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TAX TOPICS

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Corporate Owned Life Insurance – Tax Considerations

Introduction

A corporation may own a life insurance policy for various purposes: key person insurance, business loan protection, buy-sell funding, funding capital gains tax on a business at death, executive compensation, retirement funding, wealth creation and more. However, before a corporation purchases a life insurance policy, it is important to ensure the tax implications of owning a life insurance policy corporately are understood and taken into consideration (for a detailed discussion of business insurance needs, refer to the Tax Topic, "Business Insurance Needs").

This Tax Topic reviews the tax issues and considerations relevant to corporate owned life insurance. It includes a discussion of the income taxation of corporate owned life insurance policies, a review of the tax issues associated with ownership structures and beneficiary designations and an overview of other tax implications of corporate owned life insurance that should be considered.

Corporate Income Taxation of Life Insurance

Life Insurance Proceeds

Policyholders are required to include in income any gains realized upon the disposition of all or a portion of their interest in a life insurance policy (subsection 148(1) of the Income Tax Act (the "Act")). Subsection 148(9) of the Act defines a disposition in relation to an interest in a life insurance policy. This definition specifically excludes "a payment under a life insurance policy that… is an exempt policy in consequence of the death of any person whose life was insured under the policy". Consequently, a death benefit from an exempt life insurance policy is not considered a disposition and is therefore received tax-free by both individuals and corporations. Virtually all life insurance contracts currently available in Canada are structured to be exempt life insurance policies. For detailed information on exempt policies refer to the Tax Topic, "The Exempt Test".

Treatment of Accumulating Income

The cash value growth within an exempt policy is not subject to annual accrual taxation and is only subject to tax if there is a disposition (deemed or otherwise) of the policy. Significant cash value can accumulate on a tax-deferred basis if deposits in excess of the policy charges are deposited into the exempt policy. Provided that the deposits do not exceed the maximum permitted by the Act, they can remain tax-sheltered within the contract and pay for the cost of insurance and expenses in future years. For further discussion regarding the treatment of accumulating income and policy dispositions, refer to the Tax Topic, "Accumulating and Transferring Wealth Through the Use of Life Insurance".

Policy Dispositions (including withdrawals, policy loans & surrenders)
Generally, when an owner (including a corporation) disposes (or is deemed to dispose) of an interest in a life insurance policy, the excess of the proceeds of disposition over the owner's adjusted cost basis ("ACB") is taxed as ordinary income. For this purpose, a disposition generally includes a sale or other transfer of the policy to another party, a surrender of the policy, a withdrawal from the policy and a policy loan received from the insurer. Where an exempt policy ceases to qualify as such, the owner is deemed to dispose of his or her interest in the policy for proceeds equal to the accumulating fund at that time (this would be extremely rare since most insurance contracts specify that the insurer will ensure that the policy remains exempt).

If a policy owner withdraws a portion of the cash value from a policy, the owner is considered to have disposed of a partial interest in the policy. To determine the gain from a partial disposition, the ACB of the partial interest is generally calculated as the proportion of the owner's total ACB that the "proceeds of disposition" are of the cash surrender value in respect of the owner's interest immediately before the withdrawal. A policy loan on the other hand, is included in the owner's income only to the extent that the amount of the loan exceeds the total ACB of the owner's interest in the policy. If the entire policy is surrendered, then the gain will equal the amount received on surrender less the ACB of the policy.

In general terms, the ACB of an owner's interest in an exempt policy is the aggregate of the premiums previously paid less a measure of the mortality cost, as prescribed by the Income Tax Act Regulations (the Net Cost of Pure Insurance or "NCPI"), incurred in respect of the owner's interest in the policy. The ACB is intended to measure the cost for tax purposes of the owner's interest in the accumulating fund. Consequently, to the extent the premiums have effectively been used to cover the pure cost of insurance, they are excluded from the ACB calculation.

Therefore, where funds are taken out of an exempt policy by surrendering the policy, as a partial withdrawal from the policy, or by way of a policy loan, the income that has accumulated within the policy until that time is taxed as ordinary income upon receipt. Similarly, where an owner sells (or is deemed to dispose of) an interest in the policy, the amount of any gain is also taxed as ordinary income. Both of these are referred to as policy gains. In the context of Canadian Controlled Private Corporations ("CCPCs"), policy gains are considered income from property and are subject to the same tax rates applicable to other investment income such as interest income. As such, the corporate tax paid includes refundable tax, which adds to the refundable dividend tax on hand account ("RDTOH") and is refunded to the extent that the income is paid out as dividends. Dispositions are discussed in depth in the Tax Topic entitled, "Dispositions of Life Insurance Policies."

