

Buy sell versus key person – insurance ownership guide

KEY PERSON COVER

(policy owner typically = trading entity)



TRADING ENTITY

BUY SELL COVER

(policy typically owned outside of trading entity)



50%
OWNERSHIP

50%
OWNERSHIP

Protects the business in the event of an unplanned exit

Purpose ¹	Examples	Priority Protection	Tax treatment
Revenue	Loss of revenue and operating expenses such as rent, advertising, utilities, replacement locum	Life, TPD, Crisis Recovery or Business Expenses	Premiums are generally tax deductible ² Insurance proceeds assessable income ³
Capital	Repay business debt, offset loss of goodwill	Life, TPD or Crisis Recovery	Premiums non-deductible CGT may apply for TPD or Crisis Recovery claim proceeds received by the operating entity ⁴

Protects the owners in the event of an unplanned exit

Policy owner	Tax treatment upon claim – Life insurance	Comments ⁵
Self-owned by business owners ⁶	Tax free ⁷	<ul style="list-style-type: none"> • Tax effective and adapts to changes to business structure. • To alleviate any anticipated cash flow pressures on the owners the trading company or trust may pay the premiums on behalf of the owners, so long as this is accounted for appropriately. • It is crucial that a legally enforceable buy/sell agreement underpins the arrangement.

- 1 It is advisable to record the purpose for which the cover was obtained in the formal documents of the business (e.g. company minutes).
- 2 Unless the loss of an employee, such as the owner/manager of a one person incorporated business, would be expected to result in the termination of the business.
- 3 Whilst the proceeds are assessed as income, the operating entity may be entitled to a corresponding tax deduction for actual expenses incurred in connection with the key person revenue policy.
- 4 For company taxpayers, the capital gains tax liability would generally be determined as: [Insurance proceeds – sum of insurance premiums paid on policy] *30%
- 5 For more information refer to *Guide to buy/sell funding insurance ownership structures*
- 6 Other insurance ownership structures exist: trust, superannuation, cross owned and company. *Refer to Guide to buy/sell funding insurance ownership structures*
- 7 Assuming the taxpayer is the original owner of the policy, unless the interest in the policy was acquired by the taxpayer for no consideration