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17:34-32.3

August 25, 1969

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Legislative Notes on R.S. 17:34-32.3  
(Group insurance policy - assign. rights under)

Similar bills were:

1968 - S943  
Introduced Nov. 15th by McDermott, LaCorte & Rinaldo.  
Died in the Senate.  
Bill had a statement. (Copy enclosed)

L. 1969, Chapter 97 - S232  
Introduced Jan. 14, 1969 by McDermott, LaCorte & Rinaldo.  
Statement was made. (Copy enclosed)  
Not amended.

No hearings or reports were located.

Under N.J. - Insurance, no clippings were located.

The following periodical article discusses this legislation:

LP N.J. State Bar Assn. Section on Taxation  
NT Vol 4, no. 3, March 1969  
T235

JH/fb

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CHAPTER 97 LAWS OF N. J. 1969  
APPROVED 6-26-69

SENATE, No. 232

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STATE OF NEW JERSEY

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PRE-FILED FOR INTRODUCTION IN THE 1969 SESSION

By Senators McDERMOTT, LaCORTE and RINALDO

AN ACT confirming and clarifying the rights of a person covered by a group insurance policy to execute an assignment of all of his rights and benefits under the policy supplementing chapter 34 of Title 17 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Nothing in article 7 of chapter 34 of Title 17 of the Revised  
2 Statutes or any other law shall prohibit any person insured under  
3 a group insurance policy, pursuant to an arrangement among the  
4 insured, the group policyholder and the insurer, from making to  
5 any person an assignment of the rights and benefits conferred on  
6 him by any provision of such policy or by law including specifically  
7 but not by way of limitation the right to have issued to him an  
8 individual policy as set forth in subsections (9) and (10) of R. S.  
9 17:34-32 and the right to name a beneficiary. Any such assignment,  
10 whether made before or after the effective date of this law, shall  
11 entitle the insurer to deal with the assignee as the owner of all  
12 rights and benefits conferred on the insured under the policy in  
13 accordance with the terms of the assignment.

1 2. This act shall take effect immediately.

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STATEMENT

Certain tax advantages may be obtained through an assignment under which a person covered by a group insurance policy divests himself of all incidents of ownership provided by such contract. It is believed that such an assignment may be made under the present law and the purpose of this bill is to conform and clarify this right.

SENATE, No. 232

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STATE OF NEW JERSEY

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PRE-FILED FOR INTRODUCTION IN THE 1969 SESSION

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AN ACT confirming and clarifying the rights of a person covered by a group insurance policy to execute an assignment of all of his rights and benefits under the policy supplementing chapter 34 of Title 17 of the Revised Statutes.

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10 whether made before or after the effective date of this law, shall  
11 entitle the insurer to deal with the assignee as the owner of all  
12 rights and benefits conferred on the insured under the policy in  
13 accordance with the terms of the assignment.

1 2. This act shall take effect immediately.

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STATEMENT

Certain tax advantages may be obtained through an assignment under which a person covered by a group insurance policy divests himself of all incidents of ownership provided by such contract. It is believed that such an assignment may be made under the present law and the purpose of this bill is to conform and clarify this right.

SENATE, No. 948

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 15, 1968

By Senators McDERMOTT, LACORTE and RINALDO

Referred to Committee on Banking and Insurance

AN ACT confirming and clarifying the rights of a person covered by a group insurance policy to execute an assignment of all of his rights and benefits under the policy supplementing chapter 34 of Title 17 of the Revised Statutes.

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9 17:34-32 and the right to name a beneficiary. Any such assignment,  
10 whether made before or after the effective date of this law, shall  
11 entitle the insurer to deal with the assignee as the owner of all  
12 rights and benefits conferred on the insured under the policy in  
13 accordance with the terms of the assignment.

1 2. This act shall take effect immediately.

STATEMENT

Certain tax advantages may be obtained through an assignment under which a person covered by a group insurance policy divests himself of all incidents of ownership provided by such contract. It is believed that such an assignment may be made under the present law and the purpose of this bill is to conform and clarify this right.

Where estate planning considerations warrant, group insurance policies should be assigned. Such assignments, if made, will be valid under New Jersey case law (and statute, if Senate Bills Nos. 232 and 233 are enacted), and should serve to exclude the proceeds from the insured's gross estate under the authority of Revenue Ruling 68-334. However, it would be inadvisable to transfer such policies to an irrevocable trust and thereby restrict the use of future estate planning techniques in the event the Commissioner of Internal Revenue changes his position with respect to the assignment of group-term life insurance policies.

NJ State Bar Assoc.  
Section on Taxation  
Vol. ~~4~~ no. 3 March 1969

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# Assigning Group-Term Life Insurance And Applicable New Jersey Law

In Revenue Ruling 68-334, I.R.B. 1968-26, the Internal Revenue Service has finally taken a position on the includability in the gross estate of group-term life insurance proceeds.

