Briefing

Lifetime Allowances and Life Cover through Excepted Group Life Policy

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In September 2017 we discussed excepted group life assurance schemes and the Lifetime Allowance (LTA). From 2019/2020 the LTA will be £1,055,000 and there has been a continued increase in the use of excepted group life policies (EGLPs) for employees who already have a high level of benefit in a registered pension scheme. This briefing has been updated with an important change to eligible beneficiaries.

Implications for Life Assurance

The majority of standalone life assurance schemes in the UK are known as 'registered schemes'. These are registered with HMRC and treated as a pension scheme. It is the nature of how HMRC treats standalone life assurance schemes as a pension scheme that determines whether the insured death benefit counts as accumulation towards an individual's LTA.

Some employers may continue to cover its employees through registered schemes. However, as an alternative to registered life assurance schemes, HMRC has approved the use of 'excepted schemes'. These schemes are outside of HMRC registration and do not count towards LTA accumulation. If any employees have opted to take pension protection status, it may be appropriate to place these employees into an EGLP, which we can help set up.

What is an EGLP?

An EGLP is a policy that meets the following criteria:

1. It can only pay lump sum benefits for deaths before age 75.
2. The same method for calculation of the lump sum and any limitation must be applied to all lives insured.
3. If the policy is cancelled, it must not have a surrender value other than a refund of unused premiums.
4. Only the benefits set out in the policy can be paid.
5. Benefits can only be paid to either an individual entitled to them or a charity, directly or via a trustee.
6. Benefit cannot be paid to another person also covered by the policy. However, benefit can be paid if that other insured person is a dependant or relative of the deceased.
7. The policy must not be taken out for tax avoidance purposes.

An EGLP covering one person is often called a relevant life policy.

There has been an increase in the number of excepted group life assurance policies since the LTA was reduced to £1 million from 6 April 2016.

Lifetime Allowance

The LTA is a limit on the amount of pension savings that you're allowed to make over your lifetime without paying additional tax when the savings are drawn. This includes any pension savings while you have been with the company and any pensions from previous employers or private pensions you may have. Aside from pensions, proceeds from life assurance policies typically also count towards the LTA.

The LTA was introduced in April 2006 at a level of £1.5 million and by April 2010, gradually increased to £1.8 million. The LTA was reduced to £1.5 million with effect from 6 April 2012 and reduced further to £1.25 million from 6 April 2014. From 6 April 2016 the LTA reduced again to £1 million.

> The Government has announced that the LTA will increase annually by Consumer Price Index inflation from 6 April 2018. From April 2019 the LTA will be £1,055,000.

Identifying affected employees

There is no requirement on a company or trustees to actively seek out those who have high level of benefits in a registered scheme or who have taken LTA protection.

A new employee who holds fixed protection or enhanced protection should not join the employer's registered group life assurance scheme.

> An employee with one of these protections who joins a new registered scheme would lose their protection status; once lost protection cannot be reinstated.

Where a contractual promise of life assurance has been made to a new employee with enhanced or fixed protection status, their benefit should not be provided through a registered group life assurance scheme, which could cause loss of protection. The employer would either need to self-insure this benefit, or look to implement an EGLP.

Changes from 6 April 2019

There has previously been a concern that the premium payable by the employer in respect of the member would be a taxable benefit in kind unless the benefit is payable only to "a member of the employee's family or household" as defined in the relevant legislation (the Income Tax (Earnings and Pensions) Act 2003). However, the definition of this term is very restrictive, covering immediate family or household only, and excluding (for instance) siblings, unmarried partners and grandchildren, unless resident as guests in the same household or financially dependent. This could lead to the situation where a benefit could not be paid leaving undistributed assets in the trust at its termination date and no option to distribute the funds to a beneficiary of last resort, such as a charity.

This concern has led some employers either to restrict the range of possible beneficiaries to the very narrow category defined in the legislation, or alternatively to decide not to put an EGLP in place at all.

Planned changes to the Finance Bill 2018/19 will amend and modernise the legislation so that this restriction no longer applies from 6 April 2019 so a benefit can be paid to any individual or charity without the premium payable by the employer being taxed as a benefit in kind (unless premiums are paid in conjunction with a salary sacrifice arrangement, in which case specific rules apply). This aligns the tax rules regarding payment of premiums with the separate conditions applying to excepted group life policies more generally.

Employers who have already established an EGLP should review the rules and check whether an amendment is required to take advantage of this new flexibility (as well as updating any member communications/ nomination forms).

Legal and tax advice

We strongly advise that all companies and/or trustees take legal and tax advice to determine the best course of action before setting up an EGLP or changing employment benefits. This includes taking advice on whether it should be offered to a selected group (e.g. high earning employees with pension protection) or to all employees.

The insurance premiums the employer pays will normally qualify for tax relief as a business expense, however it would be advisable for the employer to confirm its position with a tax advisor.

Please contact your Barnett Waddingham consultant if you would like to discuss any of the above topics in more detail. Alternatively get in touch with one of our experts:

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