



Korean American Society of CPAs



# KASCPA

**18TH ANNUAL CONFERENCE**

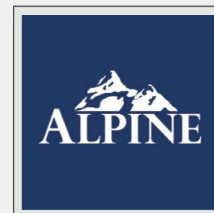
November 4th-November 7th 2018

In Cancun, Mexico



**제 18회 미주한인공인회계사 총연합회 학술대회**

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# History of KASCPA

DATE	EVENT
1996년 12월	뜻있는 남가주 CPA들이 모여 미주 한인공인회계사 총연합회 (KASCPA) 창립
1997년 1월	오영균 1대 회장 취임
1998년 · 1999년	Las Vegas Seminar 및 Golf 대회 거행
2000년 1월	이병항 2대 회장 취임
2000년 11월	제 1회 국제학술대회 개최 (서울의 한국회계원장 김일섭 CPA 초청) (LA-JJ Grand Hotel) 전미주한인 CPA 주소록 발간
2001년	911 사태로 계획된 세미나 중단
2002년 11월	제2회 학술대회 개최 (LA-CCC Golf Club)
2003년 1월	조용직 3대 회장 취임
2003년 11월	제 3회 학술대회 개최 (Las Vegas, MGM Hotel)
2004년 11월	제 4회 학술대회 개최 (Hawaii, Radisson Prince Hotel)
2005년 1월	호민선 4대 회장 취임
2005년 9월	제 5회 학술대회 개최 (New York, NY)
2006년 9월	제 6회 학술대회 개최 (Atlantic City, NJ)
2007년 1월	장봉섭 5대 회장 취임
2007년 9월	제 7회 학술대회 개최 (Los Angeles, CA) (AICPA, 한국공인회계사회 서태식 회장, 문택곤 부회장 초청)
2008년 10월	제 8회 학술대회 개최 (한국공인회계사협회 초청, Seoul, Korea)
2009년 1월	서원부 6대 회장 취임
2009년 9월	제 9회 학술대회 개최 (Chicago, IL)
2010년 1월	김영대 7대 회장 취임
2010년 9월	제 10회 학술대회 개최 (San Francisco, CA)
2011년 1월	이상민 8대 회장 취임
2011년 9월	제 11회 학술대회 개최 (Englewood, NJ)
2012년 1월	송재선 9대 회장 취임
2012년 11월	제 12회 학술대회 개최 (Las Vegas, NV)
2013년 9월	제 13회 학술대회 개최 (Pacific Palms, City of Industry)
2014년 1월	김윤중 10대 회장 취임
2014년 8월	제 14회 학술대회 개최 (Bellevue, WA)
2015년 1월	최찬희 11대 회장 취임
2015년 9월	제 15회 학술대회 개최 (Plainview, New York)
2016년 1월	최병렬 12대 회장 취임
2016년 9월	제 16회 학술대회 개최 (Washington, DC)
2017년 1월	김 윤환 13대 회장 취임
2017년 10월	제 17회 학술대회 개최 (Jeju Island, South Korea)
2018년 1월	김용배 14대 회장 취임
2018년 11월	제 18회 학술대회 개최 (Cancun, Mexico)



## 2018 KASCPA Conference Schedule

Date	Time	Agenda
Sunday, Nov 4	6:00-7:00 pm	Registration & Cocktail
	7:00-10:00 pm	Dinner & General Assembly
Mon. Nov 5	7:00-8:00 am	Breakfast
	8:00-11:00am	Seminar
	11:00-12:00 am	Group Lunch For Golfers and Tour Participants
	12:00- 6:00 pm	Golf (Shot-Gun)/ Group Tour
	6:00 pm and On	Dinner (Free Time)
Tues. Nov 6	7:00-8:00 am	Breakfast
	8:00-11:00 am	Seminar
	11:00-12:00 am	Group Lunch For Golfers
	12:00-6:00 pm	Golf (Shot-Gun)
	6:00-8:30 pm	Dinner (Free Time)
	8:30-11:30 pm	Farewell Party
Wed. Nov 7	7:00-8:00 am	Breakfast and Dismiss

\* 상기일정은 현지사정(기상변화)에 따라 달라질 수 있으며, 부득이한 경우 다음 일정을 위하여 축소 변경될 수 있습니다.

## 2018 KASCPA Officers



### OFFICERS

President	Yongbae Kim, CPA
Secretary General	William Young Kim, CPA
Committee Chair	Patrick Ju Hyung Choi CPA
Treasurer	Myung H, Park, CPA
First Vice President	Eric S. Kang, CPA
First Vice President	Bong Jang, CPA
Seminar	Andrew Park, CPA
Publication	Jessica H. Lee, CPA
Golf & Event	Hae Nam Lee, CPA Daniel J. Park, CPA
Editor	Young Don Kim CPA

### EXECUTIVE ADVISOR

Chan Hee Choi, CPA  
Clinton S. Lee, CPA

# 오랜 경험을 바탕으로 안정적 재정계획을 열어주는 프리미엄 재정전문서비스

재정설계 / 은퇴연금 및 상속계획 / 보험  
기업상속 및 직원 베니핏 분야의 전문인으로서  
고객과 기업의 마음을 정확히 알고  
신뢰성있게 고객의 재정적 안정을 책임지는  
재정 보험 전문가  
- 김종식 (Jon Kim)



## 36년동안 변함없이 재정관리 및 은퇴/상속계획을 도와드리고 있습니다.

- ▶ 은퇴계획 ▶ 상속계획 ▶ 리빙 트러스트 ▶ 기업상속 및 베니핏 프로그램 (401K, Pension Plan)
- ▶ 유추얼 펀드 투자 및 관리 ▶ 생명보험 ▶ 장기 간호보험 ▶ 장애소득보험
- ▶ 건강보험 ▶ 비영리 단체 기부(CRT) 및 절세계획 ▶ 대학 학자금 설계
- ▶ Special Needs Trust & Conservatorship

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**김종식**  
Jongsik (Jon) Kim, FSCP, LUTCF, FSS, CLTC  
Financial Services Certified Professional  
Investment Advisor Representative  
Certified in Long-Term Care  
Special Care Planner  
CA Lic.#0638640



Fraser Financial Group은 세계적 경영 다각화를 이루는 금융 서비스 그룹인 Massachusetts Mutual Life Insurance 기업(매스뮤추얼)의 에이전시로서 광범위한 재정상품과 서비스 포트폴리오를 제공합니다. 매스뮤추얼의 기업목표는 재정상품과 서비스를 통한 넓은 안목으로 개인, 기업, 공공기관 등 고객의 필요에 따라 맞추어진 다양한 범위의 재정적 해결점을 오래도록 증진시키고 끊임없이 혁신하는 것입니다. 매스뮤추얼은 변화하는 세계에서 여러분들을 재정적 독립을 성취할 수 있도록 도와 드리고 있습니다.

\*MassMutual Financial Group is a marketing name for Massachusetts Mutual Life Insurance Company (MassMutual) and its affiliated companies and sales representatives. 8383 Wilshire Blvd., Suite 600, Beverly Hills, CA 90211. (323)965-6300 Insurance offered through MassMutual and other fine companies.



## 회장인사말

**KASCPA**  
**PRESIDENT**  
**회장 김용배**



멀리 멕시코 유카탄 반도에 위치한 칸쿤에서 열리는 이번 미주 한인공인회계사 총연합회 학술대회에 참석하신 모든 분들을 진심으로 환영합니다.

1996년 미주공인회계사 총연합회가 창립된 이후 미주한인 공인회계사들의 우정과 네트워크를 강화하고 GLOBAL시대에 필요한 전문적인 지식과 경험을 나누기 위해 1998년에 시작된 학술대회가 올해로 벌써 18번째를 맞이하게 되었습니다.

그동안 초대 오영균회장님을 비롯한 전직회장님들과 임원들의 헌신적인 희생과 수고, 그리고 수많은 회원분들의 참여로 이제 LA, NY, SF, CHICAGO, WASHINGTON D.C., SEATTLE, PHILADELPHIA, DALLAS, GEORGIA, MICHIGAN, NORTH CAROLINA 등 11개 지역에서 한국 공인회계사 협회가 결성되었고 각 회원들의 권익옹호와 지역사회를 위해 큰 역할을 하고 있습니다.

1986년 이후 31년만에 처음으로 이루어진 대대적인 세법개정과 보호무역주의 강화로 인한 정치 경제적 불안정 으로 우리 미주한인들에게는 국내외적으로 더욱 어려운 도전이 기다리고 있습니다. 이러한 시기에 우리 미주한인 공인회계사들이 주도적인 역할로 이 어려움을 타개해 나가야 할 것입니다.

## MESSAGE FROM THE PRESIDENT

앞으로의 학술대회 일정이 뜻깊은 결실이 맺어지기를 기원하면서 바쁘신 일정 가운데도 이번 모임을 위해 참석해주신 회원 여러분과 재정적으로 후원해 주신 Alpine Financial Services Group, Mass Mutual Insurance, E Consultants, Hanmi Bank, New Millennium Bank, 그리고 각 지역 협회와 전직 회장님들 및 개인적으로 후원해 주신 분들께 다시 한번 감사의 말씀을 드립니다.

고대 마야문명과 현대문명이 교차하고 카리브해안의 아름다운 바다와 자연의 경이로운 아름다움이 가득한 칸쿤에서 그동안 격무와 스트레스로 소모된 에너지를 재충전하고 우리 모두 멋진 추억도 함께 나누길 바랍니다.

감사합니다.

2018년 11월 4일

**미주한인공인회계사 총연합회**

**회장 김 용배**



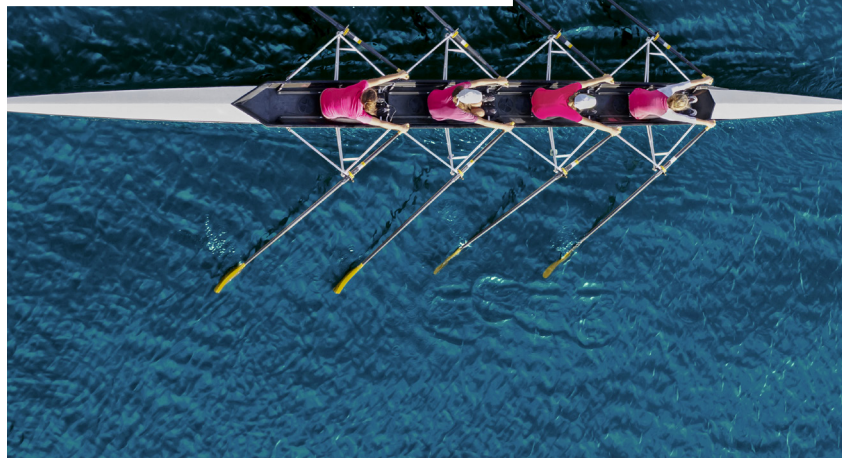
# Accounting Update

## New Revenue Recognition - ASC 606

### "Revenue from Contracts with Customers"



**오영균**  
**Young Oh, CPA**  
 cpaoh@yahoo.com



The new revenue recognition standard - ASC 606, is to be effective in calendar year 2019 for the non-public entities, the majority of KASCPA customers, and not much times left and CPA firms are not only in a position to fully understand the new "single revenue recognition model" to all contracts with customers, but also in a position to inform and educate the customers with the changes in revenue recognitions as well as required implementation procedures in processes, controls, and capture and monitor management's judgements, data, estimates, and even to the extent of adjustments to tax accounting and planning.

In adopting the new standard, companies can select from two transition alternatives, a "full retrospective adoption" or a "modified retrospective adoption"; companies can select either one of the method. The full retrospective adoption method applies to each period presented (e.g., 2016, 2017, and 2018) whereas the latter method applies to existing and future contracts as of the effective date. Entities electing "full retrospective adoption" can make elections

(1) not to restate contracts that begin and are completed within the same annual period presented,

(2) for completed contracts that have variable consideration, the transaction price at the date the contract was completed be used rather than estimating variable consideration amounts, and (3) for all reporting periods presented before the date of initial application, an entity need not disclose the amount of the transaction price allocated to the remaining performance obligations and no need for explanation when the remaining performance would be recognized as revenue. The entity adopting "modified retrospective adoption" method recognizes the cumulative effect of initially applying the revenue standard as an adjustment to the opening balance of retained earnings at the date of initial application. Therefore, contracts that are not completed before the date of initial adoption would have to be evaluated as if the entity had applied the new standard to them since inception. Adoption of either method requires disclosures with respect to (a) the selective expedients that have been used under the case of "full" method, and (b) with the case of "modified" method, the amount by which each financial statements line item is affected in the current year as a result of applying the new standard.

## 1. THE MAIN PROVISIONS

The core principle requires an entity to **recognize revenue at an amount that reflects the consideration** to which the entity expects to be **entitled** in exchange for transferring goods or services to a customer.

The principles are applied in the following 5 steps:

- **Step 1:** Identify the contract,
- **Step 2:** Identify performance obligations,
- **Step 3:** Determine transaction price,
- **Step 4:** Allocate transaction price, and
- **Step 5:** Recognize revenue.

### Step 1 Contract

As contrast to ASC 605 (“Old Revenue Recognition Standard”) in which only persuasive evidence was required in order to recognize revenue, such as goods or services are being provided or delivery has occurred, and amounts to be received are fixed or determinable, and collection is reasonably assured, the new standard ASC 606 **focuses** on the **enforceability of rights and obligations**, and payment terms only need to be **identifiable** for an entity to **estimate variable consideration**, such as discounts, refunds, credits, price concessions, performance bonuses, penalties, and royalties, rather than being fixed or determinable. Therefore, for entities which rely on the purchase orders and sale invoices as main forms of contracts with customers rather than a legal contract, reevaluations of the provisions and terms printed in the forms are required especially in the areas of (A) approval and commitment of the contracts by all parties, (B) all parties’ rights are clearly identified in the document, and (C) payment terms exist.

**Contract Modifications** - A change to an existing

contract is a modification, such as change order, amendment, scope of the contract, the price of the contract or both. There should be mutual agreement to the modification and approval thereof. If the parties have approved a change in scope of the contract but have not yet determined the corresponding change in price, an entity should **estimate** the change to the transaction price. When the addition goods or services included in the modification are distinct from the goods and services of original contract, and the amount of consideration expected for the goods or services is **standalone price**, the modification is accounted for as a **separate contract**. If contract modification does not meet the two criteria, (a) **distinct** from the goods of original contract, and (b) the **standalone selling price** of the goods, the contract modification is not accounted for as a separate contract. When contract modification is not accounted for as a separate contract, then, the revenue recognized to date on the original contract is not adjusted. The remaining portion of the original contract and the modification are accounted for together on a prospective basis by allocating the remaining consideration to the remaining performance obligation. The word ‘distinct’ is defined as ( 1 ) capable of being distinct - customer can benefit from the goods or service either on its own or together with other resources readily available to the customer, and as ( 2 ) distinct within the context of contract - the promise to transfer the goods or service is separately identifiable from other promises in the contract.

