A reminder how it works

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by Kate Connor, Protection Development Manager, Irish Life

In conversations with company directors, you can help them to plan for the very real risk to their business that is posed by the fact that it, the business, is dependent on those directors remaining around to run it. So it might be the case that simply mentioning business protection to your business clients might end up making a huge difference to their business, should any ill health or worse befall them or their business partners. Below is an outline of business protection arrangements, how they work and how they can protect your business clients, their families and their companies.

KEY PERSON INSURANCE

The Loss of Key Personnel

The sudden death of a key person could give rise to a number of immediate financial pressures for the company.

Keyperson Insurance is life assurance effected by an employer on the life of a key employee or Director to protect the company against the financial consequences of that individual's sudden death.

Keyperson Insurance would therefore provide an immediate lump sum payment to the company on the death of the insured life. The company would use these funds in any way it chooses, including:

- **repayment of bank loans**, particularly any to which the key employee has given a personal guarantee.
- **repayment of any loans the key employee may have made to the company.**
- **recruitment of a successor.**
- **investment in the business.**

Keyperson Insurance is designed to protect the value of the company's human assets much in the same way as fire insurance protects a company's physical assets.

Who is a Keyperson ?

A keyperson is any 'key' employee or Director on whom the business depends for its continued success, or existence, and on whose death the business could suffer a financial loss.

In determining the appropriate amount of keyperson insurance cover an insurable value must be put on the potential financial loss that the company would suffer in the event of the death of the key person.

In assessing the amount of cover required two factors need to be considered:

Loan Repayment: Any loans personally guaranteed by him/her or any loans made by them to the company.

Loss of profits cover. The death of the key person could jeopardise the trading position and profitability of the company. The cover required is the estimated financial loss that the business would suffer on the death of the key person, plus the costs of replacing them.

SHAREHOLDER PROTECTION

The death of a Shareholder - The sudden death of a shareholder in a private limited company can cause a number of problems for both the surviving shareholders and the deceased's next of kin.

The Life Assurance Solution - Life Assurance can provide a solution to the problems above by providing liquid capital on the death of a shareholder to enable

- the deceased's shares to be bought back from his estate or next of kin, and
- the surviving shareholders to maintain ownership and control of the business going forward.

The solution outlined above can be achieved in one of two ways, Personal Shareholder Protection & Corporate Shareholder Protection.

Personal Shareholder Protection

The shareholders enter into a personal agreement to "buyout" a deceased shareholder in the event of his death. To provide the funds to fulfil their personal obligation under the agreement each shareholder personally effects life assurance cover which is payable to the surviving shareholders on his death. The surviving shareholders then use the funds to "buy out" the deceased's next of kin in line with the agreement.

The "Personal" arrangement is relatively simple to arrange and the legal and taxation issues are more straightforward. The main drawback of this solution is that the cost of the arrangement is borne personally by the individual shareholders out of after tax income. If the company funds a "Personal" arrangement - the cost is treated as a "benefit in kind" for each shareholder.

Corporate Shareholder Protection

In this case the Company enters into a buy/sell agreement with each of its shareholders to buy back shares from their personal representatives in the event of death. The company takes out a life assurance policy on each shareholder, to provide funds to enable the company to fulfil its obligation under the agreement.

In the event of death the Company uses the funds to buy back shares from the deceased's next of kin.

The "Corporate" solution requires careful planning to set up due to the fact that certain company law provisions must be satisfied and formal approvals are required. In addition there are a number of conditions that must be satisfied to ensure the buy back of shares from the family of a deceased shareholder can be achieved in a tax efficient manner.

The major advantage of the "Corporate" arrangement is that the cost is borne totally by the company - with no "Benefit In Kind" implications for the individual shareholders.

While most people would prefer to use the "Corporate" route, and thus have the company pay the premium on the life assurance policies, it is important to note that this option is not tax efficient in all cases. As mentioned earlier there are a number of conditions that must be satisfied to ensure the buy back of shares from the family of a deceased shareholder can be achieved in a tax efficient manner. This will not be possible where the company is, for example, an investment company or where the shares have not been held by the shareholders for three years or indeed where there are non resident shareholders. It is important therefore, to review each company's situation carefully.

Each company situation is unique, but the objective of any Business Protection arrangement should be the same: to ensure the right amount of money ends up in the right hands at the right time in a tax efficient manner.

Your Irish Life Account Manager will be happy to assist you with any queries you have and you will find a wealth of information in the business protection section of bline.ie