Originally written for:

LEHIGH VALLEY BIZ MAGAZINE

"SPLIT-DOLLAR LIFE AND OTHER INSURANCE"

by

Bernard M. Lesavoy, MBA, JD
Attorney at Law
Lesavoy Butz & Seitz LLC
1620 Pond Road, Suite 200
Allentown, PA 18104-2255
Phone: 610-530-2701
Fax: 610-530-2727
Email: blesavoy@LesavoyButz.com
Website: www.LesavoyButz.com

There are a multitude of excellent insurance products available to businesses and individuals, designed to cover the full spectrum of possible needs, including without limitation, whole life, variable life, term life, split-dollar life, and a variety of disability-oriented policies to fund buyouts and/or replace loss of income.

By way of background, whole life and universal life insurance policies, otherwise known as permanent life insurance, are issued with a fixed annual premium based on the age of the insured at the time the policy is issued, subject to the health and other insurability criteria applicable to the insured. The pricing of the policy, or the annual premium, does not change throughout the life of the policy, and so long as the premium is paid, the policy is permanent in that it will not expire until you do. Additionally, whole life insurance policies build up cash value over time, which feature has been referred to as building equity on a tax deferred basis. Such policies usually permit one to borrow the cash value, often on favorable terms.

Variable life insurance is a hybrid insurance product that is, for all practical purposes, a cross between whole life insurance and term life insurance.

Term life insurance is a life insurance product which is available for a specific term of years. It can be purchased on a fixed annual premium basis for various incremental terms, such as one, five, ten or twenty years, and/or for other applicable periods. The premiums on term life insurance tend to be far less expensive than whole life insurance. However, they are neither permanent in nature nor do they accumulate any cash value. Specifically, owners of term life insurance are at risk to the policies expiring prior to the insured's demise. Therefore, at the expiration of such policies, the insured is subject to the then current standards of insurability as well as new premium rates. In many instances, individual subscribers to multi-year level term policies find themselves subjected to dramatically higher premiums as a result of increased age, deteriorating health, and market changes in premium rates.

Split-dollar life insurance may be a viable alternative to the conventional insurance products described above.

Historically, Split-Dollar life insurance has been a popular estate and financial planning leveraging tool. It is used by one party to assist another party in the purchase and maintenance of life insurance and to enable individuals to further leverage gifts of life insurance. Typically, the employer or company will pay the premium for the life insurance for the benefit of the employee, deferring the repayment of all such premiums until the time of death when the policy pays out the proceeds. Final new regulations and other pronouncements were recently issued by the U.S. Treasury and the IRS on Split-Dollar life insurance arrangements.

Different rules are applicable, depending upon whether the Split-Dollar arrangement was entered into on or before September 18, 2003 or certain other dates. There are certain safe harbors that apply to Split-Dollar arrangements in existence before January 28, 2002 that must have been implemented before December 31, 2003. These safe harbor rules only apply to certain plan designs involving so-called Equity Split Dollar.

Generally, plans in existence prior to September 18, 2003 have rules that are more favorable than new plans and, accordingly, should not be changed in any manner without discussions with qualified advisors.

Split-Dollar life insurance remains a viable estate and financial planning tool. However, the tax efficient leverage of these plans has changed significantly in light of the new rules. If you are considering entering into a new Split-Dollar arrangement, or if you are currently a participant in a Split-Dollar plan, you should contact your attorney or other qualified advisors so they can review with you the options for new plans and also take the necessary action, if appropriate, with respect to existing plans.

Another popular coverage for business owners is buyout disability insurance. This coverage is designed to cover purchase obligations by and among owners of businesses triggered by the onset of a disability of one of the owners. Typically, death triggered events have been easy to insure against, but it is only more recently that disability buyout insurance coverage has been a viable option for business owners. Supplementing this coverage with a combination of disability income insurance, as well as long term care insurance, will go a long way in protecting both the business and individual concerns.