### Step 2 Identify the Performance Obligations in the Contract

At contract inception, an entity will need to assess the goods or services promised in the contract with a customer and identify performance obligations associated with the promise to transfer to the customer a goods or service that is disinct, and a series of distinct goods or services that are substantially same and have the same pattern of transfer to the customer. Under ASC 606, entity need to consider at contract inception whether each goods in the contract is a separate performance obligation or whether they have promised

a series of distinct goods that is a single performance obligation. The immaterial in the context of a contract is not required to be assessed as performance obligation. Various administrative tasks and setup activities associated with service delivery are the examples of the goods or services that are not considered as performance obligations. When an entity acts as an agent of another party, performance obligation include a service of arranging for another party to transfer goods or services to a customer. Under ASC 605, shipping and handling charges incurred by seller on behalf of buyer's request are recorded as component of sales. Under ASC 606, an entity is to make election to account for shipping and handling activities that occur after the customer has obtained control of a goods as a **fulfilment cost** rather than promised service because they are provided to a customer after the customer obtains control of the related goods. If shipping and handling activities are performed before the customer obtains control of the goods, the shipping and handling activities are not promised service to the customer.

For example, a software company signs an agreement for software license including 12 month employee training at total contract price of \$100,000. Normally, such training service is charged at \$10,000. This software company has two separate performance obligations of \$90,000 for the software and \$10,000 for the training.

### Step 3 Determine the Transaction Price

ASC 606 requires that an entity to consider the terms of the contract and its customary business practices in determining the transaction price. The transaction price is the amount that an entity allocates to the performance obligations identified in the contract, and therefore, the amount of revenue is recognized as those performance obligations are satisfied. The transaction price excludes amounts collected on behalf of third parties such as sales taxes. An entity is permitted to make an accounting policy election to exclude from the transaction price all other taxes collected for government taxing authorities.

In determining transaction price, an entity should consider the effects of all of the following: variable consideration, the existence of a financing component in the contract, noncash consideration, and consideration payable to a customer. Variable consideration is common, such as discounts, rebates, refunds, credits, price concessions, penalties and royalties. The entity determines the total transaction price including an estimate of any variable consideration, even using all reasonably available information. ASC 606 recommends the use of more predictive of either of the two methods, (1) the expected value, or (2) the most likely amount. The expective value is the sum of probability-weighted amounts in a range of possible consideration amount, or an appropriate estimate derived from a large number of contracts with similar characteristics. The most likely amount is the single most likely amount in a range of possible outcome of the contract. This likely amount applies to only when entity has a contract of two possible outcomes, such as an entity achieves a performance bonus or not. For example, a builder has contract to build a house for \$150,000 in 6 months. If the contractor complete it in 5 months, he will receive a \$10,000 bonus. If he builds in 7 months or more, his payment will be reduced by \$5,000 for every month late. The builder concludes based on his experience that he would complete the house in 7 months. Then, his transaction price is \$145,000, the most likely amount. To be reminded is the fact that when the financial reporting uses estimates, this may very likely have impact on tax reporting due to different timing of revenue recognition. ASC 606-10-55-23 illustrates accounting entries associated with a right of return as follows:

**Revenue**- measured at the gross transaction price, less the expected level of returns calculated using the guidance on estimating variable consideration;

**Refund liability**- measured at the expected level of returns, difference between the cash or receivable amount and the revenue as measured above;

**Asset**- measured by the carrying amount of the products expected to be returned, less the expected



recovery costs;

**Cost of goods sold** – measured as the carrying amount of the products sold, less the asset as measured above;

**Reduction of inventory**– measured as the carrying amount of the products transferred to the customer. For example, a company sold 100 products to customer A, who returned 3 units of products. Each unit's sale price is \$100 and cost is \$60. For this transaction, accounting entry would be as follows –

	DR	CR
Accounts receivable	9,700.00	
Asset - returned products	180.00	
Sale		9,700.00
Cost of sale	5,820.00	
Inventory		6,000.00

#### Step 4 Allocate the Transaction Price to the Performance Obligations in the Contract

The transaction price indicated in contract should be allocated to each separate performance obligations (generally each distinct goods or service) in proportion to its standalone selling price determined at contract inception so that revenue is recorded at the right time with the right amount in proportion to the completed performance. When standalone selling price of product is not directly observable, then, the entity uses estimated price, based on such methods as adjusted market assessment approach, expected cost plus a margin approach, or residual approach. ASC 606-10-32-34 explains that “Adjusted Market Assessment Approach” is considering the market in which the goods or services are sold, the estimated price that customers in that market would be willing to pay; “Expected Cost Plus a Margin Approach” is the estimate based on forecasted expected costs of satisfying a performance obligation, plus appropriate margin added; and “Residual Approach” is the estimate derived from subtracting the sum

of the observable standalone selling prices. Allocation of Discount to different performance obligation may vary depending upon whether the discounts are being offered to all of the performance obligations, i.e. each sales invoice, or certain specific sales invoices as volume discount. Performance obligations under these situations would be relatively simple because the shipment of goods associated with each invoice would be satisfied performance including the discount specified in the invoice as reduction of revenue.

**Change in Transaction Price after contract inception** –ASC 606-10-32-43 states that the entity should allocate to the performance obligations in the contract any subsequent changes in the transaction price on the same basis as at contract inception. Amounts allocated to a satisfied performance obligation should be recognized as revenue, or as a reduction of revenue, in the period in which the transaction price changes.

#### Step 5 Recognize Revenue When the Entity Satisfies a Performance Obligation

An entity should recognize revenue when it satisfies a performance obligation by transferring a promised goods or service to a customer. A goods or service is transferred when the customer obtains control of that goods or service. For each performance obligation, an entity should determine whether it satisfies the performance obligation over time, or it satisfies the performance obligation at a point in time. When performance obligation is satisfied over time, then, appropriate methods of measuring progress should be applied, using either “output method” or “input method”. Examples of performance obligations satisfied over time would be (a) routine or recurring services (cleaning services under contract), (b) building a warehouse for customer, (c) monthly payroll services. In this situation, the entity recognizes revenue over time by measuring the service provided relative to the remaining services under the contract. **Output methods** refer to units produced or delivered, or contract milestones performed. Disadvantage of this

method is that the outputs used to measure progress may not be directly observable. Input methods refer to costs incurred, labor hours expended or machine hours used. If entity's inputs are expended evenly throughout the performance period, the entity can recognize revenue on a straight-line basis. A shortcoming of input methods is that there may not be a direct relationship between an entity's inputs and the transfer of control of goods or services to a customer. Therefore, the entity should exclude from an input method the effects of any inputs that do not depict the entity's performance in transferring control of goods or services to the customer. Performance obligations satisfied at a point in time refer to all performance obligations other than the performance obligations satisfied over time. To determine the point in time at which a customer obtains control of a promised goods and the entity satisfies a performance obligation, the entity should consider such indicators of the transfer of control as (a) the entity has a present right to payment for the transferred goods, (b) the customer has legal title to the goods, © the entity has transferred physical possession of the goods, and (d) the customer has accepted the goods.

There are so many other topics to cover in connection with ASC 606, but limited pages of this article would not allow me to cover them all. And I have to conclude with the following important reminders. The changes in revenue recognition under ASC 605 and 606 are much more diverse and complex, especially in putting the new standard into practice. Conferences and discussions are necessary with customers to analyze existing contracts and to determine performance obligations. A gap analysis of accounting policies may need to be performed, and changes in the timing and amounts of revenue and expenses may require adjustments to tax accounting and planning, along with systems update or upgrade to capture data for the additional judgements, estimates and disclosures. A CPA firms should familiar with the filing of Form 3115 -Application for Change in Accounting Method indicating automatic change in accounting method as a result of adopting ASC 606 effective

January 1, 2019. It is recommended that the staff of a CPA firm either take continuing educations for the subject of ASC 606 or attend seminars to keep abreast of the details of the new revenue recognition standard because without knowing them, you cannot sit down with your customers, not to say of complying with the new standard in preparing the financial statements. Also recommended is the book published by AICPA with title: Revenue Recognition - Audit and Accounting Guide" with price tag of \$239.00 (Currently this book is all sold out, and in process of republication.)





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# How to Successfully Resolve IRS Debt & IRS Audit



박일호

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## 1. General IRS Collection Process

### a. How to manage collections

## 2. How to deal with IRS Tax Debt

### a. Offer in compromise - Pros and Con

### b. Uncollectible status - Pros and Con

### c. Bankruptcy - Pros and Con

### d. Installment payment - Pros and Con

## 3. How to manage IRS Tax audit - discussion

## 4. Q & A

The IRS is the largest collection agency in the country and by far the strongest, empowered by Congress to take actions necessary to collect taxes owed to the federal government. Such a wide-ranging power can easily create some fear among those who do not know the procedures the IRS follows in its collections process.

The IRS has a straightforward automated collection process. If a client owes taxes, the first letter he or she receives is a CP14 notice, which informs the recipient an income tax amount, along with any penalties and interest, is due and explains the steps to resolve it. (More information is available on the IRS's "Understanding Your CP14 Notice" page ).

The next notice is a CP501, which reminds the taxpayer that he or she has a balance due with the IRS. If the taxes remain unpaid or taxpayer will then receive another reminder, CP503.

If the previous notices are ignored, the taxpayer will receive CP504, "Notice of Intent to Levy," stating that if the amount due is not paid immediately, the IRS will seize (levy) the taxpayer's state income tax refund or other funds or property and apply it toward the amount owed. This notice must not be ignored if the taxpayer wants to avoid levies or liens. Then, the client may receive Letter 1058, "Final Notice of Intent to Levy and Notice of Your Right to a Hearing."

When notified that a client has received an IRS notice, a CPA should discuss with the client his or her ability to pay the taxes due in full. If the client cannot pay in full, the next step is to have the client sign a Form 2848, Power of Attorney and

Declaration of Representative, which must be filed before the IRS can disclose the taxpayer's account information to the CPA. (Note that Form 2848 changed in late 2011. Married clients who file joint returns must each sign a separate Form 2848; a joint Form 2848 is no longer acceptable.) After filing the Form 2848, the CPA should contact the IRS immediately to try to avoid other actions, such as the filing of a notice of federal tax lien, a levy on assets or wages, or offsetting of a state tax refund. However, some taxpayers cannot immediately pay what they owe. If so, they have several options for paying the balance due over time.

### Alternative Payment Options

The first option is to apply for an extension of up to 120 days to pay if the taxpayer can pay that amount in full within that time. The IRS does not charge a fee for the extension, but late payment penalties and interest accrue until the full amount due is paid.

A second option for qualifying taxpayers is a "streamlined installment agreement." This plan is available for taxpayers that owe up to \$50,000. The taxpayer is not required to submit a financial statement to the IRS, and the repayment period for the debt can be up to six years. Persons who owe \$25,000 or less who want a streamlined installment agreement should file Form 9465, Installment Agreement Request, and those who owe between \$25,000 and \$50,000 should file Form 9465-FS. (Form 9465-FS is fairly new and part of the IRS's "fresh start" initiative.) The form is attached to the front of the tax return or submitted separately if the return has already been filed. If it is filed separately, the taxpayer should send the form to the address indicated in the form instructions. The IRS will normally respond within 30 days with an acceptance or rejection. The taxpayer must submit a \$105 processing fee (\$52 if monthly payments will be made through electronic transfers) with the form.

The instructions to the forms suggest that tax payers make monthly payments as large as possible to avoid additional interest and penalties. However, some practitioners multiply the balance due by 1.13 (use a 13% simple interest rate), divide by 60 months, and round up. While not exact, this formula results in frequent acceptances. Clients can pay more than

required under the agreement as funds are available.

As an alternative to completing the appropriate form on paper and submitting it to the IRS, a taxpayer also can complete and submit the forms online at [irs.gov](https://irs.gov) or may call the IRS to arrange an installment agreement. These options are much quicker, and the taxpayer receives immediate notification of approval. (See IRS, "How the Installment Agreement Works," in the Form 9465-FS instructions).

Taxpayers with amounts due of more than \$50,000 can apply for a traditional installment agreement that, like a streamlined agreement, allows the taxpayer to pay the bill in monthly increments; this is usually done by direct deposit or payroll deductions to ensure timely payments. However, the IRS requires the taxpayer to provide financial information so that it can determine the amount the taxpayer is able to pay. Individual taxpayers must complete Form 433-A, Collection Information Statement for Wage Earners and Self-Employed Individuals, and, if the taxpayer owns a business with employees, Form 433-B, Collection Information Statement for Businesses.

A fourth option is to apply for a delay of collection if the taxpayer is unable to pay. If the client qualifies, the IRS places the taxpayer's account into a "currently not collectible" status that the IRS will review from time to time to determine if the taxpayer's financial conditions have improved. The IRS generally determines the taxpayer's ability to pay based on the information provided on Form 433-A and, if necessary, Form 433-B.

A fifth option is to submit an offer in compromise, which allows some taxpayers to settle their bill for less than the amount they owe. "However," the IRS warns, "the criteria for accepting an offer are strict and relatively few offers are accepted each year" (IRS, "The Collection Process"). The taxpayer must submit Form 656, Offer in Compromise, Form 433-A, and, if necessary, Form 433-B.

### Liens vs. Levies and Seizures

A tax lien publicly notifies all creditors that the IRS has a lien against all of the taxpayer's property, including property that the taxpayer may acquire after the IRS has filed the notice of federal tax lien.



“The lien is required by law to establish priority as a creditor in competition with other creditors in certain situations. Once a lien is filed, it may appear on a taxpayer’s credit report and it may harm a taxpayer’s credit rating” (IRS, “The Collection Process”).

The IRS actually collects delinquent taxes through levy on any property or rights to property of the taxpayer on which there is a lien. The term “levy” includes the power of seizure by any means (Sec. 6331(b)). The IRS may levy on any property the taxpayer owns or on payments, subject to exemptions provided in Sec. 6334. Levied assets or payments may include wages, Social Security benefits, and retirement income. The IRS also can offset tax refunds, by applying to the tax balance owed all future federal and state tax refunds otherwise payable to the taxpayer.

