

Life Insurance . . . *Good Property!*

Webster defines property as “something tangible to which its owner has legal title . . . a special capability.” We sometimes forget the wonderful elements of a life insurance policy as a “piece of property”. We get so intrigued or impressed with the ethical application of using life insurance in special concept sales that we overlook the great internal attribute of the life insurance policy.

Life insurance, as property, has unique features provided by legislative act and supported by judicial decision. Three extremely beneficial elements are a direct result of paying premiums with after income tax dollars. The acquisition of a policy with dollars on which taxes have been paid generates:

- A. Income tax free payment of the death benefit – IRC Section 101(a) says, “ When the proceeds are paid to a named beneficiary as a result of a death of the insured, the proceeds are excluded from ordinary income tax.”
- B. Income tax deferred growth of the cash value (IRC Section 7702(a) and 7702(f).
- C. Access to the cash value of a non-modified endowment contract by withdrawal up to tax basis or through policy loans without causing the distribution or the loan to be subject to ordinary income taxes {IRC Section 7701(g)(1)(B): Theodore H. Cohen v Comm., 35 TC 1055 (1963); Nesbitt, II v Comm., 43 TC 629 (1965)}.

Income tax advantages are provided by legislative act. However, specific detailed owner action is necessary to obtain favorable estate tax treatment. Again, life insurance as property is favorably structured to allow the necessary specific steps to be implemented to benefit from estate tax exclusion of the death proceeds. Establishing a third-party owner arrangement at the time of policy application or by gift to circumvent IRC Section 2042 is clearly available and supported by several recent tax and appellate court decisions. (Headrick93 T.C. No. 18 ; Leder89 T.C. No. 20 1987; Perry 59 T.C.M. 65 1990; NepstadA3-89-54OU. S.D.C. in ND).

All these elements are not available in any other single property. Life insurance as property is unique! Promote its advantage to the fullest!