

SPLIT DOLLAR INSURANCE AND PREMIUM FINANCING PLANNING:
THE LATEST DEVELOPMENTS

TABLE OF CONTENTS

I.	SCOPE AND INTRODUCTION	2-1
II.	SPLIT DOLLAR ARRANGEMENTS	2-2
A.	General Concepts	2-2
1.	What is a split dollar arrangement?.....	2-2
2.	Two Mutually Exclusive Regimes for Taxing Split Dollar Life Insurance Arrangements	2-3
3.	Who is the Policy Owner in Determining Which Regime to Use?.....	2-4
4.	Tax Consequences of Economic Benefit Regime (Endorsement Method).....	2-4
5.	Tax Consequences of Loan Regime (Collateral Assignment Method).....	2-5
6.	Outline Assumption	2-6
B.	Which Regime Should be Used? It Depends!.....	2-6
1.	Loan Regime	2-6
2.	Economic Benefit (Endorsement) Regime.....	2-6
C.	Impact of 409A	2-7
1.	409A Application to Non-Grandfathered Split Dollar Arrangements	2-7
2.	How Do the Section 409A Grandfathering Rules Apply to Split Dollar Arrangements?	2-10
3.	Impact of IRC Section 409A on Equity Split Dollar Arrangements Established Before September 18, 2003	2-12
4.	So What If 409A Applies?.....	2-14
D.	Endorsement Split Dollar and the COLI Best Practices Act.....	2-14
1.	Application of Section 101(j) to Endorsement Split Dollar	2-14
2.	Background for 101(j).....	2-15
3.	General Rule	2-16
4.	Exceptions to the General Rule.....	2-16
5.	EOLI/COLI Reporting Requirements	2-17
6.	Effective Date	2-18
E.	Discount Split Dollar (Three Generation Private Split Dollar Arrangements)	2-18
1.	Example	2-18
2.	Valuation of Split Dollar Interest.....	2-19
3.	Issues Concerning the Restriction Discount Theory	2-20
4.	Additional Questions If There Is a Gift or Sale of the Policy Before the Grandparent's Death	2-21
III.	LOANS TO FINANCE PREMIUMS	2-22
A.	Concept	2-22
1.	Why Use Loans to Finance Premiums?	2-22
2.	Analogous to the Old Collateral Assignment Equity Split Dollar Contracts	2-22
B.	Secured Loans and Variable Life Insurance	2-23
1.	Bottom Line	2-23
2.	Variable Policies Subject to Margin Rules	2-24
3.	The Margin Rules of Regulation U.....	2-24

SPLIT DOLLAR INSURANCE AND PREMIUM FINANCING PLANNING:
THE LATEST DEVELOPMENTS

TABLE OF CONTENTS
(continued)

	4. Reporting Requirement of Regulation U	2-24
C.	Must Be a “Real” Loan	2-24
	1. What Is a Loan?	2-24
	2. Sham Interest Payments	2-25
	3. Sham Principal Payments.....	2-26
	4. Uncertainty.....	2-26
D.	Estate Tax Considerations for Loans from Family Corporation or Partnership to Life Insurance Trust.....	2-26
	1. Generally, Not a Problem.....	2-26
	2. Potential Controlled Corporation Problems	2-27
	3. Partnership Incidents of Ownership Problems	2-27
	4. Bare Bones Collateral Assignment	2-29
E.	Premium Loans By Insured.....	2-29
	1. Concept	2-29
	2. Income Tax Considerations	2-31
	3. Gift Tax Considerations	2-36
	4. Estate Tax Considerations.....	2-40
F.	Third Party Premium Loans	2-42
	1. Concept	2-42
	2. Non-Tax Considerations	2-42
	3. Income Tax Considerations	2-44
	4. Gift Tax Considerations	2-45
	5. Estate Tax Considerations.....	2-48
G.	Two-Year Loans to Life Settlements	2-48
	1. Other Names	2-48
	2. Typical Arrangement	2-49
	3. Concept	2-49
	4. Lack of Insurable Interest Issue	2-50
	5. Other Non-Tax (or Quasi-Tax) Issues	2-51
	6. Income Tax Issue – Trust Sells Policy to Investor Group After Two Years	2-54
	7. Income Tax Issue – Trust Defaults on Note and Creditor Takes Policy under Collateral Assignment.....	2-57
	8. Miscellaneous Tax Issues.....	2-59