A taxpayer may feel powerless when confronted with a tax lien and the possibility of an IRS levy. However, the IRS may release liens, such as when:

1. The IRS determines that the notice was premature or not filed according to administrative procedures;
2. In certain cases, the taxpayer enters into an installment agreement;
3. The lien withdrawal will allow taxes to be paid more easily or quickly, perhaps by keeping a credit rating higher and therefore interest expenses lower; or
4. The withdrawal is in the best interest of both the taxpayer and the government, as determined by the National Taxpayer Advocate and the government.

In addition, the IRS must withdraw a lien if it was filed during the automatic stay period in a bankruptcy proceeding.

### Filing an Appeal

The taxpayer also can appeal the collection action. The taxpayer receives Publication 1660, Collection Appeal Rights, explaining how to request a hearing with the Office of Appeals. Publication 1660

notes that “[t]he Office of Appeals is separate from and independent of the IRS Collection office that initiated the collection action.” Publication 1660 fully explains the rights and procedures for challenging collection actions.

Tax practitioners should counsel their clients to contact them as soon as they receive any sort of collection letter from the IRS, so that the practitioner can help them create an effective plan of action. Practitioners should also encourage clients to keep good records and documentation of their finances and to be as organized as possible, so that they can deal more easily with any tax problems. Although taxpayers may fear the IRS and its power, the ultimate way to stand up to it is to be educated about its procedures and abilities.

### Offer in Compromise

An offer in compromise allows you to settle your tax debt for less than the full amount you owe. It may be a legitimate option if you can’t pay your full tax liability, or doing so creates a financial hardship. We consider your unique set of facts and circumstances:

- Ability to pay
- Income
- Expenses
- Asset equity

We generally approve an offer in compromise when the amount offered represents the most we can expect to collect within a reasonable period of time. Explore all other payment options before submitting an offer in compromise. The Offer in Compromise program is not for everyone. If you hire a tax professional to help you file an offer, be sure to check his or her qualifications.

### Make sure you are eligible

Before we can consider your offer, you must be current with all filing and payment requirements. You are not eligible if you are in an open bankruptcy proceeding. Use the Offer in Compromise Pre-Qualifier to confirm your eligibility and prepare a preliminary proposal.

## Submit your offer

You'll find step-by-step instructions and all the forms for submitting an offer in the Offer in Compromise Booklet Form 656-B (PDF). Your completed offer package will include:

- Form 433-A (OIC) (individuals) or 433-B (OIC) (businesses) and all required documentation as specified on the forms;
- Form 656(s) - individual and business tax debt (Corporation/ LLC/ Partnership) must be submitted on separate Form 656;
- \$186 application fee (non-refundable); and
- Initial payment (non-refundable) for each Form 656.

## Select a payment option

Your initial payment will vary based on your offer and the payment option you choose:

- **Lump Sum Cash:**  
Submit an initial payment of 20 percent of the total offer amount with your application. If your offer is accepted, you will receive written confirmation. Any remaining balance due on the offer is paid in five or fewer payments.
- **Periodic Payment**  
Submit your initial payment with your application. Continue to pay the remaining balance in monthly installments while the IRS considers your offer. If accepted, continue to pay monthly until it is paid in full.

If you meet the Low Income Certification guidelines, you do not have to send the application fee or the initial payment and you will not need to make monthly installments during the evaluation of your offer. See your application package for details.

## Understand the process

While your offer is being evaluated:

- Your non-refundable payments and fees will be applied to the tax liability (you may designate payments to a specific tax year and tax debt)
- A Notice of Federal Tax Lien may be filed
- Other collection activities are suspended
- The legal assessment and collection period is extended
- Make all required payments associated with your offer
- You are not required to make payments on an existing installment agreement

And

- Your offer is automatically accepted if the IRS does not make a determination within two years of the IRS receipt date.

## If your offer is accepted

- You must meet all the Offer Terms listed in Section 8 of Form 656, including filing all required tax returns and making all payments;
- Any refunds due within the calendar year in which your offer is accepted will be applied to your tax debt
- Federal tax liens are not released until your offer terms are satisfied and
- Certain offer information is available for public review at designated IRS offices.

## If your offer is rejected

- you may appeal a rejection within 30 days using Request for Appeal of Offer in Compromise, Form 13711(PDF).
- The online self-help tool may provide additional assistance on appealing your rejected offer.

**You can't file Bankruptcy to discharge trust fund recovery penalty taxes, but you can negotiate a trust fund recovery penalty with an Offer in Compromise.**



As a general rule, there is a ten year statute of limitations on IRS collections. This means that the IRS can attempt to collect your unpaid taxes for up to ten years from the date they were assessed. Subject to some important exceptions, once the ten years are up, the IRS has to stop its collection efforts. Every year, the statute of limitations expires for thousands of taxpayers who owe the IRS money. If your Collection Statute Expiration Date (CSED) is near, the IRS may act aggressively to get you to pay as much as possible before the deadline or agree to extend it.

### When Does the Limitations Period Begin?

The ten-year limitations period begins to run on the date of the tax assessment. This is the date an IRS official signs the applicable form at an IRS Service Center. For example, if you do not pay in full when you file your tax return, you will receive written notice of the amount you owe, a bill. The date on this bill starts the ten year limitations period. If you did not file a tax return, the IRS can create a substitute return for you and make a deficiency assessment, which starts the ten year period. Thus, not filing a return and hiding for ten years accomplishes nothing.

### Suspension of Limitations Period

The ten-year collection period can end up lasting more than ten years because it can be suspended for one or more time periods. The time during which the statute of limitations is suspended is not counted toward ten-year deadline. For example, the collections period will be suspended during time periods the IRS is legally barred from taking collection action against you. This means that the limitations period is suspended if you file for bankruptcy and the bankruptcy court issues an automatic stay preventing the IRS from taking collection action against you--the suspension lasts for the period of the bankruptcy case plus six months. The period is also suspended while the IRS is considering your request for an installment agreement, offer in compromise, or request for innocent spouse relief, or while you live outside the U.S. continuously for at least six months. The IRS

can also extend the ten-year period by suing you in federal court; however, it rarely does this.

### Voluntarily Extending the Limitations Period

The ten-year limitations period is not absolute. It can be extended if you voluntarily agree to do so. Back in the bad old days (before 1998), the IRS used to put enormous pressure on taxpayers to agree to extend the limitations period beyond ten years--such extensions often lasted for ten or even twenty years. If the taxpayer refused to "voluntarily" agree to the extension, the IRS would make threats. Fortunately, this is no longer allowed.

### Revocation or Denial of Passport in Case of Certain Unpaid Taxes

The IRS began sending certifications of unpaid tax debt to the State Department in February 2018. The content presented here is for informational purposes only. If you have seriously delinquent tax debt, IRC § 7345 authorizes the IRS to certify that debt to the State Department for action. The State Department generally will not issue a passport to you after receiving certification from the IRS.

- [Certification Of Individuals With Seriously Delinquent Tax Debt](#)
- [Annual Adjustment For Inflation](#)
- [Taxpayer Notification - Notice C P 508C](#)
- [Reversal Of Certification - Notice CP 508R](#)
- [Judicial Review Of Certification](#)
- [Payment Of Taxes](#)
- [Passport Status](#)
- [Travel](#)

Upon receiving certification, the State Department shall deny your passport application and/or may revoke your current passport. If your passport application is denied or your passport revoked and you are overseas, the State Department may issue you a limited validity passport

good only for direct return to the United States.

## Certification Of Individuals With Seriously Delinquent Tax Debt

Seriously delinquent tax debt is an individual's unpaid, legally enforceable federal tax debt totaling more than \$51,000 (including interest and penalties) for which a:

- Notice of federal tax lien has been filed and all administrative remedies under IRC § 6320 have lapsed or been exhausted or
- Levy has been issued

Seriously delinquent tax debt is limited to liabilities incurred under Title 26 of the United States Code and does not include debts collected by the IRS such as the FBAR Penalty and Child Support.

Some tax debt is not included in determining seriously delinquent tax debt even if it meets the above criteria. It includes tax debt:

- Being paid timely with an IRS-approved installment agreement
- Being paid timely with an offer in compromise accepted by the IRS, or a settlement agreement entered with the Justice Department
- For which a collection due process hearing is timely requested regarding a levy to collect the debt
- For which collection has been suspended because a request for innocent spouse relief under IRC § 6015 has been made

Additionally, a passport won't be at risk under this program for any taxpayer:

- Who is in bankruptcy
- Who is identified by the IRS as a victim of tax-related identity theft

- Whose account the IRS has determined is currently not collectible due to hardship
- Who is located within a federally declared disaster area
- Who has a request pending with the IRS for an installment agreement
- Who has a pending offer in compromise with the IRS
- Who has an IRS accepted adjustment that will satisfy the debt in full

Certification will be postponed while an individual is serving in a designated combat zone or participating in a contingency operation.

Before denying a passport, the State Department will hold your application for 90 days to allow you to:

- Resolve any erroneous certification issues
- Make full payment of the tax debt
- Enter a satisfactory payment arrangement with the IRS

## Annual Adjustment For Inflation

The \$51,000 threshold is indexed yearly for inflation

Under new **Code Section 7345(f)**, in the case of a calendar year beginning after 2016, the dollar amount in new Code Section 7345 shall be increased by an amount equal to (1) such dollar amount, multiplied by (2) the cost-of-living adjustment determined under Code Section 1(f)(3) for the calendar year, determined by substituting "calendar year 2015" for "calendar year 1992" in Code Section 1(f)(3)(B). If any amount as adjusted under the preceding sentence is not a multiple of \$1,000, such amount shall be rounded to the nearest multiple of \$1,000.

## Taxpayer Notification - Notice CP 508C

The IRS is required to notify you in writing at the time the IRS certifies seriously delinquent tax debt to the State Department. The IRS is also required to notify you in writing at the time it reverses certification. The IRS will send written notice by regular mail to your last known address.

## Reversal Of Certification - Notice CP 508R

The IRS will reverse a certification when:

- The tax debt is fully satisfied or becomes legally unenforceable.
- The tax debt is no longer seriously delinquent.
- The certification is erroneous.

The IRS will make this reversal within 30 days and provide notification to the State Department as soon as practicable.

A previously certified debt is no longer seriously delinquent when:

- You and the IRS enter into an installment agreement allowing you to pay the debt over time.
- The IRS accepts an offer in compromise to satisfy the debt.
- The Justice Department enters into a settlement agreement to satisfy the debt.
- Collection is suspended because you request innocent spouse relief under IRC § 6015.
- You make a timely request for a collection due process hearing regarding a levy to collect the debt.

The IRS will not reverse certification where a taxpayer requests a collection due process hearing or innocent spouse relief on a debt that is not the basis of the certification. Also, the IRS will not reverse the certification because the taxpayer pays the debt

below \$50,000.

## Judicial Review Of Certification

The State Department is held harmless in these matters and cannot be sued for any erroneous notification or failed decertification under IRC § 7345.

If the IRS certified your debt to the State Department, you can file suit in the U.S. Tax Court or a U.S. District Court to have the court determine whether the certification is erroneous or the IRS failed to reverse the certification when it was required to do so. If the court determines the certification is erroneous or should be reversed, it can order the IRS to notify the State Department that the certification was in error.

IRC § 7345 does not provide the court authority to release a lien or levy or award money damages in a suit to determine whether a certification is erroneous. You are not required to file an administrative claim or otherwise contact the IRS to resolve the erroneous certification issue before filing suit in the U.S. Tax Court or a U.S. District Court.

## Payment of Taxes

If you can't pay the full amount you owe, you can make alternative payment arrangements such as an installment agreement or an offer in compromise to have your certification reversed.

If you disagree with the tax amount or the certification was made in error, you should contact the phone number listed on Notice CP 508C: 1-866- 519-4965 (International callers: 1-267-941-1004). If you've already paid the tax debt, please send proof of that payment to the address on the Notice CP 508C.

If you recently filed your tax return for the current year and expect a refund, the IRS will apply the refund to the debt and if the refund is sufficient to satisfy your seriously delinquent tax debt, the account is considered fully paid.

## Passport Status

If your U.S. passport application is denied or your U.S. passport is revoked, the State Department will notify you in writing.

If you need your U.S. passport to keep your job, once your seriously delinquent tax debt is certified, you must fully pay the balance, or make an alternative payment arrangement to have your certification reversed.

Once you've resolved your tax problem with the IRS, the IRS will reverse the certification within 30 days of resolution of the issue and provide notification to the State Department as soon as practicable.



## Travel

If you're leaving in a few days for international travel, need to resolve passport issues and have a pending application for a U.S. passport, you should call the phone number listed on Notice CP 508C - If you already have a U.S. passport, you can use your passport until you're notified by the State Department that it has been revoked.

If your passport is cancelled or revoked, after you're certified, you must resolve the tax debt by paying the debt in full, making alternative payment arrangements or showing that the certification is erroneous.

The IRS will reverse your certification within 30 days of the date the tax debt is resolved and provide notification to the State Department as soon as practicable.





# Life Insurance Basics



**Mass Mutual Financial Group**  
**김종식 (Jon Kim)**  
 FSCP, FSS, LUTCF, CLTC  
 Financial Service Certified  
 Professional Investment  
 Advisor  
 213-252-6222 office  
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## Life Insurance Basics

Life insurance is an agreement between you (the insured) and an insurer. Under the terms of a life insurance policy, the insurer promises to pay a certain sum to a person you choose (your beneficiary) upon your death, in exchange for your premium payments. Appropriate life insurance coverage may provide you with a feeling of confidence, since you know that those you care about should be financially protected after you die.

## The many uses of life insurance

One of the most common reasons for buying life insurance is to replace the loss of income that would occur in the event of your death. When you die and your paychecks stop, your family may be left with limited resources. Proceeds from a life insurance policy make cash available to support your family almost immediately upon your death. Life insurance is also commonly used to pay any debts that you may leave behind. Life insurance can be used to pay off mortgages, car loans, and credit card debts, leaving other remaining assets intact for your family. Life insurance proceeds can also be used to pay for final expenses and estate taxes. Finally, life insurance can create an estate for your heirs.

## How much life insurance do you need?

Your life insurance needs will depend on a number of factors, including whether you're married, the size of your family, the nature of your financial obligations, your career stage, and your goals. For example, when you're young, you may not have a great need for life insurance. However, as you take on more responsibilities and your family grows, your need for life insurance increases.

