



Private Survivorship Split Dollar

You are probably familiar with the concept of an irrevocable life insurance trust (ILIT) funded with a survivorship policy and the role it plays in providing estate liquidity. You're probably equally familiar with the frustrations that arise in funding the trust. The larger the premium and the fewer the number of Crummey beneficiaries, the more likely that gifts to the trust will be taxable. The sale gets even tougher when clients have been using their annual exclusions to make gifts to their children/grandchildren. If this describes a situation you are working with, consider the following solution.

Facts: An estate analysis has been done and there is a need for a \$2 million survivorship policy. The clients have been making cash gifts of \$80,000 per year for a number of years to their four children. Family rumblings have halted the sale because the children are not pleased that a large portion of their annual gifts may be redirected into an irrevocable trust to pay for life insurance. Consequently, the clients are also unhappy and are reluctant to proceed.

The following is a description of how a private split dollar arrangement may be used to purchase survivorship insurance in an ILIT when your clients want to minimize the value of their annual gifts.

Solution: An ILIT is established and the trustee applies for a \$2 million survivorship policy. The trustee of the ILIT enters into a non-equity collateral assignment split dollar with the insureds. Under the terms of the split dollar agreement the ILIT assigns an interest in the policy to the insureds in an amount equal to the policy's total cash surrender value. The balance of the death benefit belongs to the trust.¹

The collateral assignment and the ILIT are drafted so that the only right the insureds have in the policy is to receive an amount equal to the cash surrender value at the death of the second insured or at the termination of the split dollar agreement. The balance of the death benefit goes to the ILIT.

Under this arrangement, the amount gifted to the trust is reduced from the full premium to the much smaller value of the current life insurance protection, as measured by the

¹ Under the split dollar regulations, a non-equity collateral assignment split dollar arrangement will be taxed under the economic benefit regime.

economic benefit factor. Although the final split dollar regulations do not define the value of the life insurance protection/gift for a survivorship policy, Notice 2002-8 provides some guidance by indicating that "appropriate adjustments" can be made to the government's 2001 Table. By establishing a private survivorship split dollar arrangement between the insureds and the trustee of an ILIT, it is possible to reduce the gift tax value of the premium payment and thereby achieve extraordinary gift tax leverage.

If the arrangement is properly structured, at the death of the second insured his/her estate receives death proceeds equal to the cash surrender value. The balance of the death proceeds passes to the ILIT free of federal estate taxes.

Product Features: The PruLife® SUL Protector is especially well suited for this concept because it offers a "dial-able" no-lapse guarantee at all issue ages and in limited-pay scenarios giving the clients the flexibility to adjust the premium payment period and/or the length of the guarantee against lapse.² In addition, the product features include:

- ◆ Issue ages 18-90, based on actual age
- ◆ Capacity of \$65 million³
- ◆ Coverage beyond age 100
- ◆ Target term rider which does not negate the no-lapse guarantee
- ◆ Competitive compensation structure, unreduced by age or risk impairment
- ◆ 24-month rolling commissionable target premiums (except in NY)

CHART IS ATTACHED

² "Dial-able" means the policyholder can secure the length of guarantee desired. Limited-pay scenarios may cause the policy to become a MEC, causing additional tax consequences.

PruLife® SUL Protector is issued by Pruco Life Insurance Company in all states except New York where it is issued by Pruco Life Insurance Company of New Jersey. Both are Prudential Financial companies located in Newark, NJ. All guarantees are based on the claims-paying ability of the issuing company, and each company is responsible for its own financial condition and contractual obligations.

³ Subject to eligibility and to the availability of reinsurance.

