EMPLOYER-EMPLOYEE SCHEME

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- In the fast changing business world and present competitive scenario in the trade and industry, it has become imperative for all the prudent and far sighted employers to retain the services of the trained and the experienced executives/employees with the company whose services have major contribution for the growth of the business qualitatively and quantitatively as well.

EMPLOYER-EMPLOYEE SCHEME

- **Generally, group of employees are given the benefits by way of statutory schemes like *Group Gratuity, Group Term Insurance & Group Superannuation Scheme.* These schemes are specially attractive because the premiums paid under the scheme are treated as expenditure at the hands of the employer and at the same time, it will not be treated as income at the hands of employees.**
- **However, for certain reasons one of the unique life insurance schemes called EMPLOYER-EMPLOYEE is also of a great utility to the establishment.**
- **The employer-employee scheme gives boost to the insurable interest between employer-employee by providing insurance on the *lives of Executives/Employees of the company to offer them very handsome perks and security.***

WHY THE COMPANY SHOULD GO FOR EMPLOYEE/EMPLOYER SCHEME ?

- **Where the number of employees are below 10, they are not allowed to join Group Insurance.**
- **But an enlightened employer may like to make provision as a welfare measure through life insurance. For the dependants of the employee in case of employee's early and premature demise and old age provision for the employee himself.**

- **An employer may desire to give certain additional benefits to the select band of employee, as a reward of good services and who could not be otherwise compensated.**

WHY THE COMPANY SHOULD GO FOR EMPLOYEE/EMPLOYER SCHEME ?

- **An employer may hold the life insurance policy as a sufficient inducement or encouragement for the employee to continue with him since the employer has to spend considerable amount of money and time to train a new employee and moreover upon exit of such an existing employee, the employer may lose some of his trade secrets.**

- **To certain classes of employees whose gross salary is above the permissible limits are not entitled for bonuses can be offered an additional benefit through life insurance policy in lieu of bonus.**

- Some of the Hi-tech employers keep the employees on purely contract basis so that they are not liable to make provision for statutory benefits but for certain class of employees only they can be offered attractive benefits in the form of insurance through life insurance policies.

- In case of retrenchment or for better prospects, employees may come out of the present organisation and join new company may lose the statutory benefits conferred to him in the earlier organisation. However, the benefits offered under employer-employee can be continued by individual employee on payment of premium in future.

- Employee can choose the Life Insurance benefits as per his needs and if at all any restrictions are imposed by the employer, they cannot hold good beyond 5 years from date of commencement of policy.

TAX EFFECTS

- **Premium paid by the employer forms perquisites in the hands of employees under Section 17(2)V and will be taxed as per the existing structure.**

- **However, as per the amendments effected in the Finance Act 2002, in case of employees, the perquisites shall not be taxable, whose net taxable monetary salary (after allowing standard deduction but excluding the value of the perquisite) does not exceed Rs.1,00,000/-. At the same time, premium will be entitled for the rebate to the concerned employee under Section 88 of I.T. Act, 1961 since the premiums paid by the employer are so treated as perks.**

- **Besides the risk of the employee is covered, the proceeds on maturity of the policy will be tax free in the hands of the employee under Section 10(10)(D) of Act, 1961.**

TAX EFFECTS

- The premium paid by the employer under such a life insurance policy would be treated as an expenditure subject to the following:
- (a) The employee knows that this premium is a perquisite to which he is entitled to;
- (b) That the tax is deducted at source on the value of this perquisite;
- © That the value of the perquisite will be the premium paid in each policy;
- (d) That the value of the perquisite shall be restricted to 20% of the "salary" payable to the employee or an amount calculated at the rate of Rs.1000/- for each month or a part thereof as provided for under Section 40A(v)(a)(ii).