There are plenty of tools to help you determine how much coverage you should have. Your best resource may be a financial professional, although there is no assurance that working with a financial professional will improve results. At the most basic level, the amount of life insurance coverage that you need typically corresponds to your answers to these questions:

- What immediate financial expenses (e.g., debt repayment, funeral expenses) would your family face upon your death?
- How much of your salary is devoted to current expenses and future needs?
- How long would your dependents need support if you were to die tomorrow?
- How much money would you want to leave for special situations upon your death, such as funding your children's education, gifts to charities, or an inheritance for your children?



Since your needs may change over time, you'll need to continually re-evaluate your need for coverage.

### How much life insurance can you afford?

How do you balance the cost of insurance coverage with the amount of coverage that your family needs? Just as several variables determine the amount of coverage that you need, many factors determine the cost of coverage. The type of policy that you choose, the amount of coverage, your age, and your health all play a part. The amount of coverage you can afford is tied to your current and expected future financial situation, as well. A financial professional or insurance agent could help you select the right insurance coverage.

### What's in a life insurance contract?

A life insurance contract is made up of legal provisions, your application (which identifies who you are and your medical declarations), and a policy specifications page that describes the policy you have selected, including any options and riders that you have purchased in return for an additional premium.

Provisions describe the conditions, rights, and obligations of the parties to the contract (e.g., the grace period for payment of premiums, suicide and incontestability clauses).

The policy specifications page describes the amount to be paid upon your death and the amount of premiums required to keep the policy in effect. Also stated are any riders and options added to the standard policy. Some riders include the waiver of premium rider, which allows you to skip premium payments during periods of disability; the guaranteed insurability rider, which permits you to raise the amount of your insurance without a further medical exam; and accidental death benefits. The insurer may add an endorsement to the policy at the time of issue to amend a provision of the standard contract.

**Note:** Appropriate life insurance coverage may provide you with a feeling of confidence, you care about should be financially protected after you die.

### Types of life insurance policies

The two basic types of life insurance are term life and permanent (cash value) life. Term policies provide life insurance protection for a specific period of time (subject to the claims-paying ability of the insurer). If you die during the coverage period, your beneficiary receives the policy death benefit. If you live to the end of the term, the policy simply terminates, unless it automatically renews for a new period. Term policies are available for periods of 1 to 30 years or more and may, in some cases, be renewed until you reach age 95. Premium payments may be increasing, as with annually renewable 1-year (period) term, or level (equal) for up to 30-year term periods.

Permanent insurance policies provide protection for your entire life, provided you pay the premium to keep the policy in force (subject to the claims-paying ability and financial strength of the insurer). Premium payments are greater than necessary to provide the life insurance benefit in the early years of the policy, so that a reserve can be accumulated to make up the shortfall in premiums necessary to provide the insurance in the later years. Should the policyowner discontinue the policy, this reserve, known as the cash value, is returned to the policy owner, subject to applicable surrender or early withdrawal charges. Permanent life insurance can be further broken down into the following basic categories;

- **Whole life:** You generally make level (equal) premium payments for life. The death benefit and minimum cash value are predetermined and guaranteed. Any guarantees associated with payment of death benefits, income options, or rates of return are based on the claims-paying ability and financial strength of the insurer.
- **Universal life:** You may pay premiums at any time, in any amount (subject to certain limits), as long as policy expenses and the cost of insurance coverage are met. The amount of insurance coverage can be changed, and the cash value will grow at a declared interest rate, which may vary over time.
- **Variable life:** As with whole life, you pay a level premium for life. However, the death benefit and cash value fluctuate depending on the performance of investments in what are known as subaccounts.

A subaccount is a pool of investor funds professionally managed to pursue a stated investment objective. The policyowner selects the subaccounts in which the cash value should be invested.

- **Variable universal life:** A combination of universal and variable life. You may pay premiums at any time, in any amount (subject to limits), as long as policy expenses and the cost of insurance coverage are met. The amount of insurance coverage can be changed, and the cash value goes up or down based on the performance of investments in the subaccounts.

that issues it, so investigate the company offering you the insurance. Ratings services, such as A. M. Best, Moody's, and Standard & Poor's, evaluate an insurer's financial strength. The company offering you coverage should provide you with this information.

Note: Variable life and variable universal life insurance policies are offered by prospectus, which you can obtain from your financial professional or the insurance company. The prospectus contains detailed information about investment objectives, risks, charges, and expenses, as well as the underlying investment options. You should read the prospectus and consider this information carefully before purchasing a variable life or variable universal life insurance policy.

Life insurance products are not guaranteed by the FDIC or any other government agency; they are not deposits of, nor are they guaranteed by, any bank or savings association.

## Your beneficiaries

You must name a primary beneficiary to receive the proceeds of your insurance policy. You may name a contingent beneficiary to receive the proceeds if your primary beneficiary dies before the insured. Your beneficiary may be a person, corporation, or other legal entity. You may name multiple beneficiaries and specify what percentage of the net death benefit each is to receive. You should carefully consider the ramifications of your beneficiary designations to ensure that your wishes are carried out as you intend.

Generally, you can change your beneficiary at any time. Changing your beneficiary usually requires nothing more than signing a new designation form and sending it to your insurance company. If you have named someone as an irrevocable (permanent) beneficiary, however, you will need that person's permission to adjust any of the policy's provisions.

## Where can you buy life insurance?

You can often get insurance coverage from your employer (i.e., through a group life insurance plan offered by your employer) or through an association to which you belong (which may also offer group life insurance). You can also buy insurance through a licensed life insurance agent or broker, or directly from an insurance company.

Any policy that you buy is only as good as the company

## Comparison of Type of Life Insurance

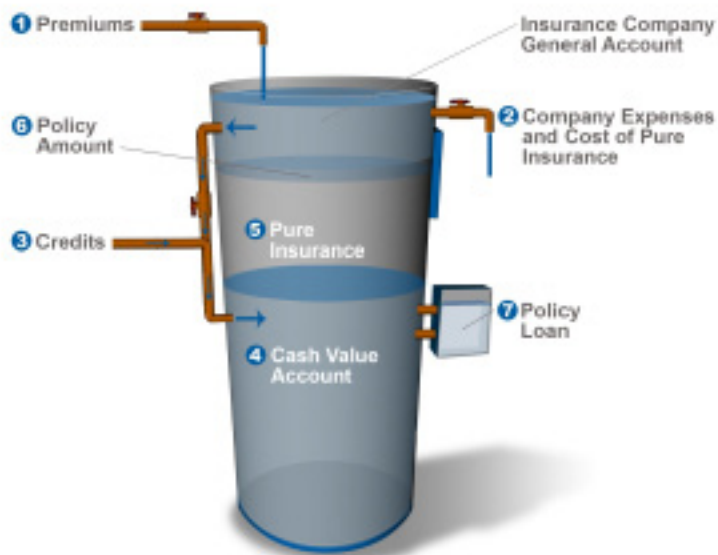
	Term	Whole Life	Universal Life	Variable Life	Variable Universal Life
<b>Premium</b>	Premiums increase at each renewal	Level	Flexible	Level	Flexible
<b>Coverage</b>	Usually renewable until at least age 70; for some policies, up to age 95	For life	For life	For life	For life
<b>Death benefit</b>	Guaranteed	Guaranteed	May be guaranteed, depending on policy	Guaranteed	May be guaranteed, depending on policy
		May increase with dividends*	Can be increased or decreased	Varies relative to cash value investment returns	Can be increased or decreased; varies relative to cash value investment returns
<b>Cash value</b>	None	Guaranteed	Guaranteed minimum interest rate	Not guaranteed	Not guaranteed
		May increase with dividends*	Varies based on interest rates	Fluctuates with subaccount performance	Fluctuates with subaccount performance
<b>Policy loans allowed?</b>	Not applicable	Yes	Yes	Yes	Yes
		May be able to borrow up to 100% of total cash surrender value less annual loan interest rate	Same as whole life, but usually available at lower net interest rate (i.e., pay the interest rate and get a credit back to the policy)	Same as whole life, but usually available at lower net interest rate (i.e., pay the interest rate and get a credit back to the policy)	Same as whole life, but usually available at lower net interest rate (i.e., pay the interest rate and get a credit back to the policy)
<b>Cash withdrawals allowed?</b>	Not applicable	No	Yes	No	Yes
<b>Cash value account growth</b>	No cash value account	Insurer determines guaranteed cash value and declares dividends based on performance of its general investment portfolio*	Insurer determines cash value interest crediting rates based on current interest rate returns to the company	Cash value account growth depends upon the investment performance of the subaccounts you choose	Cash value account growth depends upon the investment performance of the subaccounts you choose

*Note: Any guarantees associated with payment of death benefits, income options, or rates of return are subject to the claims-paying ability and financial strength of the insurer. Policy loans and withdrawals will reduce the policy's cash value and death benefit and may cause the policy to lapse. Withdrawals may be subject to surrender charges and income tax, and a 10% penalty may apply to withdrawals from a modified endowment contract if made under age 59½.*

*Note: Variable life and variable universal life insurance policies are offered by prospectus, which you can obtain from your financial professional or the insurance company. The prospectus contains detailed information about investment objectives, risks, charges, and expenses, as well as the underlying investment options. You should read the prospectus and consider this information carefully before purchasing a variable life or variable universal life insurance policy.*

*\*Dividends are not guaranteed.*

## How Traditional Whole Life Insurance Works



1. The premium you “pour in” is fixed for the life of the policy. As you age, the cost of insuring your life increases. However, your premium stays the same, because the company projects this expense in advance and factors it into the premium at the onset.

2. As you pay your premium, the insurance company deducts all of its expenses, premium taxes, and the cost of pure insurance (net amount of risk coverage), or mortality cost.

3. The remainder of your premium represents a portion of the insurance company’s investment portfolio. Your cash value account is credited with a fixed amount (predetermined by your contract) at the end of each premium period.

4. Like water in a tank, the level of your cash value rises over time.

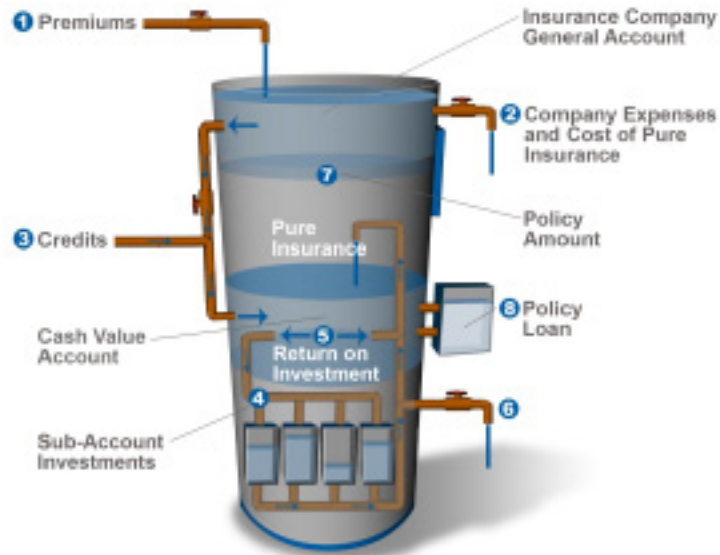
5. As the cash value increases, the amount of risk coverage (or pure insurance) in the policy decreases.

6. When you die, your beneficiary receives the “full tank” of the policy amount, which is the sum of the cash value and the pure insurance.

7. You may take a policy loan in an amount not to exceed the policy’s cash surrender value less the annual loan interest. Repayment replenishes your cash value, but there may be a tax liability if the policy terminates before the death of the insured. Any loan balance outstanding (plus interest due) at the time of your death would be deducted from the policy amount.



## How Variable Life Insurance Works



1. The premium you “pour in” is fixed for the life of the policy. As you age, the cost of insuring your life increases. However, your premium stays the same, because the company projects this expense in advance and factors it into the premium at the onset.

2. As you pay your premium, the insurance company deducts all of its expenses, premium taxes, and the cost of pure insurance (net amount of risk coverage), or mortality cost.

3. The remainder of your premium is credited to your cash value account.

4. You choose the subaccounts in which your cash value is invested. These accounts are securities-based, though many policies offer a fixed account option.

5. Growth in your subaccount investments can “pump up” your cash value.

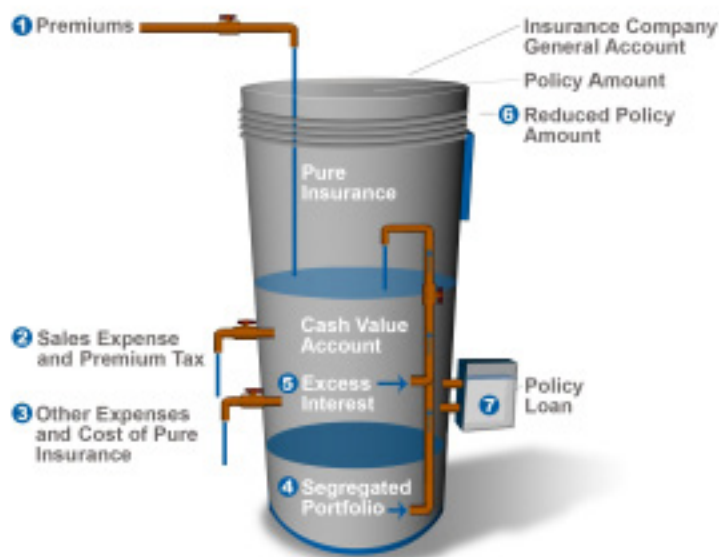
6. With the potential for growth comes the possibility of loss. If your investment choices perform poorly, much of your cash value could go “down the drain.”

7. However, as long as you pay your premium, your policy amount will be guaranteed for the minimum amount (stated in your policy), regardless of the investment performance of your cash value account.

8. You may take policy loans in an amount not to exceed the policy’s cash surrender value less the annual loan interest. Repayment replenishes your cash value, but there may be a tax liability if the policy terminates before the death of the insured. Any loan balance outstanding (plus interest due) at your death is deducted from the policy amount paid to your beneficiary.

*Note: Variable life insurance policies are offered by prospectus, which you can obtain from your financial professional or the insurance company. The prospectus contains detailed information about investment objectives, risks, charges, and expenses, as well as the underlying investment options. You should read the prospectus and consider this information carefully before purchasing a variable life insurance policy.*

## How Universal Life Insurance Works



1. You decide (up to limits regulated by federal tax law) when and how much premium payment to “pour in.” The minimum premium is based on insurance company expenses, premium taxes, and the cost of pure insurance for your policy.