Capital Dividend Account
The capital dividend account ("CDA") allows tax-free amounts (such as life insurance) received by certain corporations to be flowed to the shareholder(s) tax-free. To the extent that a "private corporation" has a CDA balance, it can pay out capital dividends to its shareholders. Capital dividends are not subject to income tax in Canada. It is not necessary that the corporation is Canadian controlled; however, if a Canadian resident private corporation pays a capital dividend to a non-resident shareholder, withholding tax will apply and the non-resident may be subject to tax on these dividends in their country of residence.

When a private corporation receives a death benefit from an exempt life insurance policy, it receives a credit to its CDA account equal to the excess of the proceeds over the policy's ACB immediately before death. Refer to the Tax Topic "Capital Dividend Account" for a more detailed discussion of the CDA and the ACB of a life insurance policy.

Deduction of Premiums
As a general rule, premiums paid under a life insurance policy are considered to be capital outlays and not an outlay or expense made or incurred by a taxpayer for the purpose of gaining or producing income from a business or property. Therefore, a deduction for tax purposes is usually prohibited under the general limitation for payments on account of capital in paragraph 18(1)(b). Therefore, even where a life insurance policy is acquired for business purposes – for example key-man insurance coverage, the premiums are not generally deductible.

However, if the provisions of paragraph 20(1)(e.2) are met, a collateral insurance deduction may be claimed. To qualify for this deduction, the paragraph essentially states that the corporation must borrow money from a financial institution, the interest on the loan must be deductible, the financial institution must require the life insurance as collateral for the loan and the policy must be assigned to the financial institution. This deduction is equal to the lesser of the NCPI and the premiums paid under the policy, as can reasonably be considered to relate to the amount owing (i.e. deduction is pro-rated based on the ratio of the loan to the total death benefit of the policy). (For more information, refer to the Tax Topic entitled, "Collateral Life Insurance").

Life insurance premiums paid by a corporation on behalf of an employee as part of the employee's remuneration may also be deductible. In this case, the premiums paid by the corporation will be a taxable benefit to the employee.

Tax Issues related to Ownership and Beneficiary Designations

Generally speaking, when a corporation pays the premiums on a life insurance policy, that corporation should be both the owner and beneficiary of the policy. Most structures in which a corporation pays the premiums on a policy owned by another individual or corporation or designates a beneficiary other than the corporation that owns and funds the policy may give rise to potential tax issues.

Life Insurance Premiums as a Shareholder or Employee Benefit

A corporation may fund the life insurance premiums on a policy where the shareholder or employee is the owner and/or beneficiary of the policy. This structure results in either a taxable shareholder or employee benefit. A shareholder benefit can arise under subsection 15(1) of the Act if the policyholder or beneficiary is a shareholder of the corporation (or a person related to a shareholder of the corporation under subsections 56(2) or 246(1)). An employee benefit can arise under 6(1)(a) if the policyholder or beneficiary is an employee of the corporation (or a person related to the employee). In a 2004 technical interpretation (2004-0081901I7), CRA has confirmed that the amount or value of the shareholder benefit should be based on the life insurance premiums paid by the corporation and not on the death benefit paid under the life insurance policy. Presumably this same logic would apply to an employee benefit.

An issue arises when a shareholder is also an employee: is the benefit received by the individual received in their capacity as a shareholder or as an employee? The distinction between a shareholder benefit and an employee benefit is important because shareholder benefits are not a deductible expense to the corporation whereas employee benefits may be deductible. In Green Acres Fertilizer Service Ltd. v. Minister of National Revenue, [1979] C.T.C. 431 (FCTD) (aff'd) [1980] C.T.C. 504, (FCA), the corporate taxpayer was denied a deduction for an insurance premium that it paid on behalf of the shareholders who were also employees of the corporation because the payment was made for them in their capacity as shareholders and not as employees.

In the case of life insurance premiums which are paid on behalf of a shareholder who is also an employee of the corporation, it might be advisable to pay an amount as a lump sum bonus and gross up the payment for the related income tax withholding. The after-tax amount would then be used by the recipient to fund the premiums for the life insurance policy. It may also be advisable to provide for this payment and benefit in an employment agreement. In this way, the total payment is deductible to the corporation and the income inclusion to the recipient should be offset by the tax withheld at source.

