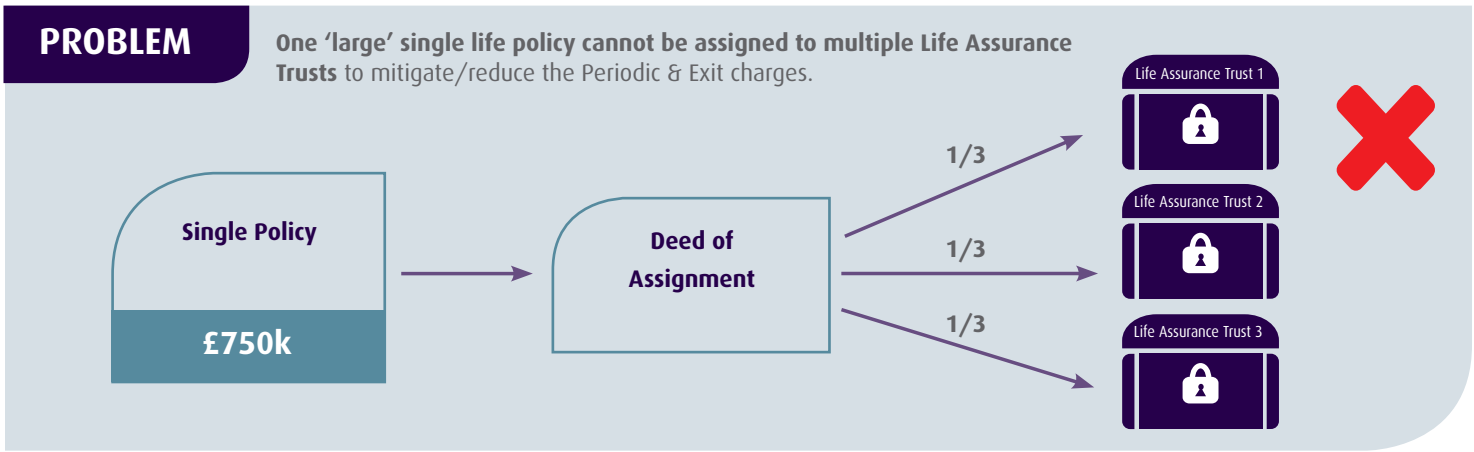
KEY FEATURES AND BENEFITS 8A

Life Assurance Policy Common Issues

SINGLE LIFE 'LARGE' LIFE POLICIES. I.E. POLICIES WITH THE SUM ASSURED IN EXCESS OF THE NIL RATE BAND

Problem

A policy can only be assigned to one Discretionary Trust. Discretionary Trusts are subject to Periodic & Exit charges on the value that exceeds the Nil Rate Band (NRB). So if the sum assured exceeds the NRB then the Trust can potentially be subject to significant Periodic & Exit charges on future 10th anniversaries of the Trust once the policy has paid out.



Solution

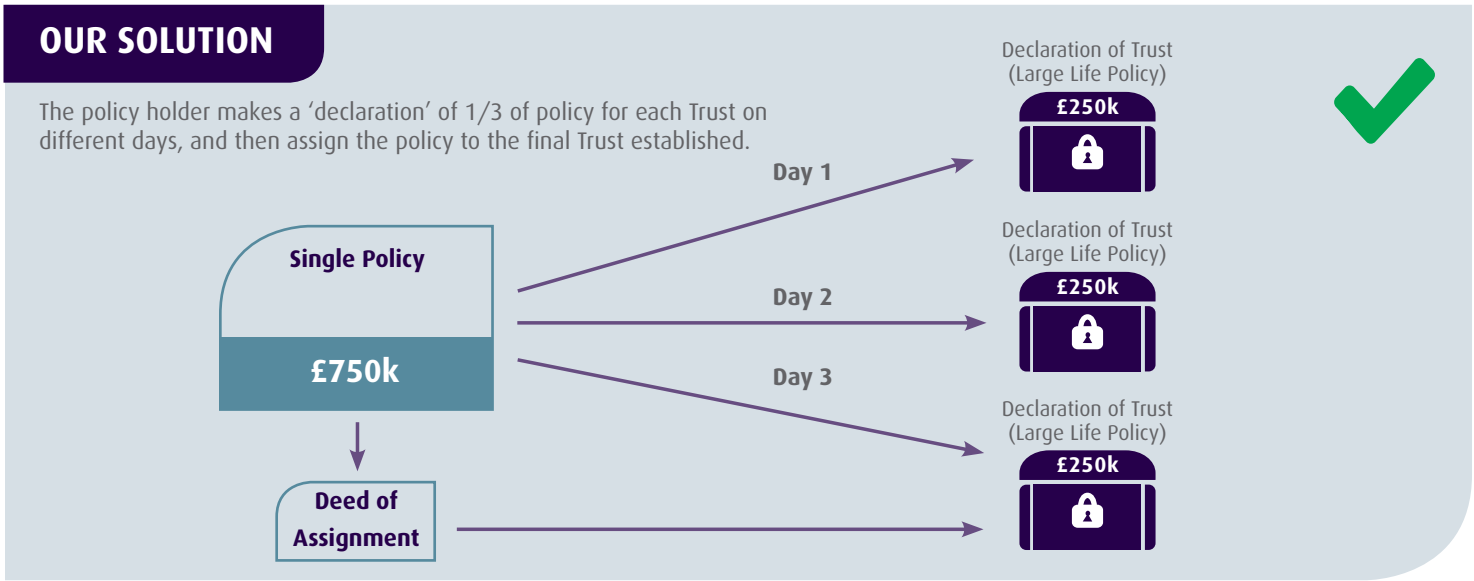
The first consideration would be to cancel the single policy and establish multiple policies, all with sums assured under the NRB. Then each policy should be assigned to separate Life Assurance Trusts. Critically the assignments should all be on separate days so that the proceeds will not amalgamate for Periodic & Exit charges. See also Key Features & Benefits Sheet 8.