2. As you pay your premium, the insurance company deducts its sales expenses and premium taxes.

3. The remainder of your premium is credited to your cash value account. Each month, the company charges this account for its other expenses and the cost of pure insurance (net amount of risk coverage), or mortality cost.

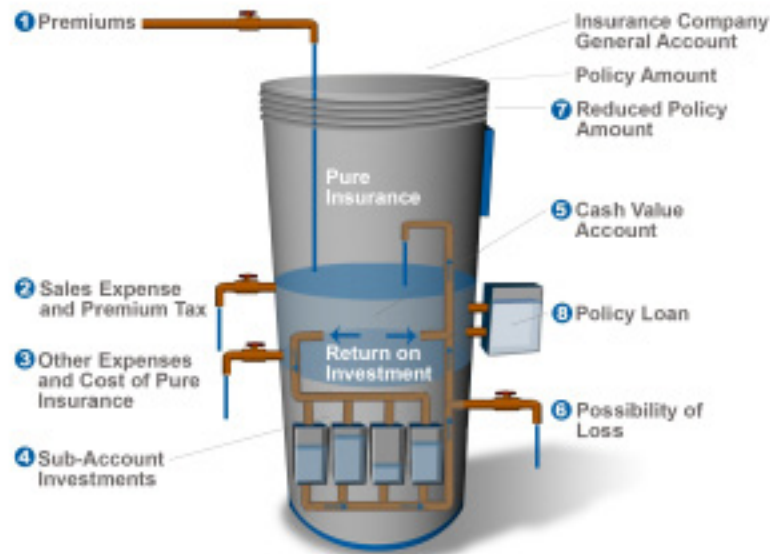
4. Your cash value earns interest at a rate that fluctuates based on the rates earned by a segregated portfolio within the insurance company’s general account. A minimum (guaranteed) interest rate will be stated in your policy.

5. If the company’s portfolio earns more than the guaranteed interest rate, the company credits the excess interest to your policy.

6. If your remaining cash value is not sufficient to cover expenses and the cost of pure insurance, and you do not pour in more premium, the policy amount may then have to be reduced, or your policy will lapse. This would be similar to crushing the container at the top.

7. You may take a policy loan in an amount not to exceed the policy’s cash surrender value less the annual loan interest. Repayment replenishes your cash value, but there may be a tax liability if the policy terminates before the death of the insured. Any loan balance outstanding (plus interest due) at your death is deducted from the policy amount paid to your beneficiary.

## How Variable Life Insurance Works



1. You decide (up to limits regulated by federal tax law) when and how much premium payment to “pour in.” The minimum premium is based on insurance company sales expenses, premium taxes, and the cost of pure insurance for your policy.

2. As you pay your premium, the insurance company deducts its sales expenses and premium taxes.

3. The remainder of your premium is credited to your cash value account. Each month, the company charges this account for its other expenses and the cost of pure insurance (net amount of risk coverage), or mortality cost.

4. You choose the subaccounts in which your cash value is invested. These accounts are securities-based, though many policies offer a fixed account option.

5. Growth in your subaccount investments can “pump up” your cash value.

6. With the potential for growth comes the possibility of loss. If your investment choices perform poorly, your cash value could go “down the drain.”

7. If your remaining cash value is not sufficient to cover expenses and the cost of pure insurance, and you do not pour in more premium, the policy amount may then have to be reduced, or your policy will lapse. This would be similar to crushing the container at the top.

8. You may take a policy loan in an amount not to exceed the policy’s cash surrender value less the annual loan interest. Repayment replenishes your cash value, but there may be a tax liability if the policy terminates before the death of the insured. Any loan balance outstanding (plus interest due) at your death is deducted from the policy amount paid to your beneficiary.

**Note:** Variable life insurance policies are offered by prospectus, which you can obtain from your financial professional or the insurance company. The prospectus contains detailed information about investment objectives, risks, charges, and expenses, as well as the underlying investment options. You should read the prospectus and consider this information carefully before purchasing a variable life insurance policy.

# Pass through Entity Deduction



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## 누가 199A deduction 을 받을수 있는가?

### Section 199A

(a) In general - In the case of a taxpayer other than a corporation, there shall be allowed as a deduction for any taxable year an amount equal to the sum of -

“Taxpayer” means any person subject to a tax under the applicable revenue law (7701(a)(14). “Corporation” includes associations, joint-stock companies, and insurance companies.

Corporation 을 제외한 모든 납세자들은 deduction 을 받을수 있다. Corporation 이라 할지라도 pass-through entities 일 경우에는 199A deduction 을 받을수 있다. 그러나 wage income 이나 C corporation income 은 199A deduction 을 받을수 없다.

## 얼마나 deduct 받을수 있는가 ?

### 199A(a)

(1) The lessor of -

(A) the combined qualified business income amount of the taxpayer, or (B) an amount equal to 20 percent of the excess (if any) of—

(i) the taxable income of the taxpayer for the taxable year, over  
(ii) the sum of any net capital gain (as defined in section 1(h)), plus the aggregate amount of the qualified cooperative dividends, of the taxpayer for the taxable year, plus

(2) the lesser of—

(A) 20 percent of the aggregate amount of the qualified cooperative dividends of the taxpayer for the taxable year, or

(B) taxable income (reduced by the net capital gain (as so defined)) of the taxpayer for the taxable year.

The amount determined under the preceding sentence shall not exceed the taxable income (reduced by the net capital gain (as so defined)) of the taxpayer for the taxable year.

위의 내용을 다시 설명하면 다음과 같다

Combined Qualified Business Income (QBI)

OR

20% of (taxable income - (net capital gain + aggregate of qualified cooperative dividends + (lesser of 20% of aggregate of qualified cooperative dividends OR (taxable income - net capital gain))))  
(대부분의 경우는 taxable income - net capital gain 일것으로 예상된다)



## Modifications to Limit Based on Taxable Income

위의 두가지중에서 적은 금액을 사용하게 된다

예: 결혼한부부의2018년소득은다음과같다

\$100,000 qualified business income

\$100,000 long-term capital gain \$ 30,000 deduction

199A deduction 은 \$14,000 이다

20% of \$100,000 = \$20,000 > 20% of \$70,000 (\$170,000 - \$100,000) = \$14,000

이제 QBI 금액계산 방법도 알았으니 다음 질문은

### What is combined qualified business income?

#### 199A

#### (b)COMBINED QUALIFIED BUSINESS INCOME AMOUNT

For purposes of this section—

(1)IN GENERAL The term “combined qualified business income amount” means, with respect to any taxable year, an amount equal to—

- (A) The sum of the amounts determined under paragraph (2) for each qualified trade or business carried on by the taxpayer, plus
- (B) 20 percent of the aggregate amount of the qualified REIT dividends and qualified publicly traded partnership income of the taxpayer for the taxable year.

(c)QUALIFIED BUSINESS INCOME For purposes of this section—

#### (1)IN GENERAL

The term “qualified business income” means, for any taxable year, the net amount of qualified items of income, gain, deduction, and loss with respect to any qualified trade or business of the taxpayer. Such term shall not include any qualified REIT dividends, qualified cooperative dividends, or qualified publicly traded partnership income.

Combined qualified business income = QBI + 20% of aggregate amount of qualified REIT dividends and qualified publicly traded partnership income 이다 .

#### (b)(3)(B)Phase-in of limit for certain taxpayers

(i)In general If—

- (I) the taxable income of a taxpayer for any taxable year exceeds the threshold amount, but does not exceed the sum of the threshold amount plus \$50,000 (\$100,000 in the case of a joint return), and
- (II) the amount determined under paragraph (2)(B) (determined without regard to this subparagraph) with respect to any qualified trade or business carried on by the taxpayer is less than the amount determined under paragraph (2)(A) with respect such trade or business

Taxable Income 이 \$157,500- \$207,500 (MFJ 는 \$315,000-\$415,000) 인 경우 phase-in limitation 이 적용된다.

(b)(3)(B)(ii) Amount of reduction the amount determined under this subparagraph is the amount which bears the same ratio to the excess amount as—

- (I) the amount by which the taxpayer’s taxable income for the taxable year exceeds the threshold amount, bears to
- (II) \$50,000 (\$100,000 in the case of a joint return).

(iii)Excess amount For purposes of clause (ii), the excess amount is the excess of—

- (I) the amount determined under paragraph (2)(A) (determined without regard to this paragraph), over
- (II) the amount determined under paragraph (2)(B) (determined without regard to this paragraph)

Limitation 은 (b)(2)(A) 가 (b)(2)(B) 보다 많을때에만 적용되며 limitation amount 는 ((b)(2)(A) - (b)(2)(B)) multiplied by Ratio calculated from (b),(3),(B),(ii)이다.

## Limitation Based on Wages and Capital

Combined QBI 를 계산한 후 deduction 를 받으려면 또 하나의 관문이 있다.

### (b)(2) DETERMINATION OF DEDUCTIBLE AMOUNT FOR EACH TRADE OR BUSINESS

The amount determined under this paragraph with respect to any qualified trade or business is the lesser of—

(A) 20 percent of the taxpayer's qualified business income with respect to the qualified trade or business

or

(B) The greater of—

- (i) 50 percent of the W-2 wages with respect to the qualified trade or business,

or

- (ii) The sum of 25 percent of the W-2 wages with respect to the qualified trade or business, plus 2.5 percent of the unadjusted basis immediately after acquisition of all qualified property.

Deduction 받을 수 있는 금액은 each qualified trade or business 별로 계산하게 되는데, 위의 199A(b)(2)(A) 와 199A(2)(B)를 비교해 적은 금액이 deductible amount 이다. 199A(b)(2)(A) 는 위에서 설명하였고 199A(2)(B) 는 W-2 의 50% 나 월급의 25% + 2.5% 의 acquisition of qualified property 중 더 큰 금액이다.

예: A 는 상업용건물을 LLC 이름으로 가지고 있다. 2018 배당된 A 의 소득은 \$800,000 이고

W-2 는 없고

건물의 unadjusted basis 는 \$10,000,000 이다

여기서 deductible amount 는 \$160,000 이다

$25\% \text{ of } W-2 + 2.5\% \text{ of } \$10M = \$250,000 > 50\% \text{ of } W-2 = \$0$   
OR  $20\% \text{ of } \$800,000 = \$160,000$

## Qualified Trade or Business

그럼 이제는 qualified trade of business 가 무엇인지 알아보자

(d) QUALIFIED TRADE OR BUSINESS For purposes of this section—

(1) IN GENERAL The term “qualified trade or business” means any trade or business other than—

- (A) a specified service trade or business, or
- (B) the trade or business of performing services as an employee.

(2) SPECIFIED SERVICE TRADE OR BUSINESS The term “specified service trade or business” means any trade or business—

- (A) which is described in section 1202(e)(3)(A) (applied without regard to the words “engineering, architecture,”) or which would be so described if the term “employees or owners” were substituted for “employees” therein, or
- (B) which involves the performance of services that consist of investing and investment management, trading, or dealing in securities (as defined in section 475(c)(2)), partnership interests, or commodities (as defined in section 475(e)(2)).

일반적으로 모든 사업체를 뜻하지만 a specified service trade or business 와 performing services as an employee 일 경우는 포함되지 않는다.

여기서 우리가 주의해야 할 것은 “specified service” 이다. Section 1202(e)(3)(A) 에 명시된 것은, services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services or any trade or business where the principal asset of such trade or business is the reputation or skill of 1 or more of its employees 이다.

그러나 이 list 에서 engineering 과 architecture 은 199A(d)(2) (A) 에 명시한대로 예외다. 즉, engineering 과 architecture 은 qualified trade or business 이다.

항상 그렇듯이 specified service trade or business 에도 예외는 있다.

(d)(3) EXCEPTION FOR SPECIFIED SERVICE BUSINESSES BASED ON TAXPAYER'S INCOME

(A) IN GENERAL If, for any taxable year, the taxable income of any taxpayer is less than the sum of the threshold amount plus \$50,000 (\$100,000 in the case of a joint return), then—

(B) APPLICABLE PERCENTAGE For purposes of subparagraph (A), the term “applicable percentage”, means, with respect to any taxable year, 100 percent reduced (not below zero) by the percentage equal to the ratio of—

- (i) The taxable income of the taxpayer for the taxable year in excess of the threshold amount, bears to
- (ii) \$50,000 (\$100,000 in the case of a joint return).

SPECIFIED SERVICE TRADE OR BUSINESS 일지라도 TAXABLE INCOME (199A DEDUCTION 을 포함하지 않은 금액) 이 THRESHOLD AMOUNT 를 넘지 않으면 199A DEDUCTION 을 받을 수 있다. THRESHOLD AMOUNT 는 199A(E)(2)(A) 에 명시되었듯이 \$157,500이 모두에게 적용되며 JOINT FILING 일 경우에만 \$315,000 이 적용된다.

만일 199A DEDUCTION 을 포함하지 않은 TAXABLE INCOME 이 \$157,500 - \$207,500 JOINT FILING 일 경우 \$315,000 - \$415,000 이면 PHASE-IN LIMITATION 이 적용된다.

(e) OTHER DEFINITIONS For purposes of this section—

(1) TAXABLE INCOME Taxable income shall be computed without regard to the deduction allowable under this section.

(2) THRESHOLD AMOUNT

(A) IN GENERAL The term “threshold amount” means \$157,500 (200 percent of such amount in the case of a joint return).

**또 한가지 알아야 할 것은 “Qualified property” 이다**

(6) QUALIFIED PROPERTY For purposes of this section:

(A) In general The term “qualified property” means, with respect to any qualified trade or business for a taxable year, tangible property of a character subject to the allowance for depreciation under section 167—

- (ii) which is used at any point during the taxable year in the production of qualified business income, and
- (iii) the depreciable period for which has not ended before the close of the taxable year.

(B) Depreciable period The term “depreciable period” means, with respect to qualified property of a taxpayer, the period beginning on the date the property was first placed in service by the taxpayer and ending on the later of—

- (i) the date that is 10 years after such date, or
- (ii) the last day of the last full year in the applicable recovery period that would apply to the property under section 168 (determined without regard to subsection (g) thereof).

Qualified property 는 qualified trade of business 에서 사용하는 tangible property 이며 199A 목적의 depreciable 기간은 10 년 이고 만일 recovery 기간이 10 년 이상일 경우에는 Section 168 의 recovery period 에 기간에 근거하되 the last day of the last full year 까지이다.