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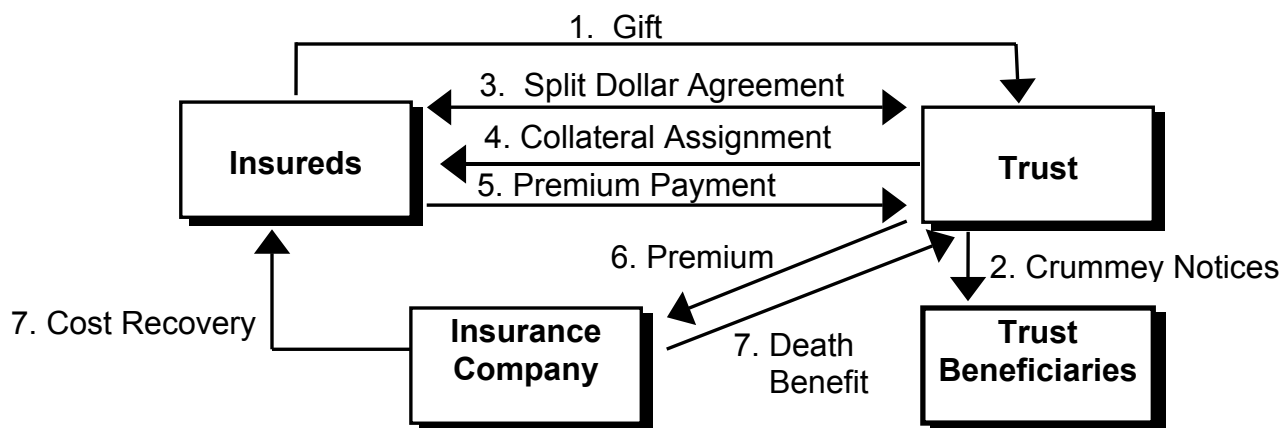
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Structure of a Non-Equity Collateral Assignment Private Survivorship Split Dollar Arrangement



1. The insureds establish an irrevocable life insurance trust (ILIT) and “seed” the trust with a gift not subject to the split dollar arrangement.
2. Trustee sends “Crummey” notices to the trust beneficiaries giving them a time period to withdraw their proportionate amount of the gift.
3. The trustee applies for a survivorship life insurance policy. The insureds and the trustee enter into a *non-equity collateral assignment split dollar agreement* where the trustee agrees to pay the portion of the premium equal to the economic benefit and the Insureds agree to pay the balance.⁴
4. The trustee executes a restricted collateral assignment giving the insureds a security interest in the policy cash value or death benefit in an amount equal to the total policy cash surrender values.
5. Each year the insureds advance premium amounts in excess of the economic benefit amount to the trust. This portion of the premium is not considered a gift.
6. The trustee pays the life insurance policy premiums to the insurance company using dollars advanced by the insureds and by contributing trust funds (from the seed money) equal to the economic benefit cost.
7. At the second death, the insurance company pays the death proceeds to the trust (in a non-equity split dollar generally any death benefit greater than the cash value) and the second-to-die insured’s estate according to the terms of the split dollar agreement and the collateral assignment.

Note: If the split dollar arrangement is structured as an equity collateral assignment, where the insureds’ interest is limited to premiums paid, different tax consequences may result.

⁴ The economic benefit under these facts is the cost of the life insurance protection and is calculated using either the rules in Notice 2002-8 or the rules in other IRS guidance, as applicable.

Survivorship Split Dollar Term Rates

The Internal Revenue Service (IRS) has issued a series of rulings overhauling the way split dollar is treated for tax purposes. In addition, the rulings establish new guidelines for measuring the value of single life insurance protection under split dollar arrangements subject to the economic benefit tax regime. None of the rulings, however, identify the appropriate measurement for valuing the life insurance protection for a survivorship life policy.

Historically, the calculation of the economic benefit cost of life insurance protection for a survivorship life policy was based on an unofficial, informational letter from the Actuarial Branch of the U.S. Department of the Treasury, which permitted use of joint mortality rates (typically called Table 38 rates) based on the government's PS 58 rates. IRS Notice 2002-8 replaced the PS 58 rates with Table 2001 rates; however, the only description on how to calculate life insurance protection for a survivorship life policy was that "appropriate adjustments" could be made to the Table 2001 rates. We have illustrated "new" Table 38 rates based on the government's Table 2001, assuming that the methodology permitted by the informational letter can be used. There is no assurance these rates will be accepted by the Service.

The Prudential and Pruco Life rates listed below are based on our joint life term rates and are available in all states. The rates are unisex.

	"Old" Table 38	Prudential/Pruco	"New" Table 38
55/55	0.19	0.15	0.02
55/65	0.44	0.17	0.05
55/75	1.03	0.21	0.14
55/85	2.35	0.32	0.38
55/95	5.00	0.77	0.97
65/65	1.02	0.20	0.15
65/75	2.37	0.27	0.40
65/85	5.39	0.45	1.08
65/95	11.47	1.12	2.79
75/75	5.50	0.38	1.12
75/85	12.52	0.87	3.01
75/95	26.65	2.18	7.74
85/85	28.51	1.91	8.08
85/95	60.70	4.57	20.78
95/95	129.26	10.93	53.45

For a complete set of Prudential or Pruco Life rates, please call the Advanced Marketing Team at 1-800-286-7745 or email inquiries to: pruexpress.product.experts@prudential.com