AXA Equitable Life Insurance Company

New York

Accelerated Death Benefit for Long-Term Care Services℠ Rider

planning perspective

Understanding the taxation of my benefits

Certain life insurance policies that we offer may be issued with an Accelerated Death Benefit for Long-Term Care Services℠ Rider. This rider is designed to provide an acceleration of a portion of the life insurance policy's death benefit as a monthly benefit for chronically ill insured persons who are receiving qualified long-term care services in accordance with a plan of care, and require continuous care for the remainder of his or her lifetime.

Taxation of Accelerated Death Benefit for Long-Term Care Services℠ Rider Benefits Payments

Receipt of the accelerated benefits may be taxable; therefore, you should seek assistance from a tax advisor.

This *Planning Perspectives* is designed to provide a general outline of certain federal tax considerations concerning this rider and is broken down into two categories:

- Taxation of Accelerated Death Benefit for Long-Term Care Services℠ Rider Benefit Payments
- Tax effects of Accelerated Death Benefit for Long-Term Care Services℠ Rider Charges

What Are the Tax Consequences When Benefits Are Paid under the Accelerated Death Benefit for Long-Term Care Services℠ Rider?

The Accelerated Death Benefit for Long-Term Care Services℠ Rider benefit amounts received under your life insurance policy are intended to be treated for federal income tax purposes as accelerated death benefits under Section 101(g) of the Internal Revenue Code (the Code). The Code provides special tax treatments for such payments on the life of a chronically ill insured person receiving qualified long-term care services within the meaning of Section 101(g) of the Code. For income tax purposes, payment of benefits will be reported to you on Form 1099-LTC. You may then have to file Form 8853 to determine the amounts to be included or excluded from income for the applicable taxable year.

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Income Exclusions

Generally, income exclusion for all benefit payments from all sources with respect to an insured person will be limited to:

- The Health Insurance Portability and Accountability Act (HIPAA) per diem limit (for 2013, this limit is $320 a day); or
- The actual costs incurred for qualified long-term care services by the taxpayer (policyowner) on behalf of the insured person.

If there is more than one policy on the Insured, receipt of benefit payments must be aggregated to determine taxability. To the extent aggregate benefits for an Insured received by all owners from all sources exceed the tax law limits, the excess benefit amount will be taxable as ordinary income to the recipient.

Income exclusion under this rule applies even if your life insurance policy is considered to be a Modified Endowment Contract (MEC) under the tax law.

Policy Ownership Considerations

The ownership structure of the life insurance policy with the Accelerated Death Benefit for Long-Term Care Services℠ Rider can affect how the benefits are taxed under various tax provisions (i.e., income tax, gift tax, estate tax). Therefore, careful consideration should be given to all situations where the owner and Insured are not the same person. In addition, it's important to give careful consideration to business-related scenarios. A separate qualified long-term care insurance policy owned by the Insured may be a better vehicle for providing long-term care benefits.

The Policyowner Is the Insured

Accelerated Death Benefit for Long-Term Care Services℠ Rider benefit payments, made to the policyowner who is the Insured, to cover qualified long-term care services, are intended to qualify for exclusion from income subject to the dollar limits described above, with respect to a particular insured person (see Tax Rules for Multiple Policies).

The Policyowner Is an Individual Other Than the Insured

For income tax purposes, the benefit payments made to an individual policyowner who is other than the Insured are treated the same as if the policyowner is the Insured. However, there are also other tax considerations.

For example: If taxpayer son owns a policy and the insured person is his father, there may be gift tax considerations if the son provides the funds to his father when the benefits are paid. However, special gift tax rules may provide gift tax exemptive relief when the taxpayer directly pays the provider of medical care on behalf of an insured person.

The Policyowner Is a Trust

In an estate planning scenario, an insured taxpayer may set up an irrevocable life insurance trust (ILIT) as the owner of a life insurance policy to avoid including the death benefit proceeds in the Insured's taxable estate. In this situation, the trust, as the owner of the policy, will be entitled to any applicable benefits under the Accelerated Death Benefit for Long-Term Care Services℠ Rider. If the Insured qualifies for monthly benefits under the Accelerated Death Benefit for Long-Term Care Services℠ Rider, the trust policyowner, with the advice of his or her tax and legal advisors, will need to plan to ensure that there are no unintended consequences, such as the unavailability of funds to the Insured or the availability of funds at the cost of defeating the estate planning for which the trust was created.

Generally, the retention of any incident of ownership in a life insurance policy by an Insured or the retention of a life interest in property contributed to a trust will each cause the policy's death benefit proceeds to be included in the Insured's estate.

If the Insured has other long-term care coverage outside the ILIT, a benefit received by the ILIT might create taxable income for the ILIT if aggregate exclusion limits are exceeded.

