Business Insurance Policies Rules (Reviewed May 2018)

	Buy and Sell Policies	Key-Person Insurance	Contingent liability, Loan Acc Protection, Share Buybacks	Preferred Compensation	Corporate Retirement Annuity
Policy type	Whole Life (can also use a term policy if required)	Whole Life (can also use a term policy if required)	Whole Life (can also use a term policy if required)	Pure Endowment	Retirement Annuity
Policy benefits	Life Cover Occupational Disability Accelerated Benefits	Life Cover Occupational Disability Critical Illness Accelerated Benefits	Life Cover Occupational Disability Critical Illness Accelerated Benefits	No additional benefits	No additional benefits
Policyholder/Owner of policy	Co-owner of the business in relation to the life insured or external purchaser	The business	The business	The employee	The employee
Premium payer	The policy owner	The business	The business	The business	The business
Person entitled to proceeds	The policy owner	The policy owner	The policy owner	The policy owner – subject to agreement	The policy owner
Basis of policy's value (excl any provisions for taxation)	The value is equal to the purchase price of the shares owned by the life insured	Equal to the potential loss that the business may incur upon the death of the employee	Equal to the outstanding loan/contingent liability. In the case of a share buyback it is equal to the purchase price of the shares	N/A	N/A

	Buy and Sell Policies	Key-Person Insurance	Contingent liability, Loan Acc Protection, Share Buyback	Preferred Compensation	Corporate Retirement Annuity
Supporting documents	Buy and sell agreement	Resolution or minutes of meeting	Contingent liability or loan account protection or share buyback agreement	Preferred compensation agreement	Can be stipulated in the employment contract
Income Tax Implications - Premiums Paid on Policy					
Employer	If business pays premiums it is either included in gross income of policyholder, or written off against loan account	Tax deductible under section 11(w)(ii) if following requirements are met: - Policy to protect employer against loss due to death, disability or illness of employee - it is a pure risk policy - the policy is owned by the premium payer - the policyholder opted for the application of this section	Not tax deductible as it is for capital protection and not against a loss	Tax deductible as part of salary expense in term of section 11(a) – it is included in the employee's salary as a taxable fringe benefit.	Tax deductible as part of retirement fund contributions under section 11(l). It is included in the gross income of the employee as a taxable fringe benefit.
Employee	Will be included in gross income, or written off against credit loan account – no tax implication	Not included	Not included	Included in gross income as a fringe benefit	Included in gross income as a fringe benefit and tax deductible – tax deduction for all retirement fund contributions is limited to the lesser of: -R350 000, or - 27.5% of the greater of remuneration or taxable income, or -taxable income.

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Income Tax Implications - Proceeds					
Employer	Not applicable	Included in gross income under paragraph (m). Exemption may apply in terms of section 10(1)(gH) if premiums were not tax deductible under section 11(w)(ii)	Included in gross income under paragraph (m) of the definition. Exemption applies in terms of section 10(1)(gH) as premiums were not tax deductible under section 11(w)(ii)	The only time the policy proceeds will be paid to the employer is if the security cession is invoked, in which case the proceeds will pay out tax-free	N/A
Policyholder/Employee	Policy will pay out to policyholder without any income tax implications	No inclusion	No inclusion as proceeds applied by company to settle a capital expense	The proceeds will pay out tax-free	Proceeds are subject to tax in terms of the Second Schedule of the Income Tax Ac
Capital Gains Tax Implications on Proceeds - (Paragraph 55 of the Eight Schedule to Income Tax Act)					
Payable to original policyholder or beneficiary, etc	CGT not applicable	No CGT payable	No CGT payable	No CGT payable	N/A
Payable to cessionary	<u>Ceded to life insured</u> no CGT <u>Ceded to third party</u> no CGT if the policy is a pure risk policy	<u>Ceded to life insured</u> no CGT applicable (if section 11(w) requirements met) or if the policy is pure risk only <u>Ceded to third party</u> no CGT payable if it is a pure risk policy.	If the policy is a pure risk policy no CGT will be payable	CGT will be payable on proceeds if ceded outright to a third party	N/A

	Buy and Sell Policies	Key-Person Insurance	Contingent Liability, Loan Acc Protection, Share Buyback	Preferred Compensation	Corporate Retirement Annuity
Estate Duty Implications - (Section 3 of the Estate Duty Act)					
Estate of life insured	Included in the estate as a deemed asset. Exemption if following requirements are met: -Policy owned by person who is co-shareholder of deceased at date of death; -Policy taken out or acquired for purpose of acquiring the shares and any claim of the deceased; and -No premium was paid by the deceased on the policy.	Included in the estate as a deemed asset. Exemption can apply ito section 3(3)(a)(ii) if the following requirements are met: -Policy not effected at instance of deceased; -No premium paid by deceased on the policy; -No amount due under the policy is payable to the deceased's estate or relative in relation to the deceased or a family company in relation to the deceased.	SARS Guide on Estate Duty Implications on Key-Person policies determines that contingent liability and loan account protection policies will be included as a deemed asset in the estate of the deceased due to the purpose of the policy being to protect the business and the deceased's estate and therefore, it cannot be argued that the policy was not taken out at the instance of the deceased. If the policy is taken out to protect the business only (to settle a business loan without suretyship being involved), the same rules as per key-person will apply.	The proceeds of the policy will be included as an asset in the estate of the policyholder	Retirement funds are excluded for estate duty purposes
Calculating the cover amount	Provision for estate duty: Sum insured divided by: -0.8 to provide for estate duty at 20%, -0,75 to provide for estate duty at 25%,	Provision for estate duty: Sum insured divided by 0.8 or 0.75 depending on rate. Pprovision for income tax: iSum insured divided 0.72	The proceeds will be free from income tax as premiums are not tax deductible Provision for estate duty: Sum insured divided by 0.8 or 0.75.	The premium will be taxable in the hands of the employee and should be provided for = premium divided: (1 – marginal tax rate)	N/A