#### Limitation to Wages attributable to qualified business income

(b)(4) WAGES, ETC

(A) In general The term “W-2 wages” means, with respect to any person for any taxable year of such person, the amounts described in paragraphs (3) and (8) of section 6051(a) paid by such person with respect to employment of employees by such person during the calendar year ending during such taxable year.

(B) Limitation to wages attributable to qualified business income Such term shall not include any amount which is not properly allocable to qualified business income for purposes of subsection (c)(1).

Wage limitation 은 qualified business income 일때만 적용이 됨으로 specified service trade or business 는 wage limitation 을 계산하지 않는다.

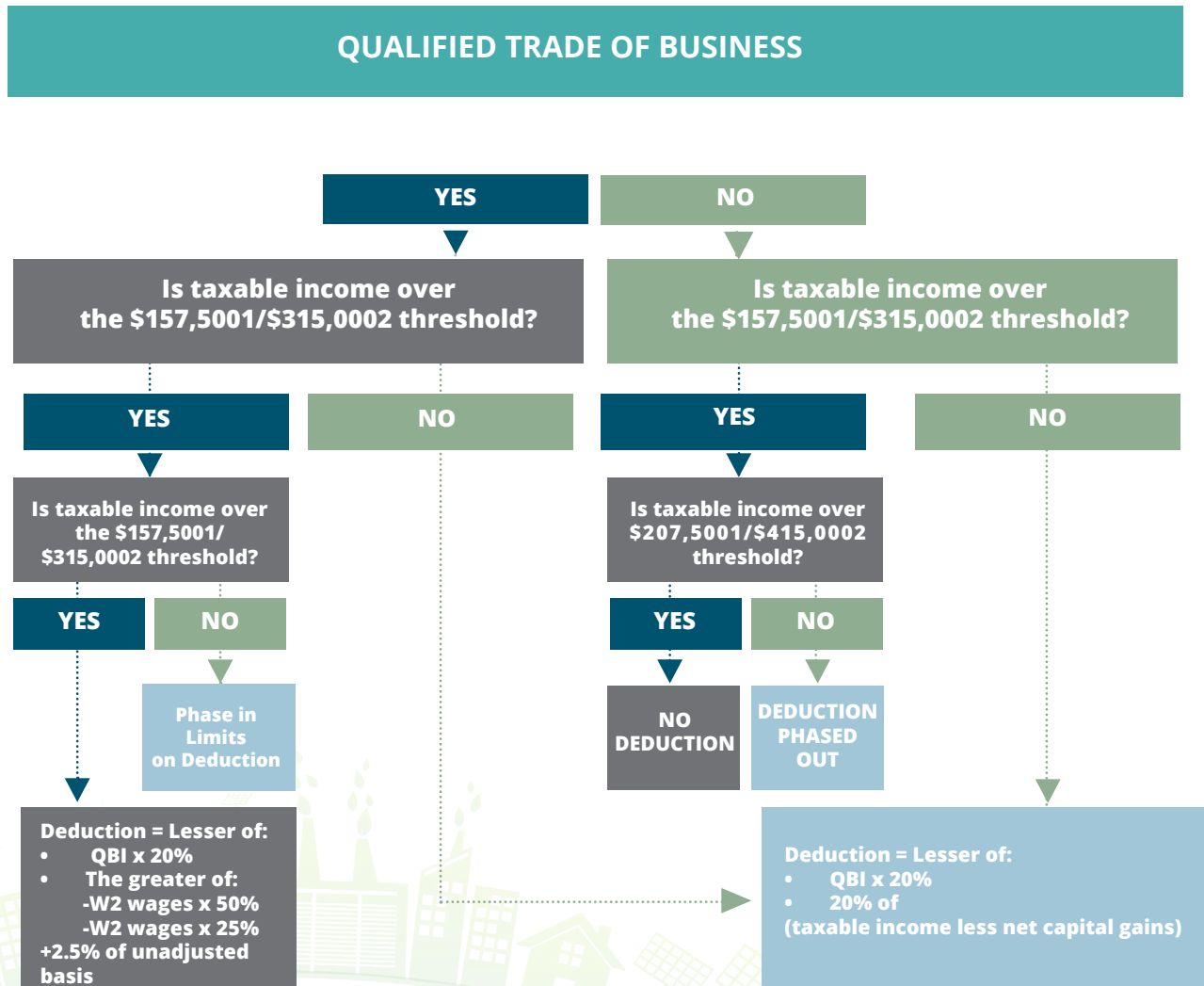
**199A deduction 은 income tax 금액까지만 받을 수 있다.**

(f)(3) DEDUCTION LIMITED TO INCOME TAXES

The deduction under subsection (a) shall only be allowed for purposes of this chapter .

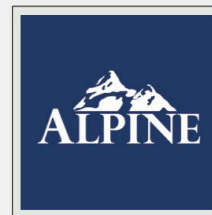
마지막으로 199A deduction 은 2025 년 12 월 31 일까지만 적용이 된다. 지금까지 여러장으로 설명을 했는데 한장의 chart 를 만들어 보았다.

아래 chart 가 도움이 되었으면한다.





# The next step in simplifying your increasingly complex life



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# Pension And Investment

## Business Owners, Section 199A Deduction and Qualified Retirement Plans



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### Tax Cuts and Jobs Act

-Legislation fast-tracked

- House version introduced November 2 - passed November 16
- Senate version introduced December 1 - passed December 2
- Conference committee revision on December 15
- House passes bill on December 19; Senate on December 20 on partisan basis

-Signed into law on December 22, 2017

-Effective date of January 1, 2018 (for most provisions)

-Many tax changes sunset December 31, 2025

### Section 199A Deduction

-New Internal Revenue Code Section 199A ("QBI Deduction")

-20% income tax deduction on "qualified business income" for owners of a pass-through entity (i.e., S corporation, partnership, limited liability company, sole proprietorships)

- QBI is domestic business income and excludes investment interest, capital gains, commodities gains
- QBI includes rental and royalty income plus REIT dividends and qualified publicly traded partnership income

-Very complex provision and contains numerous requirements and limitations

-“Sunsets” in 2026

-Two limitations to QBI Deduction

## Tax Reform Summary - Business Taxes

### First Limitation

- "Specified service trade or businesses (SSTB)" are generally NOT eligible unless income limits are not exceeded
- SSTB is a business that performs services in the fields of health, law, accounting, performing arts, consulting, financial services, brokerage services, athletics and actual sciences where the principal asset of the business is the reputation or skill of its employees or owners.
- Specifically excluded from SSTB are engineers and architects
- Some or all of the deduction may be available to SSTB owners if total taxable income from all sources does not exceed certain limits - \$157,500/\$315,000 (single/married joint filer) phasing out at \$207,500 /\$415,000

### Section 199A Example #1:

-Jane makes \$100,000 of income from her sole proprietorship. Her husband makes \$50,000 for combined total of \$150,000

- We ignore standard deduction and other deductions.

-Jane has 199A deduction of \$20,000 ( $20\% \times \$100,000$ )

-Total taxable income is now \$130,000.

-199A provides an effective top marginal rate of 29.6% [ $37\% \times (1 - 20\%)$ ]

### Section 199A Example #2:

-Jane is a lawyer and operates as a professional limited liability company (PLLC)

- Single member LLC is a disregarded tax entity and she files a Schedule C for her business income

-Jane's business is classified as a "Specified service trade or business."

-Jane files jointly with her spouse and their taxable income in 2018 will be exactly \$415,000, consisting of \$515,000 of net profits from her PLLC and \$100,000 of deductions on her Form 1040

- Includes standard deduction and other deductions

-With taxable income of \$415,000, they cannot claim any

qualified business income deduction under the rules of Section 199A

-Jane and her husband are "at the \$415,000 threshold"

### Section 199A Example #3:

-Jane is a 50% partner in a law firm that generated \$500,000 in net profits. She receives her \$250,000 share. Jane's husband works as a salesman for widgets and makes a \$100,000 salary.

-They also have \$40,000 of interest and dividends from their investments.

-Their combined AGI is \$390,000, assuming no other deductions. They claim the \$24,000 Standard Deduction, which reduces their tentative taxable income to \$366,000.

-As a lawyer, Jane's business is a SSTB so she is not entitled to take the 20% QBI deduction (which would have been \$50,000 - 20% of \$250,000) unless income limits are met.

-The couple's tentative taxable income is \$366,000 which is 51% of the way through the SSTB phaseout zone ( $\$366,000 \text{ minus } \$315,000 = \$51,000 \div \$100,000 = 51\%$ ) for married couples). As a result, they only keep 49% (49% of \$50,000 = \$24,500) of their QBI deduction, which ultimately reduces their taxable income to  $\$366,000 - \$24,500 = \$341,500$ .

### Second Limitation

-QBI deduction is limited to the greater of (i) 50% of W-2 wages paid with respect to qualified trade or business or (ii) sum of 25% of W-2 wages plus 2.5% of the "unadjusted basis" of "qualified property"

- Unadjusted basis of qualified property is full acquisition cost of depreciable tangible property used in the qualified trade or business.

-Reductions for "reasonable compensation"

- W-2 salary for S corporation shareholders
- "Guaranteed payments" for partners of partnerships



**Example #1**

-Jane is an investor in commercial real estate and owns and rents the properties.

-She purchased several properties for \$3 million which generates total profit to her of \$400,000. She does not pay herself a salary.

-She employs 3 people to administer the properties at a total salary of \$200,000.

-Her QBI deduction would normally be \$80,000 (20% of \$400,000) before the wages limitation.

-The limitation would be the greater of \$100,000 (50% of W-2 wages); or \$125,000 (25% of W-2 = \$50,000) plus (2.5% of depreciable assets = \$75,000)

-The QBI deduction is limited to the lesser of 20% of QBI or the wages limitation - or \$80,000 in this case.

**Planning Opportunities - Business**

-Does it make sense to fractionalize your business into more than one entity to take advantage of the Section 199A deduction?

-Example: Manufacturing company owns plant as well as trucks and equipment for distributing products

- Spin off plant into separate S corporation or LLC and lease back real estate.
- Spin off trucks and equipment into separate S corporation or LLC and contract back for services
- Fractionalization of business should be considered anyway for asset protection purposes.

-Proposed regulations issued August 8, 2018 puts that strategy in doubt

-Solution for SSTB owner - reduce taxable income to meet income threshold of Section 199A.

- Purchase new equipment to take advantage of bonus depreciation rules (does NOT apply to all businesses)

- Install a qualified retirement plan (does apply to all businesses)-In particular, a profit sharing and/or defined benefit pension plan

**Remember This Example?****-Section 199A Example #2:**

- Jane is a lawyer and operates as a professional limited liability company (PLLC)-Single member LLC is a disregarded tax entity and she files a Schedule C for her business income
- Jane's business is classified as a "specified service trade or business"
- Jane files jointly with her spouse and their taxable income in 2018 will be exactly \$415,000, consisting of \$515,000 of net profits from her PLLC and \$100,000 of deductions on her Form 1040.
- With taxable income of \$415,000, they cannot claim any qualified business income deduction under the rules of Section 199A
- Jane is "at the \$415,000 threshold"

**- Section 199A Example #2 (cont'd):**

-Jane establishes a qualified retirement plan and makes a tax-deductible plan contribution of \$100,000.

-The couple's taxable income will now be \$315,000, putting them below the threshold and Jane's service business income is now eligible for the 20% deduction

-20% of \$315,000 of taxable income = \$63,000 deduction

**Common Retirement Plans****-403(b) Plans**

Also called a tax-sheltered annuity or TSA plan

- Retirement plan offered by public schools and certain 501(c)(3) tax-exempt organizations
- Employees save for retirement by contributing to individual accounts



- Maximum deferral is \$18,500 for 2018 plus \$6,000 catch-up for participants 50 and over

#### -457(b) Plan

- Available for certain state and local governments and non-governmental entities tax exempt under IRC Section 501
- Employees can defer income taxation on retirement savings into future years
- Maximum deferral is \$18,500 for 2018 plus \$6,000 catch-up for participants 50 and over

#### SIMPLE IRA

- Savings Incentive Match Plan for Employees, allows employees and employers to contribute to traditional IRAs set up for employees.
- It is ideally suited as a start-up retirement savings plan for small employers not currently sponsoring a retirement plan.
- Maximum contribution is \$12,500 with \$3,000 catch-up for those 50 and over.

#### SEP

- Simplified Employee Pension plan can provide a significant source of income at retirement by allowing employers to set aside money in retirement accounts for themselves and their employees
- Funded solely by employer.
- A SEP does not have the start-up and operating costs of a conventional retirement plan and allows for a contribution of up to 25 percent of each employee's pay up to \$55,000 for 2018.

#### 403(b) Plans, 457(b) Plans, SEPs, SIMPLEs

- **NOT** designed for small business owners and highly compensated employees
- Greater limitations on contributions
- Designed for rank-and-file
- Designed for start-ups and very small businesses

- Few or no common law employees
- Low or fluctuating profits
- Willing to cover part-time employees
- Willing to have employer contributions 100% vested
- Minimal administrative and maintenance expenses

#### Retirement Plans for Business Owners

-Profit Sharing / 401(k) Plan

-Defined Benefit Plans

- Traditional DB Plan

- Cash Balance Plan

- Fully Insured Plan

#### Profit Sharing / 401(k) Plan

##### Profit Sharing

-A profit sharing plan accepts discretionary employer contributions.