A corporate employer may pay insurance premiums for employees for their personal insurance policies as part of their remuneration package. In the case of employees who are not also shareholders of the corporation, the payment would constitute a taxable employee benefit to the employee but should also be deductible by the corporation. The cost of the life insurance policy to the employee would thus be limited to the income tax paid on the taxable benefit.

Designating a Different Corporation as Beneficiary

In certain circumstances, the insurance policy may be owned by one corporation (e.g., a holding company) and the beneficiary may be another corporation (e.g., operating company). This structure might be appropriate to meet an insurance need in one company but protect the cash values of the life insurance policy from the creditors of the other company. Another valid business purpose for structuring the policy with the holding company as the policy owner and the operating company as the beneficiary is to provide the operating company with buy-sell insurance to fulfill its obligations under buy-sell provision of the shareholder's agreement. The holding company as the policy owner will enable each shareholder to have control over the policy on their life as well as enable the retention of the policies without having to transfer them out of the operating company if the operating company is sold in the future.

In the past this type of planning (insurance policy owned by one corporation and the beneficiary another corporation) was sometimes used to maximize the CDA. On death, the proceeds are paid to the beneficiary corporation and prior to March 22, 2016, the credit to the CDA was not reduced for the ACB of the policy because the ACB belonged to the policy owner, not the beneficiary. Budget 2016 (Bill C-21) announced significant changes impacting the CDA and life insurance in this structure. The change applies to deaths on or after March 22, 2016, and results in the credit to the CDA being reduced by the ACB of the policy regardless of who owns the policy. This is achieved by reducing the CDA credit by the ACB of "a policyholder's interest in the policy" rather than the previous language which reduced the CDA credit by the ACB of "the policy to the corporation".

Prior to the above changes and before Bill C-21 was implemented, this type of structure was used to maximize CDA as there was no reduction to the CDA credit for ACB of the policy if the policy owner was someone other than the policy beneficiary. Through numerous technical interpretations CRA indicated that if such a structure was undertaken for no reason other than to maximize the CDA credit without an identified business purpose, it could be challenged as an avoidance transaction under the general anti-avoidance rule in section 245 of the Act. The CRA has not only objected to having a different owner and beneficiary corporation for CDA reasons, it has also raised potential benefit issues. Through roundtable questions and other technical interpretations, the CRA has indicated that there may be a shareholder benefit under subsection 15(1), other income inclusions for reimbursed premiums under section 9 or 12(1)(x), or a benefit under 246(1) of the Act if the corporate policy owner is not the beneficiary of the policy. The changes included in Bill C-21 prevents CDA maximization when there is a different corporate owner and beneficiary, however CRAs comments regarding benefit issues did not change and should be considered when this type of structure is implemented.

The change in the definition of CDA, to ensure that the ACB of a policy will reduce the CDA of the beneficiary corporation no matter who owns the policy, has resulted in "double counting" the ACB in situations where there are two corporate beneficiaries. This was confirmed by the CRA at the 2017 Canadian Life and Health Insurance Association (CLHIA) CRA Roundtable (2017-0690311C6E). The question asked for clarification on the CDA credit where Company A is the owner of a $1 million life insurance policy and two other corporations (Company B and Company C) as equal 50-50 beneficiaries. The ACB of the policy is $200,000. The CRA confirmed that, at death, the CDA credit for each of Company B and C will be $300,000 and the words of the CDA definition in the Act do not contemplate any prorating of the ACB. Double counting of the ACB was confirmed again at the 2018 Conference for Advanced Life Underwriting (CALU) CRA Roundable (2018-0745811C6), this time the situation involved split-dollar arrangement where two parties jointly owned a life insurance policy and shared the rights and obligations under the policy. It does not appear to matter whether the corporation has an ownership interest and pays costs associated with its interest in the policy or if a corporation is merely a beneficiary under the policy, the same conclusion has been drawn. CALU and CLHIA are following up with Finance on this matter.

Transfers of a policy by a corporation or to a corporation

A transfer of ownership of a life insurance policy is considered a disposition for income tax purposes. If a corporation sells a policy to an arm's length individual or corporation for consideration, then the proceeds of disposition to the corporation will equal the consideration paid and the corporation will realize a policy gain equal to the excess of the proceeds over the adjusted cost basis of the policy.

