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# Split-dollar life insurance - The tip of the iceberg

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To reiterate a common theme that we continue to express: Life insurance solutions focused on estate liquidity needs and avoiding involvement in convoluted structures, is a good way to avoid crashing into an iceberg!

**Tax Court procedural case**

The recent case, Ideal Supply Holdings v. The King 2026 TCC 175, involved a life insurance structure known as "split-dollar" or "shared ownership". The Crown was seeking to amend its Replies to include additional facts uncovered during discovery examinations. The additional facts were about personal borrowing using one of the corporations' co-owned assets (the life insurance cash surrender values (CSVs)) as collateral security for a personal loan. (For a discussion of the issues relating to this aspect see: Personal borrowing and corporate owned life insurance – The gory details – Tompkins Insurance).

In this case, the Tax Court allowed the amendments - it did not decide the merits. Of interest, however, is the basis for the reassessment and the realization that this is probably just the tip of the iceberg of a continued slow march towards these structures being questioned and potentially, bringing about nasty tax consequences.

**What was the structure and the basis for the reassessment?**

Three siblings each had their own holding companies which owned shares in Ideal Supply Holdings (Holdco), a common holding company which owned the shares of 1088858 BC Ltd (Opco), also an Appellant in the case. In 2014, Holdco and Opco jointly purchased two joint last-to-die life insurance policies. One policy covered one sibling and their mother, the other, another sibling and their mother. Holdco and Opco entered a Co-owner Agreement in respect of each policy that set out which company paid which portion of the premiums and what benefit each was to receive from the policies.

The Minister reassessed Holdco for a shareholder benefit under subsection 15(1) based on the following

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assumptions:

1. Per the Co-owner Agreements, Holdco was entitled to the CSVs,
2. Opco paid more than its share of the premiums (i.e. paid too much for its interest in the policies), and
3. Opco bestowed a shareholder benefit on Holdco by increasing the CSVs to which it was entitled.

**What additional facts did the Minister want to add to its Reply?**

Two additional shareholder benefits were identified and facts relating to them were allowed to be added to the Minister's Reply. A benefit being conferred by Holdco indirectly through the sibling's holding companies on the siblings by allowing them to use Holdco's CSVs as security for their personal loans, borrowed from a bank to repay a $1 million debt of one sibling and to make payments to support their mother; and, a benefit conferred indirectly by Opco on Holdco for the same thing.

Holdco pledged the CSVs to the bank and no payments were made to Holdco to compensate it for having pledged the CSVs as security. Without Opco paying its portion of the premiums there would not have been the CSVs to pledge and no payments were made to Opco to compensate it for having made premium payments towards the CSVs causing an additional benefit to arise.

It was undisputed that these facts arose out of the examinations for discovery. Neither Holdco nor the siblings have been reassessed for these alleged additional shareholder benefits. But, these additional facts and allegations were permitted to be added to the pleadings.

Russel J. found "the underlying facts of these appeals are of some complexity – many players and many moving parts. Consequently, the additional facts established through discovery examination that the Respondent wishes to include in its Amended Replies should be permitted to be put before the Court hearing these appeals, to enhance understanding of the relevant factual circumstances."

**Our takeaway from this case**

Of late, shareholder benefit cases of all kinds have been ending up in Tax Court, presumably resulting from greater CRA audit efforts in this realm. In this case, not only did the taxpayers have a shared ownership structure, which in and of itself involves having to use assumptions of the policy values as between the shared owners, there was piling on – adding personal borrowing against the policies - which could compound the issues in question.

We see this case as the tip of the iceberg on these types of challenges and reassessments that involve convoluted life insurance strategies and reminds us of the well-known expression: "Is the juice worth the squeeze?"

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**FOOTNOTE:**

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