- Allows different methods for determining each participant's allocation.
- Pro rata percentage of compensation
- Points based on compensation and years of service
- Integrated with Social Security
- Age based
- Cross tested

-Maximum contribution of 25% of eligible compensation (up to \$55,000 per individual)

-Maximum compensation to be considered \$275,000

-Profit Sharing Plan with a Cash or Deferred Arrangement (401(k))

- Allows employees to elect to defer compensation on a pre-tax basis.
- May also allow employees to elect to contribute compensation on an after-tax basis (Roth feature)

- May contribute up to \$18,500 for 2018
- May also contribute an additional catch-up of \$6,000 (for those age 50 or older)

### Candidates

- Small to moderate size businesses
- Flexible discretionary contributions
- Goal to favor certain classes of employees
- Goal to incentivize employees via a matching formula or through discretionary a profit sharing formula
- Vesting schedule for employer discretionary contributions
- Plan budget of 25% of compensation or less
- May provide higher contributions for those earning over the Social Security Taxable Wage Base (\$128,400)

### Defined Benefit Pension Plans - Generally

-Provides a benefit based on a fixed formula

- Fixed dollar amount
- Certain amount for each year of service
- Percentage of final average pay (e.g., highest 3 years)

-Employer assumes performance risk

- Guarantees benefits to plan participants

-No contribution limits

- Actuarially determined
- Must maintain minimum funding limits
- Contributions solved for maximum benefits allowed (i.e., \$220,000 per year for 2018)
- Maximum compensation considered is \$275,000 (for 2018)

-Candidates

- Older business owners (usually within 5 to 10 years of retirement)
- Sole practitioners or small family owned and operated businesses
- Few, if any, employees; employees much younger
- Side businesses (e.g., consulting, independent Board fees, speaking fees, royalties, residuals, etc.)
- High income earners with spouses with self-employment income
- High income; income greater than needed for lifestyle expenses
- Well established business with stable profits
- Willing to budget more than 25% of eligible compensation
- Looking to play catch up with retirement planning
- Commitment to contribute to the plan
- Can have other retirement plans (e.g., layer on top of profit sharing/401(k) plan)
- Substantial benefits can be provided and accrued within a short time - even with early retirement (resulting in greater deductions)
- Employers can contribute (and deduct) more than other retirement plans
- Plan provides a predictable benefit
- Vesting can follow a variety of schedules from immediate to spread out over seven years
- Benefits are not dependent on asset returns
- Plan can be used to promote certain business strategies by offering subsidized early retirement benefits
- Most costly type of plan
- Most administratively complex plan

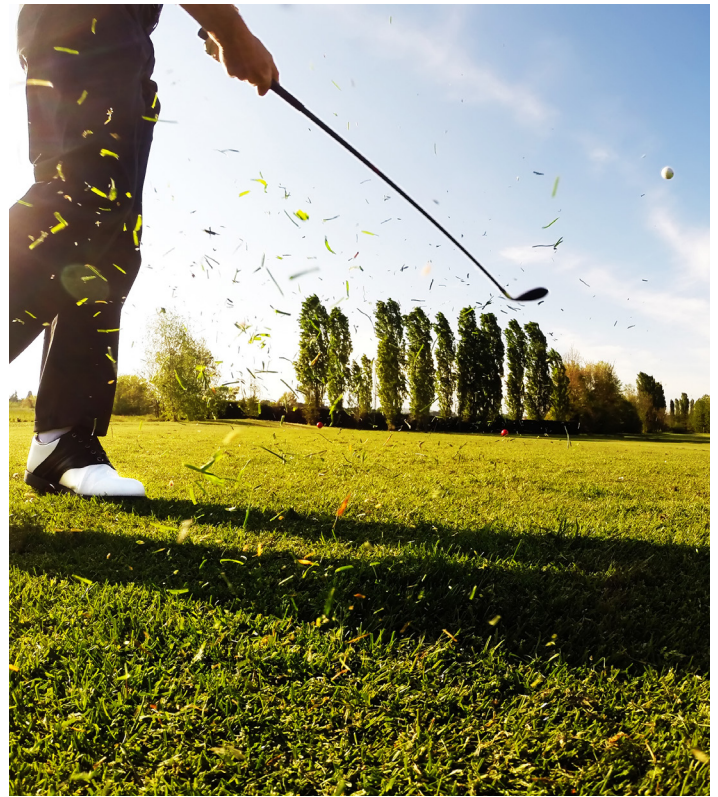
## Types of Defined Benefit Pension Plans

### -Traditional

- Expresses the pension as a monthly single life annuity commencing at Normal Retirement Age (NRA)
- Tends to have higher contributions as the participant nears NRA
- Contributions typically invested in equities and employer contributions can vary dramatically
- Some of the contributions can be invested in cash value life insurance

### -Cash Balance

- Expresses the pension as a hypothetical account balance or lump sum amount
- Contributions are usually based upon a percentage of salary plus an interest credit
- Benefits can be segregated based upon job classification



### -Fully Insured

- Funded exclusively with annuities or a combination of annuities and cash value life insurance contracts
- Uses the guarantees of the annuity and insurance contracts and therefore no market risk
- More conservative assumptions typically result in larger contributions to fund benefit

## Comparison Illustrated contributions for a single participant plan

Current Age	Retirement Age	Salary*	Profit Sharing	Defined Benefit
45	65	\$275,000	\$55,000	\$93,889
50	65	\$275,000	\$61,000	\$142,465
55	65	\$275,000	\$61,000	\$238,843
60	65	\$275,000	\$61,000	\$269,073

\*Max compensation that can be considered is \$275,000

## Putting it Together - Example 1

### Assumptions:

- John is a CPA
- Single, Age 50
- Sole Proprietor
- No full-time employees
- Annual earnings of \$250,000
- No formal retirement plan

John	No Retirement	With Defined Benefit Plan
Income	\$250,000	\$250,000
Contribution	\$0	\$97,500
Qualified Business Income	\$250,000*	\$275,000
§199A Deduction (20%)	\$0	\$30,500
Net Income	\$250,000	\$122,000
Tax	\$63,190	\$23,570
Tax Savings	\$0	\$39,620

\* Exceeds income threshold of \$157,500 and phaseout limit of \$207,500 (for single filer)

\*\*Below income threshold of \$157,500

## Putting it Together - Example 2

### Assumptions:

- John is a physician
- Married, Age 62
- Owns practice as a S corporation
- Has 4 full-time employees
- Annual earnings of \$620,000
- Has a profit sharing plan



Owner	Age	Compensation	Profit Sharing Contribution	Cash Balance DB Plan Contributions	Total Contributions
Dr. John	62	\$275,000	\$14,876	\$283,261	\$298,137
EMPLOYEES	65		\$275,000	\$61,000	
#1	27	\$20,000	\$1,480	\$550	\$2,030
#2	34	\$39,000	\$2,886	\$550	\$3,214
#3	25	\$21,000	\$21,000	\$550	\$2,104
#4	30	\$36,000	\$2,664	\$550	\$3,436
TOTAL FOR EMPLOYEES		\$116,000	\$8,584	\$2,200	\$10,784
<b>TOTAL COMPANY</b>		<b>\$391,000</b>	<b>\$23,460</b>	<b>\$285,461</b>	<b>\$308,921</b>

John	No Defined Benefit Plan	With Defined Benefit Plan
Income	\$620,000	\$620,000
Contribution	\$23,460	\$308,921
Qualified Business Income	\$596,540*	\$311,079**
§199A Deduction (20%)	\$0	\$62,216
Net Income	\$596,540	\$248,863
Tax	\$162,393	\$48,306
Tax Savings	\$0	\$114,087

\* Exceeds income threshold of \$315,00 and phaseout limit of \$415,000 (for married filing jointly)

\*\*Below income threshold of \$315,000

## Conclusion

- You help your client qualify for the §199A deduction and save on current income taxes
- You help your client save for future retirement

# Business Valuation Approaches and Challenges



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Litigation support services are necessarily fact-sensitive. Therefore, the presenters urge participants to apply their expertise to particular fact patterns that they encounter, or to seek competent professional assistance as warranted in the circumstances.

- Estate and gift tax Sale/Purchase of a business
- Litigation setting (ie: shareholder dispute, divorce, etc.)
- Planning (ie: estate, potential sale of a business)
- Stock transfer

## THREE COMMON VALUATION APPROACHES

1. Income
2. Market
3. Cost

## APPROACHES

The Asset approach methods seek to determine the business value based on the value of its assets. The idea is to determine the business value based on the fair market value of its assets less its liabilities.



- Based on the cost to replace or re-create the asset
- Business is worth more on its net assets than the earnings

- Common for investment holdings companies
- Under a going concern premise, which method is appropriate?
- Can an asset approach be greater than an income approach or a market approach?
- Asset values might be overstated?
- Check your normalizations

### How do you deal with real estate which is owned by the business?

- Operating v. Non-Operating
- Identify normalization adjustments
- Use of a real estate appraiser
- Use of outside experts

### Identification of excess or non-operating assets

- Cash
- Accounts receivable
- Inventory
- Related Party Loans
- Investments
- Cash Surrender Value of Life Insurance

### INCOME APPROACH

- The business is valued based on the net cash flows generated discounted to present value
- Business financial projections
- Capital expenditures
- Capitalization rate
- Growth rate

- Terminal growth rate
- A dollar received in the future is worth less than a dollar received today
- Discounted cash flows (“DCF”)
- Single period capitalization of earnings (“CCF”)

### DISCOUNTED CASH FLOWS USE OF PROJECTIONS

- When is it appropriate to use?
- Common mistakes made by valuers in a DCF?
- Management’s projections and forecasts
- Challenges in litigation

### CAPITALIZATION OF HISTORICAL EARNINGS

Normalizing ongoing cash flow and EBITDA

- Cash flows v. Net income
- Estimating capitalization rate
- Estimating long term terminal growth rate

### COST OF CAPITAL

- Build-up method
- Duff and Phelps
- Risk Free rate
- Equity Risk Premium
- Size Premium
- Industry Risk Premium
- Company Specific Risk

## MARKET APPROACH

- The Market approach based valuation methods establish the business value in comparison to historic sales involving similar businesses
- Based on arms-length transactions of comparable businesses
- An asset is worth what other, similar assets are worth
- Similar descriptions, size, profitability, EBITDA, sales, discretionary earnings
- Benefits: Easy to understand, real estate
- Weaknesses: Historical sales, management information unknown

## VALUATION 1

- Litigation setting – Shareholder dispute
- Shareholder buy-out – 15% equitable interest
- Company provides entertainment and recreational services
- Company was formed 25 years ago
- Management's forecast available
- Forensic work required
- Real estate - Land

## VALUATION 2

- Non-litigation setting
- Buy – sell purpose
- Wholesale / retail business
- 51% interest
- 25 – 30 year historical numbers available
- Management forecasts available – How reliable are they?
- The Company had positive historical earnings. Is the past indicative of the future?

## VALUATION 3

- Estate tax purpose
- Laboratory facility
- Business has significantly declined in the year of death
- Management's projections are gloomy – Are they biased?
- How reliable are management's forecasts?
- Historical numbers indicate above average growth rate. Recent year was their worst year.
- Validate!

## VALUATION 4

- Divorce litigation
- Physical fitness facility
- 50% interest
- Management's forecasts not available
- Historical numbers indicate positive earnings
- Expensive equipments
- Market approach considerations?





# 믿는 데가 있다!

## 한미은행 SBA론

누구나 꿈을 꾸지만 그 꿈을 이루려면 든든한 금융파트너가 필요합니다.

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# 미국의 국제조세제도의 변화와 GILTI Inclusion 에 대하여



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미국에 거주하는 한인들이 해외에서 설립된 사업체의 주주가 되는 경우가 종종 있다. 가장 일반적인 것은 미국에서 성공한 기업들이 제조 또는 연구 등 사업상 목적으로 한국, 중국, 베트남 등에 자회사를 설립하는 경우이지만, 그 외에도 한국에서 설립되어 성공적으로 운영하던 기업을 세계화시키고 미국의 투자자본을 유치하기 위하여 미국내에 지주회사(Holding Company)를 설립하고 한국에 있는 사업체를 자회사로 전환하는 경우도 있고, 한편으로는 한국에서 부모님이 운영하던 기업의 주식을 양도 또는 상속을 받아서 대주주가 되는 경우도 있다.

그 이유는 어떻게든 상관없이 미국주주 (US Shareholder)가 외국에서 설립된 주식회사의 (1) 의결가능 투표권의 과반수에 해당하는 주식을 보유하거나 (2) 보유한 주식의 가치가 총주식가치의 50%를 초과하는 경우 이 주식회사를 CFC (Controlled Foreign Corporation) 이라고 부른다. US Shareholder라 함은 (1) 의결투표권의 10% 이상을 갖고 있는 주식을 보유하거나 (2) 시장가치 기준을 총 발행주식의 10% 이상을 소유하고 있는세법상 미국인 (시민권자, 세법상 거주자, 미국에서 설립된 partne ship, trust, estate 또는 corporation) 주주를 의미한다. 보유주식이 실제로 의결가능 투표권을 갖고 있는지를 결정하기 위해서는 사실관계에 대한 면밀한 검토가 필요하며, 지분율의 계산을 위해서는 주주의 직접보유 지분, 자회사를 통한 간접보유지분, 그리고 가족이나 관계회사를 통한 의제보유지분은 물론 stock option도 고려해야 한다.

작년 12월말 The Tax Cuts and Jobs Act (TCJA) 를 통해 미국의 국외원천소득에 대한 과세제도가 전세계소득과세 (worldwide taxation) 원칙에서 Participation Exemption System에 의한 지역적과세 (territorial taxation) 원칙으로 변경되었다. Participation Exemption이란 주주가 피투자회사로부터 수령하는 배당금에 대한 과세를 면제해 줌으로써 이중과세를 방지하는 것을 말하는 용어인데, 2017년 세법개정시 신설된 세법 245A 조에 따라서 미국내에서 설립된 주식회사 (domestic corporations)가 CFC의 US Shareholder로서 수령하는 국외원천이익을 배당금공제 (Dividends Received Deduction) 제도를 통해 전액 비과세 처리하는 것을 의미한다.

참고로, 2017년 세법개정 이전에는 외국주식회사의 주식을 보유한 미국납세자가 이익금을 배당으로 수령하기 전까지는 일반적으로 동 이익에 대한 납세 의무가 없었다. 하지만 세법 952조에 정의된 CFC의 Subpart F Income (insurance income 과 foreign base company income 등)은 CFC의 회계년도 마지막 날 지분을 보유한 US Shareholder가 자신에게 할당되는 만큼을 실제 현금배당수령 여부와 상관없이 당년 Gross Income 계산에 배당금으로 포함시켜서 보고했어야 한다. 단, 그 이후에 실제로 배당금을 수령할 경우에는 다시 과세대상이 되지 않았다. 이러한 Subpart F Income에 대한 과세방법은 Participation Exemption이란 새로운 제도로 이행한 이후에도 변화가 없지만, 세법개정 이전에 과세가 이연되어 누적된 CFC의 earnings & profits 를 일시에 과세하기 위하여 Transition Tax (또는 Toll Tax)



를 부과하는 세법 965조가 신설되었고 이는 2017년 소득세신고서 세금납부 및 세무신고서 작성에 많은 혼란을 준 큰 이슈가 되었다.