When a life insurance policy is transferred to any non-arm's length person, whether for consideration or not, by way of a gift, or a distribution from the corporation, subsection 148(7) of the Act determines the proceeds of disposition. For a transfer of a life insurance policy after March 21, 2016, to which subsection 148(7) applies, the proceeds of disposition to the transferor and the ACB to the transferee is deemed to be the greatest of:

- The "value" (essentially CSV) of the interest at the time of disposition,
- The fair market value (FMV) of the consideration, if any, given for the interest in the policy, and
- The ACB to the policyholder of the interest immediately before disposition time.

To the extent that the transferor's deemed proceeds of disposition are greater than their ACB in the policy, the transferor will realize a policy gain. A policy gain, if any, will be taxed as regular income; losses, if any, are deemed to be nil.

Subsection 148(7) deals with the acquisition and disposition of the life insurance policy. It does not eliminate the potential taxable benefit when a policy is transferred from a corporation to a shareholder or employee (or someone related to the shareholder or employee). CRA has consistently held that a shareholder benefit under subsection 15(1) of the Act or an employee benefit under paragraph 6(1)(a) of the Act will be taxed in the hands of the transferee to the extent that the FMV of the insurance policy exceeds the amount of the consideration paid by the shareholder or employee. The FMV of a life insurance policy is difficult to determine and must be estimated based on the facts and circumstances of the situation including; the CSV, replacement cost, policy terms, number of years the policy has been inforce, health of the life insured, etc.

The assessment of a taxable shareholder benefit may be avoided if the life insurance is transferred as a dividend payable "in kind" to the shareholder. The dividend amount would equal the FMV of the policy.

For a full discussion of the tax implications of transferring a policy to or from a corporation, refer to the Tax Topic entitled, "Transfer of an Insurance Policy Involving Corporations and a Shareholder or Employee".

Other Tax implications of Corporate Owned Policies

Small Business Deduction

The small business deduction under subsection 125(1) of the Act is available to a CCPC and entitles the corporation to a tax reduction on the first $500,000 of income from an active business carried on in Canada. The first $500,000 of active business income is taxed at a rate of 10% to 17%, depending on the province, while the balance of the active business income is taxed at the higher rate of 25% to 31% (depending on the province). The business limit of $500,000 must be shared among an associated group of CCPCs. Note that the provincial small business deduction in Manitoba applies only on the first $450,000 of active business income and in Saskatchewan the small business deduction is $600,000.

The 2018 Federal Budget introduced new measures to phase out the small business deduction where the corporation's (or associated corporations') passive investment income exceeds $50,000 in a given year. The small business limit is reduced by $5 for every $1 of passive investment income above the $50,000 threshold, such that the small business limit would be reduced to zero at $150,000 of passive investment income. Accumulations inside a life insurance policy will not be included in passive income and therefore life insurance may provide an opportunity to shelter corporate investment income and limit the grind to the small business deduction. Policy gains on the disposition of a life insurance policy (i.e. surrender, withdrawal, policy loan, transfer) will increase passive income and could impact the small business deduction amount.

The Federal small business deduction also begins to be phased out where the corporation's (or associated corporations') taxable capital for the immediately preceding year exceeds $10 million and is eliminated where the corporation's taxable capital exceeds $15 million. In general terms, the taxable capital is the aggregate of the corporation's debt and equity less an investment allowance (i.e., certain assets of the corporation such as shares or debt in other corporations). The retained earnings of the corporation are included in equity. A cash value life insurance policy and the premiums paid impact the retained earnings of a company for financial statement purposes. Cash value life insurance may, therefore, impact the taxable capital of the company since it increases the retained earnings of the company and is not an eligible investment for the investment allowance (confirmed in technical interpretation #2003-0049531I7).

Federal and Provincial Capital Tax

Capital tax, as the name implies, is a tax on the capital of a corporation, rather than a tax on income. As noted in the previous section, generally speaking, a corporation's taxable capital is the aggregate of the corporation's debt and equity less an investment allowance. Since the retained earnings of the corporation are included in equity, and corporate owned life insurance can impact the retained earnings, it can also have an impact on the taxable capital of a corporation.

In the past, the federal government and many provinces levied a capital tax on all corporations with permanent establishments in their province. As of Jan 1, 2012, all provinces eliminated their capital tax on general corporations. (Capital taxes remain in many provinces on financial institutions and investment dealers).

Ontario Corporate Minimum Tax ("CMT")

Corporations that are subject to tax in Ontario may be subject to CMT. This tax is designed to impose a minimum tax based on financial statement income.

