



22 Reasons to Obligate Your Company to Pay a Death Benefit

Benefits of Paying a Death Benefit

- 1 The recipient of a "death benefit" is not subject to tax on the first \$10,000.
A death benefit is a payment made on or after death in recognition of the employee's service as defined in of the *Income Tax Act*.
A benefit received on the death of an individual will not qualify as a death benefit unless it is reasonable to conclude that the benefit is in recognition of that individual's service in an office or employment. If no employer-employee relationship existed, the amount received by a beneficiary of the deceased will not be treated as a death benefit.
\$10,000 is the maximum amount that can be excluded from income from all sources received by the surviving spouse or other beneficiaries of a deceased employee in recognition of the employee's service from an office or employment.
- 2 A death benefit paid by an employer is generally deductible by the employer in computing its income for tax purposes.
- 3 However, as the employer must have a legal obligation to pay the death benefit, it is advisable to have an employment contract that creates this obligation. Legal advice should be obtained before drawing up such a contract.
- 4 To summarize: if you are a small business and obligate your company to pay a \$10,000 death benefit, the beneficiaries do not pay tax on the benefit and it is tax deductible to the company. But you should check with your tax advisor.

How do you obligate your company to pay a death benefit?

- 5 Ask your legal advisor to prepare a simple employment contract.
- 6 Many of you may forget about this contract, and maybe some beneficiaries may not know about it. For this reason, ask your legal advisor to send your accountant a copy, and to provide you with at least two: one for your safety deposit box and one to attach to your will.

Who benefits?

- 7 Your spouse and/or other beneficiaries.
- 8 If the death benefit is paid to other beneficiaries, CRA has provided guidelines to allocate the tax-free \$10,000 among each beneficiary – see IT-508R.

Who else?

- 9 The company can obligate itself to pay death benefits to most employees.
- 10 Usually the benefit is paid only to shareholders or to long-term employees.

How much?

- 11 Generally the tax-free benefit to the beneficiaries is \$10,000.
- 12 Generally the tax deduction to the company is \$10,000.

How quickly can the family have access to the benefit?

- 13 As soon as the company pays the benefit, which can be immediately after death.

Additional benefits

- 14 The tax-free payment goes around the estate and is not included in probate.

What about the remainder of the 22 benefits?

- 15 Our policy is to provide our short lists of tips, benefits, reminders, etc in the format or number of 22. But this tip is so valuable and so clear that we could have done it effectively in 2 points.
- 16 But we will give you the full 22 points, but not all related only to death benefits.

6 other worthwhile points that have a relationship to death benefits

- 17 Make sure you have a will. And make sure you have updated it recently.
- 18 If you have an RRSP/RRIF and your spouse has died, make sure you leave the RRSP/RRIF to your estate. You create problems by leaving it to other beneficiaries unless you leave it to a beneficiary who is under 18 or dependent.
- 19 Make sure your executor is a resident of Canada. You can create more problems by having a non-resident executor.
- 20 Appoint an attorney - once you have taken the time and effort to craft a will, appoint an attorney under a power of attorney. He or she can manage your property if you become mentally or physically incompetent or incapable through accident, illness or progressive disease.
- 21 Maybe name two attorneys - if you are reluctant to give unrestricted power of attorney to one individual, name two attorneys who must act jointly. Or give clear written instructions to your attorney that the power of attorney is to be used only if you are unable to manage your own affairs.
- 22 Update your old power of attorney - if you have one, so the Public Trustee cannot intervene if you become a patient in a psychiatric facility and are certified incompetent to manage your estate.

Idea for these tips: provided by Malcolm W Fast Professional Corporation, Edmonton