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Life Insurance Policy Loans: Tax and Other Implications

As the owner of a life insurance policy, you can generally borrow the policy's cash surrender value and use the proceeds for any purpose. Before you take a policy loan, be sure you understand the implications of the loan on the policy itself as well as any tax implications, now and in the future.

EFFECT OF POLICY LOAN ON POLICY

You can generally borrow an amount up to the policy's cash surrender value (less an adjustment for interest) from the insurer. The insurer will charge you interest on the loan. Generally, interest is not actually paid, but is added to the amount of the loan. Interest charged on a policy loan is not generally deductible for income tax purposes. There could be other adjustments as well under the contract; for example, a participating policy may restrict the payment of dividends to you while a loan is outstanding.

You are not required to repay a life insurance policy loan. But you can generally repay a life insurance policy loan at any time while the insured is alive. If you do not repay the loan, the cash surrender value paid to you or the policy proceeds at death will be reduced by the amount of the loan (plus interest). Thus, a loan generally reduces life insurance protection.

If the amount borrowed plus interest ever equals or exceeds the cash surrender value, the policy can terminate if additional amounts are not paid into the life insurance policy. Life insurance protection could be lost.

If you have any incidents of ownership in a life insurance policy on your life, proceeds paid at death are includable in your gross estate for federal estate tax purposes. The right to obtain a policy loan is an incident of ownership. Generally, life insurance proceeds received at death by your beneficiary are received income tax free.

TAXATION OF POLICY LOAN

You can borrow against your life insurance policy, and the loan proceeds are generally not taxable to you (unless the policy is a modified endowment contract (MEC), see sidebar).

A loan from a MEC is treated as a distribution from the MEC. A distribution from a MEC is subject to the income-out-first rule. As amounts are distributed, they are treated as consisting of taxable income to the extent that they do not exceed the excess of the cash surrender value of the policy over the investment in the contract (generally, premiums paid less tax-free distributions). The taxable income will also be subject to a 10% penalty tax unless the distribution is made after age 59½, on account of disability, or as part of a series of substantially equal periodic payments.

Example: You have a MEC with a cash surrender value of \$100,000. You have paid premiums of \$50,000. You take a policy loan for \$60,000. The first \$50,000 (\$100,000 cash surrender value - \$50,000 investment in the contract) of the loan is taxable income to you.

WHAT IS A MEC?

A life insurance policy purchased after June 20, 1988, is a modified endowment contract if the accumulated premiums paid at any time during the first seven years exceed the sum of the net level premiums for a policy that would be paid up after seven years. A single premium policy is one example of a modified endowment contract. (Your life insurance company or life insurance agent can tell you if a policy is a modified endowment contract.)

LAPSE OR SURRENDER OF POLICY

An outstanding loan is generally treated as an amount received if a policy lapses or is surrendered and may result in taxable income. A policy can lapse if premiums are not paid and the policy terminates when any policy benefits are exhausted as a

result. Also, as noted above, if the amount borrowed plus interest ever equals or exceeds the cash surrender value, the policy can terminate if additional amounts are not paid into the life insurance policy. You can cash in a policy by surrendering the policy to the insurer in return for the policy's cash surrender value (as reduced by the amount of the loan plus interest).

If you surrender your policy to the life insurance company or the policy lapses, any gain realized is taxable at ordinary income tax rates. The gain is the excess of the amount you receive over the net premium cost. The net premium cost is the total premiums you paid less any tax-free distributions received. An outstanding loan is generally treated as an amount received if a policy is surrendered or lapsed and may result in taxable income.

Example: You have a life insurance policy with a cash surrender value of \$200,000. You have paid premiums of \$75,000. You also have an outstanding policy loan of \$175,000. There have been no distributions from the policy. You surrender the policy to the insurer for \$25,000 cash. You have taxable ordinary income of \$125,000 (\$25,000 cash + \$175,000 loan - \$75,000 premiums). If you have not prepared for it, it may come as quite a shock.

Example: You have a life insurance policy with a cash surrender value of \$200,000. You have paid premiums of \$75,000. You also have an outstanding policy loan of \$200,000. There have been no distributions from the policy. The policy lapses. You have taxable ordinary income of \$125,000 (\$200,000 loan - \$75,000 premiums). Once again, if you have not prepared for it, it may come as quite a shock.

P.S. Please feel free to forward this commentary to family, friends, or colleagues. If you would like us to add them to the list, please reply to this e-mail with their e-mail address and we will ask for their permission to be added.

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- * Gold represents the London afternoon gold price fix as reported by the London Bullion Market Association.
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