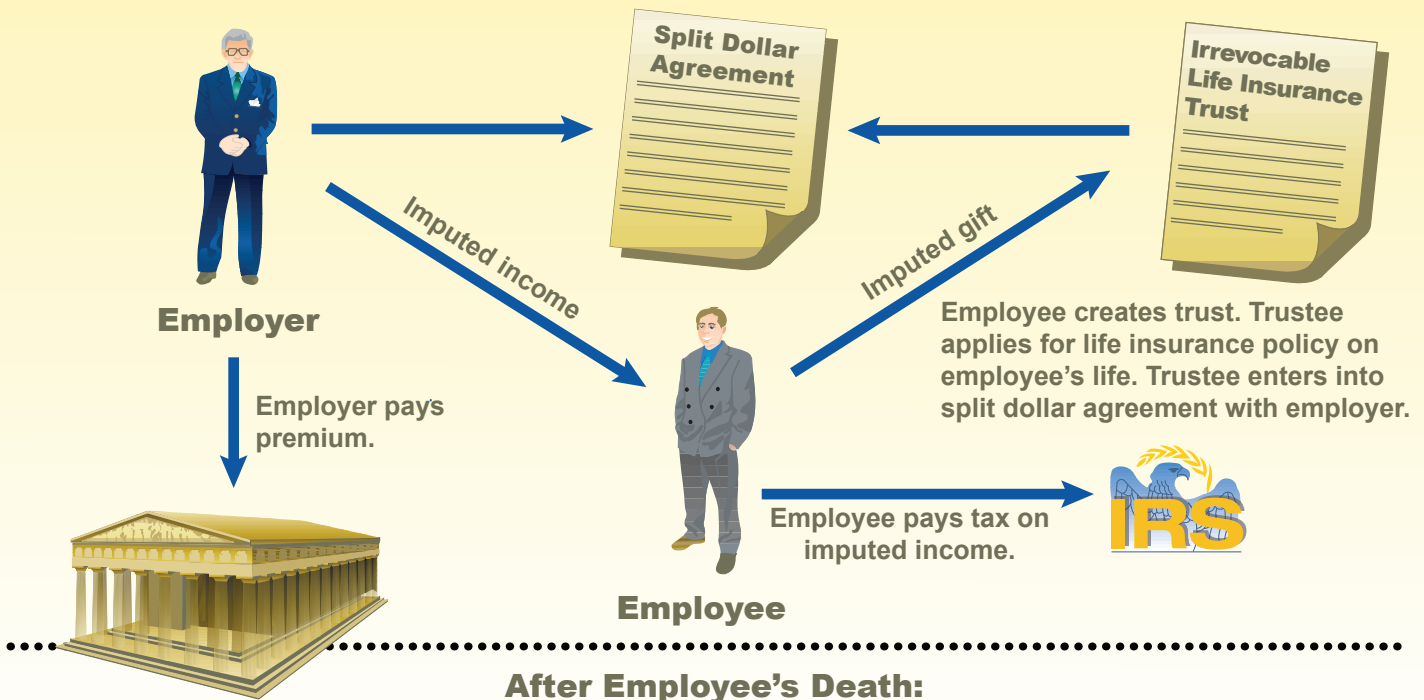
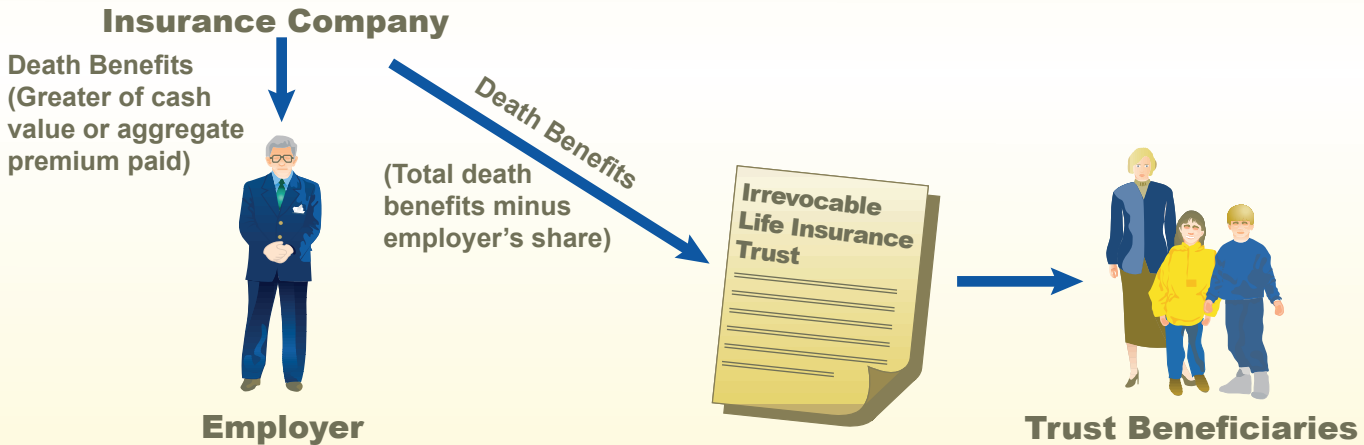


Split Dollar (Non-Equity Collateral Assignment) with Irrevocable Life Insurance Trust

During Employee's Lifetime:



After Employee's Death:



This exception providing for deemed ownership gives rise to a potential estate tax issue in non-equity split-dollar arrangements involving irrevocable life insurance trusts (ILITs).

For example, assume that a corporation is paying the premiums on a life insurance policy on the life of its controlling shareholder. Under I.R.C. §2042, the death benefit would be includable in the insured's gross estate if the policy were owned by the corporation, since the corporation's "incidents of ownership" are attributed to the controlling shareholder. To avoid this, the policy is owned by an irrevocable trust, which enters into a non-equity split-dollar arrangement with the corporation, under which the corporation pays the premiums and is entitled to recover out of the eventual death benefit, the greater of the cash value or the aggregate premiums. Under the ownership rules in the final split-dollar regs, the corporation—rather than the trust—would be deemed the owner of the policy, raising the issue of inclusion of the death benefit in the insured's gross estate. Fortunately, the final regs indicate that the deemed ownership rule is not applicable for purposes of §2042 and the incidents of ownership test. Thus, in non-equity arrangements involving controlling shareholders and ILITs, the traditional restricted collateral assignment (used to avoid inclusion of the death benefit in the insured's gross estate) may be employed without requiring that the arrangement be reported as a loan.