However in some circumstances it may not be possible to rebroke the existing large policy due to the clients age/health/increased new premiums.

So can the issue of the client wanting the Large Life Assurance Policy to be assigned into Trust without being rebroked and the impact of future Periodic & Exit charges be reduced?

Can this situation be managed? Answer: Yes.

Multiple Declaration of Trusts (Large Life Policy) would be necessary.



The policyholder can declare they are holding appropriate proportions of the policy stated in the Declarations of Trust (Large Life Policy). The appropriate **Declaration of Trusts (Large Life Policy) will be determined by the total policy sum assured and its division into proportions that would be less than the NRB.**

Critically **each Declaration of Trust** (Large Life Policy) needs to be **dated on different days.** Lastly the policy will then be assigned to the last established **Declaration of Trust** (Large Life Policy).

So an appropriate number of **'Declaration of Trusts (Large Life Policy)',** and a **'Deed of Assignment (Large Life Policy)'** per policy would all need to be ordered. There is no need to order separate Life Assurance Trusts.

WHAT IF THERE IS AN EXISTING LARGE LIFE POLICY ALREADY ASSIGNED TO AN EXISTING LIFE COMPANY'S LIFE ASSURANCE TRUST?

Problem

The Life Company Trust is highly likely to also be 'discretionary' and hence future Periodic & Exit charges can be of concern. Furthermore it is highly likely that the policy **cannot be assigned back to the original settlor** (policyholder) as invariably the settlement of the policy to the Trust is likely to be 'irrevocable' and the Trust excludes the settlor from being a beneficiary or being appointed as one in the future.

There may still be some work that can be done but critically the **existing Life Assurance Trust needs to be reviewed** so as to ascertain the possible options.

OTHER ISSUES AND POLICY TYPES TO CONSIDER:

JOINT LIFE FIRST DEATH POLICIES

Problem

Commonly established to repay a mortgage on first death of a 'couple'. It's not uncommon that such policies are assigned to 'Trust' (often the Life Company's Trust) so that the funds are readily available for the usage of the surviving policyholder (as a beneficiary of the Trust). The proceeds of the life policy then won't be part of the deceased estate for Probate.

However as it is not known who will die first then each policyholder would inevitably be referenced as a beneficiary of the Trust. As such then the sum assured will be in the surviving policyholder's estate for the calculation of their IHT on their death, even if the policy proceeds are utilised to repay a mortgage.

This is because they were a 'Joint Settlor' of the Trust as well as a beneficiary of it. If the joint life first death policy isn't in Trust then not only will the proceeds be in the surviving policyholder's estate for IHT but they will also be at risk from their remarriage, divorce, creditor claims and care fees.

Solution

Consider rebroking to Single Life Policies and assigning such policies to Life Assurance Trusts. See Key Features & Benefits Sheet 8.

Joint Life Second Death

Commonly established to cover a liability that would be due on second death. E.g. an IHT liability.

Such policies can be assigned to a Family Joint Life Assurance Trust. Both the policyholders would be settlors but of course would not be beneficiaries of the Trust(s) required. Hence the sum assured wouldn't be in the settlor estates for their IHT. Sums assured of the required policies should be still under the value of the NRB to be efficient for Periodic & Exit charges, as the liability may be lower at the time of death than was planned for. Hence there could be 'residue' proceeds in the Trusts after the payment of the liability.

Stand-alone Critical Illness Cover

If the policyholder retains the policy and the policy pays out, then the proceeds will form part of the estate of the policyholder should the funds be unspent. They would be at risk from the policyholders care fees, divorce, creditor claims and IHT if applicable. It could be assigned to Trust for which the policyholder isn't a beneficiary, but their spouse/partner, children etc. could be. So assigning such a policy to Trust would then be a significant consideration.

Family Income Benefit (FIB)

Treat like any other Life Assurance Policy as invariably it would have a commutable lump sum value. Hence assign to appropriate Life Assurance Trust(s) bearing in mind the value of the commutable lump sum could exceed the NRB value. In which consider multiple policies and multiple Trusts as required.

Relevant Life Policies

Can only be assigned to the Life Company's Trust(s). Still consider multiple policies and multiple Trusts should the need exceed the value of the NRB. Countrywide Tax & Trust Corporation Ltd can be appointed as Trustees.

Endowment Policies

Not generally assigned to Trust as on their maturity the policyholder generally wishes to utilise the proceeds. Life Assurance Trusts wouldn't have the policyholder as a beneficiary. It would be possible to assign such policies to a Family Investment Probate Trust but this would not be IHT efficient as the settlor would also be a potential beneficiary of the Trust. See Key Features & Benefits Sheet 5.

'Key Man' Policies

Not assigned to Trust as such a policy is established by a 'company' to replace the lost 'income' following the death of a company employee.

'Shareholder Policies'

See Cross Option Agreement Key Features & Benefits Sheets 10/1 & 10/2.