“SECTION 17(2)(V) READS AS UNDER”

- **<u>Perquisite includes:-</u>**
- **(v) Any sum payable by the employer, whether directly or through a fund, other than a recognised fund or an approved superannuation fund on a deposit-linked insurance fund established under Section 3G of the Coal Mines Payment fund and Miscellaneous Provision Act, 1948 (46 of 1948), as the case may be, Section 6C of the Employees’ Provident Fund and Miscellaneous Provisions Act 1952 (19 of 1952), to the effect an assurance on the life of the assessee or to the effect a contract for an annuity.**

EMPLOYER'S POINT OF VIEW:-

- **1) The schemes which are adopted for the welfare of the employees certainly help in better productivity and expansion of business . An employer has the insurable interest in the life of an employee is recognised by law under Insurance Act, 1938.**

- **In view of the above, an employer-employee scheme gains importance.**

- **2) The premiums paid by the employer are treated as deductible expenses of business or profession under Section 37(1) of I.T. Act, 1961.**
- **Section 37(1) is defined as "Any expenditure not being the nature of capital expenditure or personal expenses of the assessee LAID OUT OR EXTENDED WHOLLY AND EXCLUSIVELY FOR THE PURPOSES OF THE BUSINESS OR PROFESSION shall be allowed in computing the income chargeable to income tax. This is besides other specified expenses u/s 30 to 36 and those u/s 37(1)**

- **3) Since the premium paid by the employer is treated as perks under Section 17(2)(V), it is binding on the employer to pass a resolution to effect an insurance on the life of employees and contents of the resolution are made known to the employees also.**

- **4) The total insurance on the life of an employee or more precisely the premium payable under the life insurance policy should be reasonable and it would be better if the provisions of the Section 40(A) 2(a) and 40(A) 2(B) is taken care of.**

- **5) As far as the implementation of statutory schemes like Gratuity, Group Superannuation, employer has to go for long term commitments and formation of relevant trust to manage the scheme to take the tax benefits under the same section.**

- **But if he adopts employer-employee scheme he can use his own discretion as far as the provisions to be made under the scheme. In other words, he can always decide the duration of payments and thereafter the employee can continue his policy for his own benefits. Besides, employer need not have to form the trust or approval from IT authorities.**

PROCEDURES TO BE FOLLOWED TO ADOPT THE SCHEME

- **1) Obtain approval from the Board or the sources authorised to act for and on behalf of the firm (Board resolution is to be passed).**
- **2) Arrange power of attorney in favour of persons to execute the scheme.**
- **3) Put up the proposal to LIC of India to effect the coverage and for the issuance of policies as per the Plan & Term selected. The proposals will be treated as individual proposals received from the employees concerned irrespective of whether the proponent is any employer or an employee. Requirements of medical examination etc., shall be decided on that basis. The maximum sum assured shall be determined in terms of the rules relating to financial underwriting for individual assurances taking into account the existing life insurance in force on the life of the employee.**

PROCEDURES TO BE FOLLOWED TO ADOPT THE SCHEME

- **4) If the employee is the proponent, the policy shall be assigned to the life assured at the earliest but under no circumstances <u>later than 5 yrs depending on the terms of agreement between the employer and the employee</u>. Separate letter from the employer stating the object of insurance, the restrictions he desires to be considered in respect of surrender, loan, etc., and that he would assign the policy to the life assured at a pre-decided stage, should be obtained stating clearly that this letter of the employer will form a part of the proposal. It is not necessary that all the insurable employees of the employer be covered under this scheme.**
- **5) Ensure payment of premium on time.**
- **6) Proposal Form No.340 has to be used for the purpose. The proposal should be signed by a person authorised by a resolution of the firm.**

PROCEDURES TO BE FOLLOWED TO ADOPT THE SCHEME

- **7) In some instance employer may like to finance loan towards payment of premium to the employee. Form No.300 can be used to assign the policy as a collateral security.**
- **8) i) Copy of the resolution annexed.**
- **ii) Letter addressed to the employees mentioning the decision to insure his life.**
- **iii) Copies of the IT returns of the company to check the profit position.**
- **iv) Employee's previous insurance is to be taken into account and, if required, individual ITR's to be called for.**
- **v) Details regarding total employees working in the company, their cadres and salaries drawn by them.**

THANK YOU

The presentation of Employer and employee is of general nature and Prepared just for internal purpose to understand the concept. One should seek the guidance and opinion of their tax consultants for exact position of relevant laws on the subject. We can not be hold for any liability or responsibility.