Peter A. Wouters,
Director, Tax Retirement & Estate Planning Services, Wealth

Peter works with independent advisors and other professionals raising awareness on issues and concerns faced by affluent individuals, professionals and business owners. He supports efforts in researching and developing optimal solutions for clients aimed at improving their financial well-being and supporting their personal wishes and lifestyles. He has provided 1000s of workshops, seminars and technical support throughout the country on tax, retirement income and estate planning issues, concepts and strategies to both advisors and consumers. As an accredited Registered Financial Gerontologist, a good deal of his time is spent on building awareness and educating people of all professions who work with or specialize in the needs, expectations and issues of elders. Comprehensive lifestyle planning is an important element of these processes.

The Sales, Tax, Estate Planning, Underwriting & Product (STEPUP) team provides internal and broker support, including seminars, education, advanced concept illustrations & Client case technical consultations.

Empire Life

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This is frequently not addressed when an application for life or critical illness insurance is submitted to Underwriting. It is very important to provide a comprehensive cover letter explaining what the client, like Francine, is trying to achieve in discussions with her financial advisor.

The tax consequences of having a corporation pay for insurance on a family member with no connection to the business give rise to a taxable benefit for the amount of the policy premium paid each year. The Canada Revenue Agency has access to several provisions of the Income Tax Act (Canada), to confer a benefit such as assess a shareholder benefit under Subsection 15(1), assess a benefit conferred on a person under subsections.

Here again, the funds used to pay for the life insurance policy will be considered a taxable benefit and taxed as a non-deductible expense to the shareholder under ss. 15(1) ITA or may be a deductible expense to an employee under para. 6(1)(a) ITA. The CRA confirmed that the benefit would be based upon the funds paid to cover the cost of the policy, not the proceeds paid under the policy.

There is a significant drawback to having a corporation pay for an insurance policy where the policy is owned by a shareholder or where the beneficiary is either the shareholder or a person related to the shareholder.

Problems may also arise if the shareholder is also an employee and the taxable benefit could be treated as a shareholder rather than employee benefit. A preferred approach may be to categorize the payments as a bonus, grossed up for income tax and have the arrangement documented in an employment agreement. This may permit the total payment to be deductible to the corporation. Under this arrangement, the shareholder would own the insurance policy personally and could name anyone of his/her choosing as beneficiary(s).

Though one may think at first that a corporate owned life insurance policy is more cost effective using corporate dollars versus a personally owned life insurance policy, it is important to review the alternative tax consequences and consider all the variables on a case-by-case basis.

Is it really cheaper to have a corporation pay for personal coverage instead of paying out a higher dividend or bonus to the owner and have the owner purchase and own the coverage personally? Watch for another article on this.

Your Tax & Estate Planning team can help you determine the most cost-effective ownership structure to meet your needs.

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