The Policyowner Is a Trade or Business

If an employer provides benefits informally funded through an employer-owned life insurance policy that includes the rider, there are additional compensation and benefit tax issues, as well as certain employee notice and consent requirements, to be considered. Furthermore, the income exclusion rules for accelerated death benefits may not apply.

If the owner and the insured person are not the same, the exclusion for accelerated death benefits for chronic illness does not apply under section 101(g) of the Code if the owner (taxpayer) has an insurable interest with respect to the life of the insured person, by reason of the insured person being an officer, employee or director of the taxpayer, or by reason of the insured person being financially interested in any trade or business carried on by the taxpayer.

Tax Rules for Multiple Policies

The federal income tax rules apply the limitation on the exclusion of benefits on an aggregate basis for all payments received from all sources with respect to an insured person, whether owned by the same person or not. This includes benefits from both long-term care insurance and accelerated death benefits for chronic illness. Each payer of benefits is required to report such payments for federal income tax purposes on Form 1099-LTC. For your own particular situation, if you receive benefits under your policy, you must calculate the portion of benefits, if any, that must be included in income (refer to IRS Form 8853 and Instructions for Form 8853).

To help illustrate this concept further, let's take a look at a hypothetical example of multiple policies owned by a daughter and mother.

- A daughter receives $48,000 in benefits in a taxable year on a policy she owns on the life of the Insured, her mother. Her mother receives $70,000 in benefits under a separate policy that she owns on herself. The total benefits on the life of the mother, as the Insured, would be $118,000. (The daughter did not apply any amounts toward the cost of her mother's care.) This example assumes the per diem limit applied as opposed to actual expenses incurred limit, which could provide different results.

- Now assume the maximum excludable amount for such year happens to be $115,200 (2013 HIPAA limit per day $320 x 30 days x 12 months), based on the per diem limit being higher than qualifying costs incurred for services, all of which were incurred by the mother.
  - In this case, the mother could exclude all $70,000, since the amount received was under the $115,200 HIPAA limit, and her daughter would exclude $45,200, since there would still be $45,200 remaining of the $115,200 limit after the mother's $70,000 exclusion. The remaining $2,800 received by her daughter would not be excludable, since aggregate benefits ($118,000) exceeded the applicable federal income limitation ($115,200) for such year.

Under IRS Instructions to Form 8853, the per diem limitation on benefits is first allocated to the Insured to the extent of the total payments the Insured received. For joint returns, the allocation is first made to the Insured and spouse for payments they both received. Any remaining applicable per diem limit is allocated pro rata among other policyholders based on the payments they received in the taxable year.

The current applicable per diem limit and costs incurred, and any necessary allocation for multiple policies, will therefore have to be determined annually to calculate excludable amounts for all recipients of benefits.

Important Disclosures

The illustration for your life insurance policy will contain certain federal tax considerations for the basic life insurance policy and will also provide information on any riders illustrated. In the case of a variable life insurance policy, you can also refer to the prospectus for such policy for tax information about the basic life insurance policy and various riders under the policy.

This *Planning Perspective* does not discuss tax considerations for a separate stand-alone policy that provides only long-term care benefits. You should carefully review the basic operation of the Accelerated Death Benefit for Long-Term Care Services℠ Rider and the possible advantages or disadvantages of the rider compared to a stand-alone long-term care policy with or without a separate life insurance policy.

This information is based on our general understanding of current federal income tax rules. Be advised that this document is not intended as legal or tax advice. In addition, U.S. Treasury Regulations require us to inform you that "any tax information provided in this document is not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer. The tax information was written to support the promotion or marketing of the transaction(s) or matter(s) addressed, and you should seek advice, based on your particular circumstances, from an independent tax advisor."

State and local income tax rules may provide for different tax treatment of benefits or the deductibility of charges for benefits. You should consult your tax advisor as to your specific situation.

The company has the right to increase charges on the Accelerated Death Benefit for Long-Term Care Services℠ Rider, up to a guaranteed maximum rate. An increase in rider charges may require a higher premium in order to keep the policy and rider in effect.

The approval of the Accelerated Death Benefit for Long-Term Care Services℠ Rider is subject to underwriting. The underwriting requirements are based on our published age and amount guidelines, which may include a paramedical exam.

This product is a life insurance policy rider that accelerates the death benefit for qualified long-term care services and is not a health insurance policy rider providing long-term care insurance subject to the minimum requirements of New York Law; it does not qualify for the New York State Long-Term Care Partnership program; and is not a Medicare Supplement policy.

This rider has exclusions and limitations under which the rider may be continued in force or discontinued. Please contact your Financial Professional for more information, cost and complete details of coverage.

Other Important Circumstances to Consider

Adjustment to Tax Limits on Your Policy

Any adjustments made to the policy death benefit, Face Amount and other values as a result of the Accelerated Death Benefit for Long-Term Care Services℠ Rider benefits paid will also generally cause adjustments to the tax limits that apply to your policy. For example, for guideline premium tested policies, the guideline premiums will be adjusted. In addition, the seven-pay period and seven-pay premium for testing Modified Endowment Contract (MEC) status may also be impacted.

