

Financial underwriting is unique, since actual face amounts are determined by the funding needs of the ESOP and the specific design structure of the plan. Face amounts should generally not exceed the lesser of \$10 million or 100x incomes. It is expected that the funding will be spread over multiple lives, concentrating on the management pool as the primary source of insured lives. There should be no evidence of anti-selection, with younger, healthier lives being insured in order to maximize the non-MEC cash accumulation opportunity.

As with any financial transaction, there can be potential economic risks. An ESOP is primarily a deferred income plan for participants. The actual value of each participant's account is tied directly to the value of the stock of the business. If the business thrives and grows, the participants' account values will grow proportionately. However, if the business does poorly or fails, there may be insufficient funds (*or no funds at all*) to provide for future income benefits.

The client must sign a disclosure letter that, among other things, specifically acknowledges that the company's role in the transaction is limited to being a product provider only. The client must discuss and sign this disclosure letter with legal counsel prior to delivery of the policies.

For employer-owned life insurance policies issued after August 17, 2006, IRC § 101(j) provides that death proceeds will be subject to income tax; however, where specific employee notice and consent requirements are met, and certain safe harbor exceptions apply, death proceeds can be received income tax free. Life insurance proceeds are otherwise generally received income tax free under IRC § 101(a).

After reading the Rx for success on ESOP, please feel free to contact the Advanced Marketing team at 1-800-286-7745 for more information.

Prudential Financial and its affiliates do not render tax or legal advice. Your clients should consult with an attorney, accountant, and/or tax advisor concerning their particular situation.

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