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Transfer of benefits to the employee during their lifetime - cover on non-shareholding employees

Synopsis: Tax treatment on assignment of the policy or payment of the proceeds to the employee.

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For single life policies effected by a company two situations are possible...

1. The policy could be assigned to the employee when they leave service prior to retirement, or at retirement, if the policy is a whole life or endowment or continuing term policy.

The assignment is likely to be treated as an assignment for money or money's worth being in recognition of past employment service given by the employee. There should not be any tax liability on the policy assignment itself for the company in relation to the policy.

In the case of a non-shareholding employee, the value of the policy at assignment would be assessed on the employee as employment income as a payment for past service. It is a well-known HMRC view that a payment made as a reward for services is treated as an emolument. However, unless the life assured were in serious ill health, the policy would have no value and so would not give rise to a tax liability.

2. If consideration is treated as having been given, which seems likely, then following assignment the policy would be an asset chargeable to capital gains tax (CGT), within section 210 TCGA 1992, since it will have been acquired for actual consideration. In these circumstances any subsequent realisation will be treated as a disposal for CGT purposes.

With a protection plan, the most likely “disposal” event will be the death of the life assured and, if the policy remains in the ownership of the individual until their death, no CGT charge will arise since no disposal will occur on death (by virtue of S62 TCGA 1992).

If, however, the policy is conveyed into trust or to another person then the “disposal proceeds” in relation to the policy will be the sum assured. The person making the disposal will be the policy owner, but it will not be that person’s death that triggers the disposal – it will be the death of the life assured. This means that a disposal for CGT purposes will occur on the life assured’s death, with the strong likelihood of a tax charge as the size of the sum assured is likely to be far higher than the acquisition cost of the policy.

020 7183 3931
www.riskassured.co.uk

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