JANUARY 2004

news

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Unapproved group life assurance without capital gains tax

There has been a longstanding difficulty for employers wishing to arrange unapproved group life assurance. The employer can be subject to a tax charge on the "deemed gain" on the second and subsequent deaths. The Finance Act 2003 introduces some changes which mean that, if certain conditions are met, group policies should escape this charge. For existing group policies, action will need to be taken before 6 April 2004 to take advantage of the changes retrospectively to 9 April 2003.

The origins…

…of the tax charge

- Changes wrought by The Finance Act 1989 to the Taxes Act 1988 resulted in the introduction of a tax charge arising on the second or subsequent deaths under unapproved group life assurance policies.
- The practical upshot was that individual unapproved policies were taken out in preference.

The changes

"Excepted group life policy"

- For those policies which satisfy the definition of "excepted group life policy", The Finance Act 2003 has at long last removed the tax charge.
- To satisfy this definition, seven conditions must be met by the group policy.

The Conditions

Conditions 1-3 (in brief)

- Condition 1 – a sum or benefit in the form of capital only may be paid on death before a given age (not greater than 75).
- Condition 2 – the same method for calculating benefits (including any limitations applicable) must be used for all.
- Condition 3 – no surrender value can be paid under the policy (although unexpired premiums can be refunded).

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The conditions

Conditions 4-7 (in brief)

- Condition 4 – no benefits other than those referred to in Conditions 1 or 3 can be paid under the policy.
- Condition 5 – limits the potential beneficiaries to individuals or charities.
- Condition 6 prevents an "insured" benefiting on the death of another simply because they are both covered by the group policy.
- Condition 7 – the policy must not be used for tax avoidance.

Other relaxations

Tax arising before 9 April 2003

- The tax charge will no longer apply to policies providing benefits solely on death or disability ("pure protection group life policies") before 9 April 2003.
- Therefore, any tax paid can now be reclaimed.

Transitional period

Deadline for change

- Where an existing group policy does not satisfy all seven conditions, it will need to change its terms (which includes its policy and rules) before 6 April 2004.
- If it does so, the policy will qualify for the exemption from 9 April 2003.
- Where a replacement policy is issued to accommodate the changes, the two policies will be treated as a single policy.
- Special provisions also apply on the death of an insured during the transitional period.

Conclusions

Employers with an existing group policy will need to consider carefully with their advisers whether the seven conditions can be satisfied in its case. Scheme documentation will also need to be assessed for technical changes required. Not all schemes will overcome the hurdles though.

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