The receipt of the proceeds of a life insurance policy on the death of the life insured may impact the corporation's tax liability in two ways. First, it may impact the tests used to determine if the corporation is subject to CMT. Second, if it is determined that the corporation is subject to CMT, it may impact the calculation of the minimum tax.

A corporation (or an associated group of corporations) is subject to CMT if total assets at the end of the taxation year are in excess of $50,000,000 or if total gross revenue for the taxation year is in excess of $100,000,000. These limits are based on financial statements prepared in accordance with International Financial Reporting Standards or Canadian Accounting Standards for Private Enterprises.

Ownership of a life insurance policy may impact whether the corporation meets these limits. Where a corporation is the beneficiary of a life insurance policy and the life insured dies, the death benefit proceeds are reported on the corporate income statement. However, this income does not meet the definition of "revenue" in the CICA Handbook. Revenue is defined as "the inflow of cash, receivables or other consideration arising in the course of the ordinary activities of an enterprise, normally from the sale of goods, the rendering of services, and the use by others of enterprise resources yielding interest, royalties and dividends." Since life insurance proceeds do not arise in the "course of the ordinary activities of an enterprise", they should not be included in the CMT total revenue test. However, the cash received as a death benefit will be included in the total asset test. The impact of the cash receipt on the asset test can be avoided if the proceeds are distributed before the corporation's year-end.

If the corporation exceeds one of the CMT thresholds and is subject to CMT, the receipt of the death benefit proceeds may impact the amount of minimum tax to be paid. CMT is calculated as 2.7% of the "adjusted net income" of the corporation. Adjusted net income is essentially net income for financial statement purposes, adjusted for some non-taxable items such as capital dividends. The death benefit proceeds from a life insurance policy will be included in this adjusted net income balance (confirmed at the 2010 CALU Roundtable, Question #4, 2010-0359441C6).

CMT may be minimized by designating a subsidiary that does not have a permanent establishment in Ontario as the beneficiary of the policy. On the death of the life insured, the subsidiary receives the tax-free death benefit proceeds and receives a credit to the CDA. The entire proceeds will be credited to the CDA, as the ACB of the policy is owned by the Ontario-based holding company. The subsidiary distributes the death benefit to the holding company as a tax-free capital dividend. Capital dividends are not subject to CMT because they are excluded from the adjusted net income calculation that forms the base for CMT. Note that the Ontario General Anti-Avoidance Rules may apply to this strategy. The possible income tax issues, discussed under the heading "Designating a Different Corporation as Beneficiary" above, should be reviewed prior to implementing this type of strategy.

It seems to be an anomaly that capital dividends are excluded from the CMT base, but life insurance proceeds form part of the CMT basis.

Lifetime Capital Gains Exemption

An individual may claim the lifetime capital gains exemption ("LCGE") under section 110.6 of the Act on dispositions of shares of a qualifying small business corporation ("QSBC") and dispositions of qualified farming or fishing property. Currently the LCGE for dispositions of shares of a QSBC is $848,252 (for 2018 and indexed annually for inflation), and $1,000,000 (not indexed) for dispositions of qualifying farming and fishing property. For dispositions to qualify for the LCGE there are several complex tests that must be met with respect to the type of assets owned by the business at the time of sale and the period during which the shares or property are held.

The tests are based on the fair market value of the corporation's assets and a determination of how the assets are used. First, the shares must be shares of a small business corporation at the time of disposition. A small business corporation is a CCPC that uses all or substantially all (generally defined to be 90% or more) of the fair market value of its assets in an active business carried on in Canada, or as an investment in connected corporations that are themselves small business corporations. The second test is that the shares must be owned continuously by the shareholder (or related persons) for two years and during this period, more than 50% of the fair market value of the assets must have been used in an active business. The tests become more complicated where holding companies are involved; however, shares of a holding company may be QSBC shares if 90% of the assets of the holding company are shares of a QSBC.

Because CRA considers a corporate-owned life insurance policy to be a passive asset not used in carrying on an active business, the life insurance policy may affect whether or not shares of a corporation qualify as shares of a QSBC. Specifically, in applying the QSBC tests, the fair market value of the policy will be included in the fair market value of the passive assets of the corporation.

If a shareholder is the life insured under the policy, the fair market value, for purposes of the QSBC test, is deemed to be the CSV of the policy at any time before death (subparagraph 110.6(15)(a)(i) of the Act). If a person other than a shareholder (for example, an employee) is the life insured, the fair market value of the policy would be determined in accordance with normal valuation practices.

