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Private placement life insurance in Asia

Authors

Brendan Harper TEP

Head of Asia and HNW Technical Services at Utmost International

I had the pleasure of presenting at the 2023 STEP Asia conference in Hong Kong. I understand this was the first time that insurance solutions appeared on a main STEP event agenda in the region, demonstrating the increasing interest trust and estate practitioners have in this area. This article summarises the main points discussed.

What sort of clients in Asia should consider PPLI and why?

There are several core market segments, as follows.

Residents of countries where tax may not be a key driver

For example, residents of Hong Kong, Malaysia or Singapore. In these countries, the simple and favourable tax environment means that wealth structuring is not primarily driven by tax planning. Instead, estate planning is a key driver. There is a strong desire for wealth creators to control wealth during their lifetime and to ensure that assets pass seamlessly to their chosen heirs. We may also encounter civil-law territories with forced-heirship laws or where estates are governed according to Islamic succession principles.

A private insurance structure is a simple mechanism enabling control over wealth and the ability to nominate beneficiaries creates a separate estate permitting seamless distribution, legitimately sidestepping local forced-heirship rules.

Residents of countries where tax may be a key driver

For example, in Taiwan, the recent introduction of controlled foreign companies (CFCs) legislation is causing families to review current structures that are based on traditional offshore company or trust arrangements. These structures on their own are no longer effective for tax planning purposes. Private placement life insurance (PPLI) is a viable alternative structure, either on its own or in combination with trust arrangements if more complex estate planning is required.

Globally mobile families or expatriates with connections to high-tax jurisdictions

Insurance is a very effective structure to accommodate global mobility. Insurance is universally recognised and is usually subject to specific tax regimes not as impacted by anti-avoidance provisions to the same extent as other structures. For this reason, insurance is often a better vehicle in which to structure wealth where individuals have family connections to, or a future intent to reside in, high-tax jurisdictions, for example, Australia, the EU or the UK.

There are other niche planning opportunities where PPLI can improve the overall tax outcome for wealthy clients in the Asia region. For example, where a portfolio is invested in US stock, PPLI can act as a simple and effective US estate duty blocker for non-resident aliens. PPLI, if issued from certain jurisdictions, can also capture reduced withholding tax rates under double taxation treaty networks.

How does PPLI fit into wealth structuring, legacy planning and tax optimisation?

In many scenarios, PPLI should be central to these discussions. Insurance and estate planning go hand-in-hand and creating liquidity in an estate should be the first building block in any estate-planning strategy.

The ability to control investments unhindered is a unique feature of the insurance contract and sets it apart from other structures, such as trusts and company structures. This is very attractive to the wealth creator, who may resist the hindrance of formalities associated with other structures, trustee discretionary powers, the need for board approvals etc.

PPLI is also very effective for ensuring privacy. Beneficiaries (as long as appointed on a revocable basis) have no right to information in relation to the policy, and insurance is a private contract between the policyholder and the insurer, thus keeping the estate-planning strategy private. Beneficiary details can be lodged with the family lawyer and not revealed until death benefits are payable.

How can PPLI sit alongside trusts?

PPLI can be very effective if used in conjunction with trust structures. Many jurisdictions have anti-avoidance rules seeking to look through trusts to tax investments on an annual basis and sometimes at punitive rates. Combining a trust with a PPLI combines the estate-planning benefits with tax neutrality, simplified tax reporting and tax-efficient exit strategies.

Is there flexibility with PPLI to tailor bespoke client solutions?

In the context of PPLI for high-net-worth (HNW) planning, there is wider scope for tailoring bespoke solutions. For example, there may be a requirement to include specific policy terms, say to plan for more than one jurisdiction, to accommodate portability, inclusion of non-standard assets etc. For ultra-high-net-worth (UHNW) clients, something unique may be required, such as a ‘captive’ structure that operates in a similar way to a private trust company. It is important to work with carriers that are focused on the HNW and UHNW market to ensure that one has access to the technical expertise to accommodate these needs.

How is PPLI being marketed and executed in Asia and what roles can trusted advisors play?

It is still largely an ‘advised’ product distributed via licensed financial advisors, so identifying and building a good relationship with advisors is essential.

Here are some of the key activities a legal practitioner would expect to undertake in the PPLI process:

- Provision of initial advice, be it tax, legal, or estate-planning advice, analysing the client’s circumstances and identifying PPLI as a potentially appropriate structure.
- Assessment of the contract documentation, ensuring it meets the client’s needs. There is often a requirement for bespoke drafting, which the legal practitioner will carry out or coordinate on with the insurance carrier.
- Ongoing monitoring for changes in legal, tax or personal circumstances that require the structure to be reviewed.

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