The Revenue Ruling sets forth the circumstances under which the Internal Revenue Service will deem the proceeds of group-term insurance not to be includable in the insured's gross estate under Section 2042 of the Internal Revenue Code. If the group-term policy is required by State law to grant the employee, upon termination of his employment, the right to convert the policy into individual insurance, and the employee made an irrevocable assignment of all of his incidents of ownership in the policy, including the conversion privilege and State law permits such assignment, the proceeds of the policy will not be includable in the employee's gross estate under Section 2042.

N.J.S.A. 17:34-32(9) requires every group life insurance policy delivered in New Jersey to contain a provision giving the insured, upon termination of his employment, the right to convert such policy into individual insurance. Therefore, an employee does have the right to convert a group insurance policy into individual insurance under a contract delivered in New Jersey. Such a right satisfies one of the requirements of Revenue Ruling 68-334.

## WOOLF

May a group policy, including the conversion privilege, be assigned under New Jersey law? If it can, and an irrevocable assignment of the policy is made, the proceeds are not includable in the insured's gross estate.

Although New Jersey has no statute which expressly prohibits or allows the assignment of group life insurance policies, the New Jersey courts have upheld assignment of such policies. Metropolitan Life Insurance Co. v. Poliakoff, 123 N.J. Eq. 524, 198 Atl. 852 (Ch. 1938); Metropolitan Life Insurance Co. v. Woolf, 138 N.J. Eq. 450, 47 A.2d 340 (E. & A. 1946).

There are no cases in New Jersey that specifically decide the question of whether the conversion privilege is also assignable. In Metropolitan Life Insurance Co. v. Woolf, supra, the Court of Errors and Appeals indicated that a group insurance policy is a chose in action arising on contract within the purview of the Assignment Act, N.J.S.A. 2A:25-1, and henceforth assignable. It appears that an assignment of a group policy takes in all right, title and interest in such policy including the conversion privilege and no distinction is to be made with respect to the conversion privilege, between the assignment of a group-term policy and an ordinary term policy.

## PENDING LEGISLATION

That present law permits the requisite assignment is the view stated by three New Jersey State Senators who recently introduced Senate Bills Nos. 232 and 233 in the 1969 Legislature. S. 232 would amend Chapter 34 of Title 17 to "confirm and clarify" the right of assignment generally. S. 233 would accomplish the same for the Teachers' Pension and Annuity Fund, Public Employees' Retirement System, Police and Firemen's Retirement System, and State Police Retirement and Benevolent Fund. **BOTH BILLS PASSED SENATE ON FEB. 17**

Many group life insurance contracts contain a prohibition against assignment. However, most insurance companies and most employers have, or will upon request, waive such prohibition. From the writer's personal experience the insurance companies generally will permit the assignment of the conversion feature and will allow the assignee to convert the policy.

In the event an employer or insurance company refuses to waive the prohibition against assignment, the assignment may nevertheless be made. In both of the New Jersey cases cited above, the group policies contained a prohibition against assignment which was disregarded by the Courts in upholding the validity of the assignments. However, there is dicta in the Woolf case cited above to the effect that if the employer contests the assignment, there

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## Another Service For:

### Committee News

The Committee on Business Taxes, under the Chairmanship of Emmanuel Liebman, held a meeting in Newark on February 12, 1969. Among the projects discussed were a review of existing Regulations under the Internal Revenue Code relating to corporate taxes, and the formulation of recommendations for changes in the existing Regulations under the New Jersey Corporation Business Tax Act. The Committee plans to hold its next meeting immediately preceding the March 4th Section meeting.

The Chairman announced that William Feinberg has resigned as Chairman of the Committee on Income Taxes of Individuals, Estates and Trusts, and has been replaced by Benedict M. Kohl, of Newark, New Jersey.

### Annual Section Meeting

FRIDAY, MAY 16, 1969

HOTEL SHELBURNE

ATLANTIC CITY

COMPLETE DETAILS ON PROGRAM AND  
LUNCHEON WILL BE MAILED SHORTLY

### EXECUTIVE COMMITTEE...CON'T.

considering a bill which has been filed to roll back New Jersey Transfer Inheritance Tax rate to pre-1962 levels, and to make various other changes in the tax structure.

Leonard M. Goldberg, Chairman of the Committee on Programs and Continuing Legal Education, reported that the Section is participating in a program to be presented to the New Jersey Association of Real Estate Boards on February 26, 1969. Other projects of the Committee, including participation in the recent forums on real estate tax problems, were reviewed.

### ZACHARY S. MINION...CON'T

be a question as to the validity of the assignment because the employer has an interest in the policy by reason of the employer-employee status.

Where estate planning considerations warrant, group insurance policies should be assigned. Such assignments, if made, will be valid under New Jersey case law (and statute, if Senate Bills Nos. 232 and 233 are enacted), and should serve to exclude the proceeds from the insured's gross estate under the authority of Revenue Ruling 68-334. However, it would be inadvisable to transfer such policies to an irrevocable trust and thereby restrict the use of future estate planning techniques in the event the Commissioner of Internal Revenue changes his position with respect to the assignment of group-term life insurance policies.