In determining whether shares of a deceased shareholder are QSBC shares, the fair market value of life insurance proceeds from a life insurance policy on the life of the deceased shareholder is deemed to equal the CSV of the policy immediately prior to the shareholder's death to the extent that the proceeds have been used to redeem, acquire or cancel shares of the capital stock of the corporation owned by the insured (subparagraph 110.6(15)(a)(ii) of the Act). The redemption, acquisition or cancellation must occur within 24 months after the death of the person whose life was insured.

If the death benefit proceeds are not used specifically to redeem, acquire or cancel the shares owned by the life insured, or if a shareholder is not the life insured, the fair market value would generally equal the death benefit proceeds. Consideration must also be given to whether the death benefit proceeds from the life insurance policy are used in an active business.

It is important to note that any type of passive investment asset may cause the corporation to be offside for purposes of the QSBC test. Generally, funds not required in the active business operations are used to purchase the insurance policy. Therefore, the corporation would likely fail the QSBC tests regardless of whether an insurance policy was purchased as the funds would otherwise have been invested in a different type of investment asset.

Deemed Disposition of Shares on Death

An individual taxpayer is deemed to have disposed of capital property immediately before death for proceeds equal to the fair market value at that time under subsection 70(5) of the Act. Life insurance owned by the corporation is relevant in determining the fair market value of the deceased's shares immediately before death.

Subsection 70(5.3) of the Act provides that for the purposes of subsection 70(5), the fair market value, immediately before the death of a taxpayer, of any share deemed to have been disposed of as a consequence of death, shall be determined as though the fair market value of any life insurance policy under which the taxpayer was a person whose life was insured is equal to its CSV. (Note however, that if a value is determined under a shareholder's agreement in respect of shares belonging to a deceased taxpayer, that agreement will be determinative of value if the conditions outlined in Information Circular IC 89-3 are met.)

This issue and other situations in which the valuation of a corporate-owned life insurance policy is relevant are discussed in more detail in the Tax Topic, "Corporate-Owned Insurance – Valuation Issues Regarding the Deemed Disposition Rules at Death (Subsection 70(5))." For some examples of post mortem planning and corporate-owned life insurance with cash value see the Tax Topic, "Accumulating and Transferring Wealth Through the Use of Life Insurance – Corporate Ownership".

Valuation and the Corporate Attribution Rules

Where an individual has transferred or loaned property either directly or indirectly, to a corporation and one of the main purposes of the transfer or loan may reasonably be considered to reduce the income of the individual and to benefit a person who is a spouse or minor child, subsection 74.4(2) of the Act may deem an amount to be included as interest in computing the income of the individual in respect of the property.

These corporate attribution rules do not apply if the corporation qualifies as a small business corporation. As discussed above in the *Lifetime Capital Gains Exemption* section, there are certain asset tests that must be met in order to qualify as a small business corporation. Corporate owned life insurance is generally considered a non-active asset for purposes of this test. However, unlike the rules for calculating the capital gains on shares of a corporation at death, the value of the life insurance is not the CSV for the purposes of the corporate attribution rules. The value of corporate owned life insurance for determining if the corporation qualifies as a small business corporation (for corporate attribution purposes) is based on normal valuation principles. CRA has indicated that the CSV, the policy's loan value, face value, state of health of the life insured and life expectancy, conversion privileges, other policy terms and replacement value should be considered in determining the value of a corporate-owned life insurance policy. Applying these general valuation principles may result in a valuation that is materially different from the CSV of the life insurance policy. Therefore, whenever corporate owned life insurance is considered, the potential application of the corporate attribution rules should be reviewed.

Conclusion

In deciding whether a life insurance policy should be owned by a corporation, the tax implications of corporate ownership should be considered. In general, the beneficiary of the policy should be the corporate owner and the implications of any transfers to or from the corporation now or in the future should be reviewed. The policy can have implications for various tax provisions including the small business deduction, the lifetime capital gains exemption and the corporate attribution rules. It is prudent to seek advice from a professional tax advisor on these issues before placing policy ownership in a corporation. For a discussion of other ownership considerations, refer to the Tax Topic, "Ownership of Life Insurance – Planning Considerations".

Readers are referred to the Tax Topic entitled, "Accounting for Corporate Owned Life Insurance and Critical Illness Insurance" for a discussion of the accounting treatment for corporate life insurance.

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