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DISABILITY INSURANCE TO
FUND BUY SELL AGREEMENTS

BUSINESS P R O D U C T S

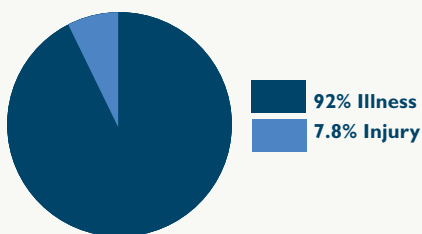


GUARDIAN[®]

What will happen to your business if you or a business partner becomes disabled?

Few business partners have a plan in place to protect their business in the event of a prolonged or permanent disability of a partner – and few business owners realize that an illness or accident could cause such a disability. If you or one of your partners became disabled, the effect on your business could be devastating. The healthy partner(s) would be faced with the task of running the business while deciding how long the business can continue to pay the disabled partner. In all likelihood, the disabled partner will want to recover the capital he or she has invested in the business. The remaining partner(s) will be challenged to come up with the money to buy the disabled partner's share while remaining in business.

Disability - caused by a car accident, a serious illness like cancer, heart attack, or back injury – is a very real possibility.



Council for Disability Awareness, 2006

A Buy/Sell Agreement funded by Disability Buy-Out Insurance is the solution.

A Buy/Sell agreement is the first step in protecting a business in the event that one of the partners becomes disabled. This document defines how an owner's interest will be purchased if he or she withdraws from the business, retires, dies, or becomes permanently disabled. It helps ensure that a business or professional practice can continue after the total disability of one of the owners or partners forces that owner to stop working. It does this by requiring each disabled owner or partner to sell his or her interest to the remaining owners – or to the business entity itself – under terms defined in the agreement.

If one of the partners is disabled, how will you resolve conflicting interests?

The Disabled Owner's Concerns

- How can I recover my investment?
- Where is the return for starting and growing the business?
- Why should I let others run my business, using my money?

The Remaining Owners' Concerns

- How long can we operate without the disabled owner's help?
- Will the disabled owner's spouse or children want a say in running the business?
- Will the disabled owner sell their interest to a competitor?
- Where will we get the money to buy out the disabled owner?

It equally obligates the remaining owners or the business entity to purchase the disabled owner's interest, and stipulates the formula by which the "fair market value" price will be determined. It is negotiated – in advance of the disability – by a mutual agreement among the owners or partners.

Disability Buy-Out Insurance shifts the burden of funding the buy-out from the owners or the business to the insurance company, and ensures that funds are available when needed. It's economical because the funding comes as a result of paying premiums – not from depleting savings or investment accounts, drawing from future earnings, or affecting credit sources in order to buy out the disabled partner.

How Disability Buy-Out Insurance Works

- 1) Set up the buy/sell agreement
- 2) Determine which Buy-Out Option works best for your situation

Buy-out agreements that include disability provisions can be written in these basic forms:

Entity purchase disability buy-out

In an entity purchase disability buy-out, the business itself purchases the disabled owner's interest in the business. The business purchases one Disability Buy-Out policy on each owner: the business is the policy owner, loss payee and premium payer on all policies.

Entity purchase is usually the preferred option when a company has 3 or more owners.

Cross purchase disability buy-out

In a cross purchase disability buy-out, the individual owners purchase disability buy-out policies on the lives of the other owners for an amount equal to each owner's proportionate share of the business interest. For example, if the business is worth \$250,000 and there are two equal owners, each owner will purchase a policy on the other for \$125,000. The individual business owners are the policy owners, beneficiaries and premium payers on the policies.

This arrangement is best when there are only 2 or 3 owners, otherwise a large number of policies must be purchased.

Trustee cross purchase plan

Business owners pay to a trust or trustee their share of the premium necessary to purchase Disability Buy-Out Insurance policies on each owner. The trust or trustee purchases a Disability Buy-Out Insurance policy on each owner. The trust acts as premium payor, policy owner, and loss payee. Upon the disability of an owner, the policy proceeds are paid to the trustee. The healthy business owners purchase the disabled owner's share when the trust distributes the policy proceeds pursuant to its terms.

A trustee cross purchase agreement is generally used when there are more than 3 owners and they wish to retain the tax advantage on a stepped-up basis, should they sell their interest in the future as a result of their disability.

Customize your policy to meet your needs:

- Choice of Waiting Periods before the benefit begins – 12, 18, or 24 months
- Benefit payment options
 - lump sum
 - monthly payments – 24, 36, or 60 months
 - combination of lump sum + monthly payments
- Optional riders that can expand your benefits. Ask your licensed insurance representative about the
 - Presumptive Total Disability Benefit (required, if monthly benefits are chosen)
 - Future Purchase Option rider (available with policy form 3100)
 - Future Increase Option rider. (available with policy form AH84)

Advantages of Disability Buy-Out Insurance vs other funding options

- Dependable, economical and effective way to fund the disability provision in a buy-out agreement
- Insurance proceeds are available when they are needed
- Will not deplete cash – or require the owner to raise cash to fund the buy out

Tax Considerations*

		Disability Buy Out	
		Entity Purchase	Cross Purchase
	Premiums Paid by	The Business	Individual Owners or Trustee
	Benefits Paid to	The Business	Individual Owners or Trustee
	Policyowner	The Business	Individual Owners or Trustee
Tax Treatment	Premiums	Non-Deductible	Non-Deductible
	Benefits	Tax Free	Tax Free

Next steps:

- Talk about Disability Buy-Out Insurance with your partners and financial advisor.
- Discuss the business valuation with your financial advisor
- Determine the type of buy-out agreement that will work best for your business
- Work with your advisor to gather financial and health documents
- Complete an application.

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This policy provides disability buy-out insurance only. It does not provide basic hospital, basic medical or major medical insurance as defined by the New York State Insurance Department. The expected benefit ratio for this policy is 60%. This ratio is the portion of future premiums that the company expects to return as benefits, when averaged over all people with this policy.

Berkshire Life Insurance Company of America
700 South Street
Pittsfield, MA 01201
413-499-4321
www.berkshirelife.com



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**The Guardian Life Insurance
Company of America**
7 Hanover Square
New York, NY 10004
www.GuardianLife.com

