

PARTNERSHIP INSURANCE

“ A Partnership is a business jointly owned by several parties, but which is not itself a corporate entity. The partner is generally run in fairly personal way by partners. This creates problems if one partner dies as his widow may wish to take upon her role in the business or may withdraw her husband s share in the business On the other hand the co-partner may not have sufficient funds to buy out the widows share This may result in selling her to an outsider the value of the share might have grown many fold after the partnership came into existence the remaining partner may not like to have out side interference and instead of selling share to outsider the remaining partner would like to buy out the share of the partner must be covered under partnership insurance.

In the partnership agreement it is generally provided that in the event of the death of any partner, the surviving partner will have the option to purchase the deceased partner's share in the firm. However for this purpose, the Partnership firm should have sufficient cash available and such ready cash will be available if the firm insures it's partner under partnership Insurance and all the insurable partners are to be insured.

A partnership firm has an insurable interest on the life of each of the partners to the extent of the amount of “Purchase money” required to be paid in respect of the share partner. Proceeds are paid direct to the firm in case of death of the partner. These proceeds are disturbed to the legal their in parts or in full settlement of the share. Premiums under partnership insurance are allowed as expenses as per sec 37(1) if income Tax Acts. 1961. The proceeds of such claims will be treated as income of the firms.

For considering partnership insurance, following requirements are to be obtained :-

- i) Proposal form F. No. 340
- ii) Copy of Deed of partnership and supplementary partnership deed duly attested by the partner authorised to sigh insurance proposal.
- iii) Copies of Audited Balance sheet and Profits & Loss A/c. For the last 3 years
- iv) Copies of ITRs of the firm for Preceding 3 years duly attested by the authorised partner.
- v) The copy of audited Balance Sheet Containing Schedule of partner Capital A/cs.
- vi) Letter of authority in favour of partner signing the proposal.

Proposal on the life of partners can be entertained only if the following criteria are satisfied.

- a) Partner insurance is considered on the lives of all partners simultaneously.
- b) All the insurable partner must insure for the amount to the extend of their capital.
- c) The sum proposal should be at least Rs. 30,000/-- and it should not exceed the minimum amount of capital brought in by any single partner.
- d) The Deed of partnership should contain a clause that the partnership is revocable in case of demise of a partner.
- e) Policy term in case of individual assurance should be such that the maturity age does not exceed 70 years of the L. A.
- f) Nomination is not allowed.

- g) Assignment not allowed - except in case of dissolution of partnership other than due to the death of the partner. (C.O Circular Ref.: Actl/PS/CUS-104 dt. 23/08/2003)
- h) Plan of assurance allowed will be only table 14, 48, and 162.
- i) The following endorsement is to be made on the policy.
 "Notwithstanding anything within mentioned to the contrary, it is hereby agreed and declared that in the event of dissolution of partnership firm for any reason other than death of any of the partners is insured under the policy, the within mentioned policy shall be either -
 - i. Surrender to the corporation. For its cash value, if any OR
 - ii. Made paid up for such value, if any,

as is acquired under the policy as on the date of dissolution of the Partnership and such paid up policy shall be absolutely assigned in favour of any one of the Partner insured under the policy."
- j) Consent letter for placing an endorsement as shown in item (i)
- k) All Proposals for partnership insurance must be referred to D. O. For decision.

Note:

1. In case a partner is not insurable, other Partners can take policies subject to a Deed of variation in which it is specially mentioned why a particular partner of partners are not insured. In case of paucity of funds, Policies on different partners may be taken at different times with reasons in deed of variation.
2. Amendment to be effected in the policy document under partner insurance.
 - a. The names of life Assured and Proposal should appear in the schedule.
 - b. The words "Nominee under section 39 of insurance Act" Appearing in schedule be deleted.
 - c. Loan condition appearing in the policy conditions should be deleted.
 - d. No. AB is allowed, Hence policy form without Accident benefit to be used.
 - e. Plans of Assurance allowed are 14, 48 and 162

Taxation:

The question weather the insurance premium paid by a partnership firm in respect of policies on the life of partners is a permissible deduction in computing the income of the firm, is not free from doubt. As per section 37 (1) of the income tax Act, 1961 any expenditure laid out or expended wholly and exclusively for the purpose of the business or profession shall be allowed in computing the income chargeable under the head "Profit and Gains of business or Profession."

It is felt that premiums paid for insurance against loss or profits due to withdrawal of capital on the death of a partner should be allowed as a business expenses, the proceeds of the policy's claim amount would be treated as income of the firm.

The Following precautions may have to be taken if relief of Income Tax is to be claimed on the Premium Payment made -

- a. The firm is the proposer and beneficial owner.

- b. The object of insurance, viz. To protect against loss of profit on the withdrawal of capital on the death of a partner is brought out clearly in the proposal form and also in records of the firm.
- c. The sum Assured has reasonable bearing to the anticipated loss. It may be taken to be around the figure of the amount expected to be paid out on the death of a partner.
- d. The policy is kept unassigned.

Even if the Income Tax Department may not allowed the premiums paid as a business expense, it is advantageous to take out policies on the lives of partner (individual policies) because on the death of partner money would be readily available to the partner firm and it can be utilised by the firm for setting the accounts of the deceased partner without disturbing the working of the firm.

Special Notes:

1. All reference made about Income Tax are only opinion of the Corporation. However the Agent / D. O./ Party are advised to consult their Tax consultant and get their opinion. Corporation accepts no responsibility for the benefits available under Income Tax.
2. Maximum Sum Assured under partnership Insurance.

“Normally S.A. allowed equivalent to capital of the partners at the year end of last financial year. However, goodwill comes for additional to this level of S. A. depending upon the size, nature and age of the business, relationship between profits and capital. Such additional may be proportionate share of goodwill. Total goodwill of the firm total of last 3 years net profit.

Keymans Insurance to Partnership Firm

Keyman Insurance to partnership firm was not being allowed because the partnership business is owned by different partners only. Active partners are the source of profits to the firm. In the absence of such partners, there will be significant loss to the firm. Therefore it is decided to allow Keyman Insurance on the lives of active partner provided the following requirements are complied with -

- a. The average turnover of the firm for proceeding 3 years must be more than 3 Crores. For this purpose the last 3 year audited copies of Balance sheet and Profit & loss Accounts should be submitted.
(Ref : C.O Circular Actl/1834/4 dt. 13/11/2002)
- b. Since the Firm can not give certified copy of board resolution, a supplementary partnership deed furnishing the name of the Keyman and the Person authorised to complete the insurance proposal should also be submitted.
(Ref : C.O Circular Actl/1729/4 dt. 24.07.2000)
- c. Maximum S. A. will be limited to share capital of the keyman plus proportionate amount of goodwill as being done in case of partnership insurance. Total goodwill of the firm will be total of last 3 years net profits.
(Ref : C.O Circular Actl / 1729/4 dt. 24.07.2000)