Split-Dollar Agreement

For policies intended to be used in a split-dollar agreement, many additional tax issues may arise for which there is little federal income tax guidance. These issues may include, but are not necessarily limited to, the taxation of any economic benefit arising out of the Accelerated Death Benefit for Long-Term Care Services℠ Rider, an employer's right to a policy's cash value versus the pro rata reduction of cash values through the acceleration of a portion of the policy's death benefit, and the application of the rules for business-related policies.

What Are the Tax Consequences When the Charges for the Long-Term Care Services℠ Rider Are Deducted from the Life Insurance Policy Account?

The Accelerated Death Benefit for Long-Term Care Services℠ Rider monthly charges are considered distributions for income tax purposes, and may be taxable to the owner as ordinary income, reported on Form 1099R.

- If the base life insurance policy is not classified as a Modified Endowment Contract (MEC), monthly rider charges will generally be deemed a nontaxable return of premium that will reduce the tax basis in your policy. The amount of the monthly charge will generally be taxable only as ordinary income after your tax basis in your policy has been reduced to zero.
- For policies classified as MECs, monthly rider charges will generally be taxable to the extent of any gain in your policy (policy account value exceeds cumulative premiums). As with any taxable distribution from a MEC, an additional 10% tax penalty on the taxable amount will also generally apply if you are under age 59½ at the time of the distribution.

Charges for the Accelerated Death Benefit for Long-Term Care Services℠ Rider are generally not considered deductible for income tax purposes. The Accelerated Death Benefit for Long-Term Care Services℠ Rider is not intended to be a qualified long-term care insurance contract under Section 7702B(b) of the Internal Revenue Code.

EXCLUSIONS

Qualified Long-Term Care Services Do Not Include Treatment or Care:

- For mental or nervous disorders (Alzheimer's Disease and demonstrable organic brain disease are not excluded from coverage);
- For alcoholism or drug addiction (unless drug addiction was a result of the administration of drugs as part of treatment by a Physician);
- For illness, treatment or medical condition arising out of:
  1. war or act of war (declared or undeclared);
  2. participation in a felony, riot or insurrection;
  3. service in the armed forces or auxiliary units; or
  4. suicide, attempted suicide or intentionally self-inflicted injury;
- For treatment or care received outside the United States unless the initial and any annual renewal certifications are completed by a Physician licensed in the United States. For purpose of this exclusion, United States shall mean the 50 states, District of Columbia, Puerto Rico, and the U.S. Virgin Islands;
- From a facility that primarily provides domiciliary, residency or retirement care;
- From a facility owned or operated by a member of your or the insured person's Immediate Family;
- Provided by a member of the insured's Immediate Family;
- From anyone who is under suspension from Medicare or Medicaid;
- If benefits are sought only because a third party requires that this rider be exercised (as, for example, to obtain or maintain a government assistance benefit).

Notice to Owner: This rider may not cover all of the costs associated with the long-term care incurred by the Owner during the period of coverage. The Owner is advised to review carefully all policy limitations.

The purpose of this method of marketing is solicitation of insurance and contact may be made by an insurance agent, producer, insurance company or insurance agency.

Actual terms and conditions of the Accelerated Death Benefit for Long-Term Care Services℠ Rider are contained in Rider Form #R12-10 NY. This rider has exclusions and limitations under which the rider may be continued in force or discontinued. For more information, costs and complete details of coverage, contact your life and health insurance licensed financial professional or the company. For an additional charge the rider may be available with a non-forfeiture benefit.

The product brochure for the applicable life insurance policy must accompany this *Accelerated Death Benefit for Long-Term Care Services℠ Rider Planning Perspective* and the *Accelerated Death Benefit for Long-Term Care Services℠ Rider* client brochure. In the case of a variable life insurance policy, this material must be preceded or accompanied by the applicable current variable life insurance prospectus and applicable prospectus supplements, which contain more complete information about the policy, including risks, charges, expenses and investment objectives. You should review the prospectus and consider the information carefully before purchasing a policy.

Life insurance products are issued by AXA Equitable Life Insurance Company (AXA Equitable), New York, NY. Life insurance products are co-distributed by AXA Advisors, LLC and AXA Distributors, LLC. All companies are affiliated and directly or indirectly owned by AXA Equitable Financial Services, LLC, and do not provide tax or legal advice. You should consult with your tax and legal advisors regarding your particular circumstances.

For complete details regarding rider costs of coverage, call your Financial Professional.

AXA Equitable Life Insurance Company has sole financial responsibility for its own obligations.

RIDER FORM: R12-10 NY.

Long-Term Care Services℠ is a service mark of AXA Equitable Life Insurance Company.

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