Participation Exemption System 도입으로 인해 납세자들이 소득을 -- 특히 이동이 용이한 무형자산으로부터 발생하는 소득을 -- 미국보다 세율이 낮은 나라로 이전할 가능성이 있다는 우려에 기인하여 세법 951A조가 신설되었다. 즉, US shareholder가 보유한 CFC 전체의 CFC 순이익 중 자신에게 할당되는 금액 (net CFC tested income) 이 세법에서 정한 적정수준 이상의 이익 (net DTIR: net deemed tangible income return)을 초과하는 경우 이를 GILTI (Global Intangible Low Taxed Income)라는 무형자산에서 창출된 새로운 종류의 국외원천소득으로 분류하여 Subpart F Income처럼 US shareholder의 당기 gross income에 포함(inclusion) 시키도록 의무화하였다.

각 CFC가 보유무형자산을 통해 창출하는 이익을 직접 추적하고 계산하는 것이 현실적으로 어렵기 때문에 세법 951A조는 net DTIR이란 가상의 적정이익을 제시하고 있는데 이는 (1) CFC가 해외사업을 위해 투자하여 활용하고 있는 유형자산을 ADS 방법에 따라 감가상각을 하고 남은 미상각잔액에 10%를 곱한 금액에서 (2) net CFC income을 계산하는데에 사용된 이자비용 중 이자수익을 초과하는 금액을 차감한 금액을 말한다. 이에 더하여, US Shareholders가 corporate taxpayer인 경우에는 국제경쟁력 확보 차원에서 GILTI inclusion 금액의 50% 만큼을 공제할 수가 있고 외국납부세액공제 (Foreign Tax Credit)도 적용되나 다른 종류의 납세자에게는 이러한 혜택이 적용이 되지 않는다.

GILTI inclusion 은 CFC의 경우에는 2017년 12월 31일 이후에 시작되는 회계년도부터 적용이 되고 US Shareholders의 경우는 2017년 12월 31일 이후에 시작된 CFC의 회계년도가 끝나는 날이 포함된 회계년도부터 적용된다. 예를 들어 US shareholder와 CFC의 회계년도가 모두 2017년 12월 31일에 끝난 경우에는 2018 회계년도부터 이 조항이 적용된다. 때문에 당장 적용되는 GILTI inclusion 금액의 계산에 대한 지침을 제공하기 위하여 국세청은 지난 9월 13일 서문 69페이지와 본문 88페이지에 달하는 시행령안을 발표하였다. 시행령안을 통해 GILTI inclusion 금액 산정에 필요한 여러가지 항목의 정의를 제공하고 각 항목의 계산이 어떻게 이루어지는지 또 US shareholder의 할당금액 (pro rata share)가 어떻게 결정되는지를 설명하였는데 Subpart F Income의 산정과 관련된 조항들을 많이 차용하고 있다. 특히 US shareholder partner가 있는 US partnership (또는 S corporation)이 US shareholder인

경우와 US Shareholder가 연결세무신고 (consolidated tax return)를 하는 경우에 대한 지침이 어떻게 결정되었는지를 설명하고 있다. 하지만 corporate shareholder들에게 꼭 필요한 세법 250조에 따른 GILTI deduction의 계산, GILTI inclusions에 의해 사용가능한 외국납부세액공제 (FTC)의 계산, 이에 상응하는 Section 78 gross-up의 계산 등은 이번에 발표된 시행령에서 다루어 지지 않아 다음에 나올 시행령안이나 각종 국세청지침을 기대해 보아야 하는 입장이다.

GILTI inclusion rules로 인해 US Shareholders가 당기에 세금을 부담해야 하는 소득의 범위가 넓어졌으므로 CFC 지분을 소유하고 있는 US shareholder 고객들 - 예를 들어 해외에 생산 및 판매법인 또는 IP holding company 등을 소유하고 있는 고객들 - 에게 세무 자문을 할 때 주의깊게 살펴 보아야 할 필요가 있다.



# 1031 조건과 DST 부동산 활용법



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## 45일 조건 3 개 건물 중 하나 DST 부동산 지정

### 아파트 DST 안정적인 분산투자로 인기

1031 세법은 부동산을 팔아서 생기는 이익에 대한 세금을 연기해 줄뿐만 아니라 상속시 Step-Up Tax Basis 라는 세법을 활용하여 Capital Gains Tax (양도소득세)을 면제 받을수 있는 아주 유용한 세법이다. 더우기 2018 개정세법으로 상속세 면제금액도 크게 올라 많은 부동산 소유주는 세금없이 부동산을 상속할수 있다.

그러나 이렇듯 유리한 1031 세법을 활용하려면 아래와 같이 여러가지 까다로운 조건을 충족시켜야한다.

1. 건물을 팔고난 후 45일 이내에 재투자할 건물을 지정하여야하고 180일 이내에 재투자를 완료해야한다.
2. 판건물의 소유주와 재투자하는 건물을 소유주 명의가 같아야 한다.
3. 판건물에서 발생하는 모든 현금을 재투자건물에 투자해야한다.
4. 재투자 건물의 가격이 판 건물의 가격보다 같거나 높아야한다.

첫번째 조건인 재투자용 건물을 45일 안에 정하는 것이 가장 어렵다.

그래서 세법은 재투자할 건물을 3개까지 허용하며 그중 하나에만 투자해도 교환이 성립된다. 그런데 요즘같이 부동산경기가 최고조 일때는 첫번째 지정해놓은 건물이 매입과정에서 잘못되어 깨어지면 2,3번으로 정해놓은 건물이 그사이에 팔려버려서 더 이상 1031이 진행되기 어려운 경우가 많다. 이런경우 3개중 하나를 DST 부동산으로 지정해 놓으면 혹시 첫번째 건물의 매입이 무산되더라도 DST 부동산을 통해 1031 교환을 완결할수 있다.

두번째는 판건물과 재투자 건물의 소유주 명의가 같아야한다는 점이다. 그런데 LLC 등으로 여러명이 공동투자한경우 건물을 팔고 재투자 과정에서 서로의 의견이 다를수가 있다. 이런경우는 LLC를 해체(dissolution) 하고 TIC(tenancy-in-common) 형태로 바꾸면 투자자들은 자기의 길을 따로 갈수있다. 이 방법을 Drop-and-Swap 이라고 하는데 과정이 까다롭기에 반드시 본인의 CPA 와 상의 후 결정하는 것이 좋다.

세번째 조건은 판 건물에서 발생하는 현금이 재투자용 부동산에 모두 투자되어야한다는 것이다. 그런데 부동산을 오래 가진 경우는 시가가 많이 올랐고 또 은행융자도 거의 없는 경우가 많아 모든 에퀴티를 다 재투자하는 것보다 일부 에퀴티를 사용하고 싶은 경우도 많다. 이런 경우는 건물을 팔기전에 사용하고 싶은 만큼 재용자를해서 개인적으로 사용하고 나머지를 1031 교환으로 재투자 하면 세금문제를 해결할수 있다. 다만 국세청에서 현금사용을 Boot 으로 해석할 수 있으니 반드시 본인 CPA 와 사전 상담이 필요하다.



네번째 조건 재투자건물의 가격이 판건물보다 같거나 높아야 되는데 만약 재투자 건물이 판건물보다 가격이 낮으면 차액에 대한 세금이 부과된다. 방법은 차액만큼 다른 부동산을 구입하면 세금이 연기가된다. DST 부동산은 1031 교환이 준비된 상태에서 최소투자액이 10만달러로 시작되기에 이런 짜투리 (odd balance) 부동산투자에도 활용할수 있다.

투자의 기본은 원금안전이며 안전성을 높이기 위해 분산투자를 한다. 일반적으로 주식투자의 귀재들도 한회사에 4% 이상 투자하지 않는 것이 정석이며 그래서 뮤쥬얼펀드는 기본적으로 20개 이상의 주식에 분산투자한다. 부동산으로 보면 아파트는 테넌트가 여럿이 있어 뮤쥬얼펀드 개념에 가깝고 싱글테넌트 부동산은 한 주식에 투자하는 것과 비슷하다. 그럼으로 은퇴 후 1031 교환은 아파트 DST 부동산을 고려해볼만하다.



# 갑자기 쓰러진 남편



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지인 중 한 분께서 갑자기 쓰러지셨다. 의사 만나기를 너무도 싫어하셔서 병원에 가 본 기억도 없으시고, 그 흔한 콜레스테롤 약마저도 드신 적이 없는 분이였다. 가볍게 앓는 감기 외에는 병이라고는 모르고 평생 살아오셨었다. 항상 본인 건강이라면 자신감이 넘쳐흐르는 강인했던 분이 고요하고 선선한 뉴욕의 한 가을 아침에, 조용히 무너지듯 쓰러지셨다. 뇌졸중이었다.

활발한 사회 활동을 하였던 이 분의 삶은 한순간에 모두 멈추었다. 후유증으로 의사소통이 불가능해졌기 때문에 이 분이 무슨 생각을 하시는지 알 길이 없어졌다. 종종 본인께서는 분명히 무슨 말씀을 하시는 것처럼 보였다. 그러나 실제 우리에게 들리는 말씀은 누구도 이해할 수 없는 소리뿐이었다. 혹시나 하는 마음에 글로 써보시도록 연필을 권해드렸지만 연필이 무엇에 쓰는 물건인지 잊어 버리셨다. 온 힘을 다해 연필을 종이에 문질러 보시지만 종이에 남는 건 이해 불가능한 무늬뿐이었다.

얼마 후 병원 의사는 더 이상 해 드릴 수 있는 것이 없다며 이제 재활 요양원으로 옮기셔야 한다고 했다. 재활 치료 중 어떤 날은 가족을 이제 알아보시는 것 같아 모두를 희망에 부풀게 했지만, 사랑했던 아내를 불쾌한 이방인 보는 눈길로 바라보신 날에는 그 희망마저도 잔인한 짓밟힘을 당했다. 이유없이 심하게 화를 터트리시는 날도 있었고, 신음과 짜증으로 하루를 채우시는 날도 있었다. 식구들은 아무리 마음이 상해도, 성하지 않은 몸속에 갇혀 계신 분의 심정을 헤아리며 가련한 마음을 가다듬었다. 곧 회복되실 날을

굳은 믿음으로 기다리며 모든 음식을 정성스럽게 매일같이 갈아 잡수시도록 해드렸다.

몇 개월이 되지 않아 재활 요양원으로부터 메디케어 (Medicare) 재활 혜택이 끝나간다는 통보가 왔다. 장기 간호가 필요하시니 롱텀케어에 전환하셔야 한다는 것이었다. 비용은 월 1만2천달러라고 했다. 자비로 지불하거나 메디케이드 신청을 해야 한다는 것이었다. 아무런 준비가 없었던 배우자에게는 청천벽력 같은 소식이었다. 평생 중산층 생활을 했던 이분들은 집과 얼마의 노후 대비 재산은 있었지만 매년 14만달러가 넘는 간호비를 감당할 수 있는 형편은 아니었다. 얼마 되지 않아 극빈자가 될 처지에 놓이게 된 것이었다. 아무런 준비가 되어 있지 않았다. 무조건 메디케어나 일반 의료 보험으로 모든 간호 비용이 해결될 것이라고 기대하고 계셨었다. 집도 재산도 공동명의로 유지하면 아무런 문제가 없을 것이라고 굳게 믿고 계셨던 것이었다.

이러한 상황은 실제 미국내에서 매일 되풀이 되고 있다. 사랑하는 가족 성원에게 갑작스러운 질환이 발병하거나 불의의 사고가 발생해 병원으로 실려가면, 가족은 당황하게 되고 엄청난 긴장과 스트레스로 고통 받게 된다. 이 때 많은 한인 가정의 성인 자녀들도 많은 눈물을 흘린다. 그러나 하마터면 잃을 뻔 했던 가족 성원이 점진적으로 회복하는 것을 “불행중 다행”이라고 한다면, 감당할 수 없이 계속 불어나는 장기 간호비 문제는 “다행중 불행”이 되어 버린다.

미국에서는 중산층 가정의 환자가 요양원에서 장기 간호를 필요로 하거나 집에서 홈케어 간병인 서비스를 받아야 할 경우 큰 문제이다. 메디케어나 일반 의료 보험으로는 소위 “장기 간호” (Long-Term Care)가 해결되지 않기 때문이다. 메디케어나 관련 의료 보험은 불충분한 혜택을 제공하며 약간 베풀어지는 혜택마저 다양한 방법으로 제한된다. 예로서 현재 뉴욕주의 경우 연간 1인당 약 14만 달러를 쉽게 넘는 장기 간호 비용이 중산층 가정 주위에 도사리고 있다. 아무런 예고 없이 가족을 덮친다. 시니어 부부가 평생 모으신 노후 대비용 재산은 순식간에 모두 사라지게 될 위험에 처하고 만다.

물론 가지고 있던 모든 재산을 간호비용으로 다 쓰고, 거의 극빈자 수준에 달하면 두 번째 정부 의료 혜택인 메디케이드(Medicaid)를 수혜할 수 있다. 메디케이드 수혜자가 되면 메디케어나 일반 의료 보험이 베풀지 않는 홈케어 간병인 서비스, 너싱홈 혜택 등 다양한 장기 간호 혜택을 무료로 받을 수 있다. 특정 환자들의 경우, 요양원 입주를 희망하지 않을 때, 24시간 간병인 혜택이 베풀어 지기도 한다.

그렇다면 이러한 응급 상황이 발생했을 때, 평범한 중산층 환자의 경우 가족의 재산을 모두 잃기 전에 메디케이드 수혜자가 되는 방법은 없을까? 답은 가능하다는 것이다. 얼마나 많은 가족 재산과 수입을 보호받거나 면제받을 수 있는지는, 환자가 처한 개개인의 상황에 따라 판가를 난다. 한 가지 확실한 것은 응급 상황 발생 후에도 올바르게만 대처하면, 환자 가족의 재산과 수입의 주요 부분을 보호하며 합법적인 메디케이드 수혜자가 될 수 있다는 것이다. 물론 건강할 때 미리 준비한 분들의 경우 더 많은 부분을 보호할 수 있게 된다.

중산층 환자의 재산, 수입 면제 및 메디케이드 수혜가 가능한 이유는 다음과 같다: 메디케이드법에는 중산층 가정들이 정부에 환자와 환자 배우자의 재정 상황을 깨끗하게 모두 공개하 특정 법적 조치들을 취하면 메디케이드 혜택을 누리는 것을 가능케 하는 법과 규정들이 들어있기 때문이다. 예로서 뉴욕과 같은 주에서 중산층 부부중 한 배우자가 메디케어나 메디케이드를 동시에 수혜하며 홈케어 간병인이나 너싱홈 혜택을 불가피하게 받아야 한다면, 건강한 배우자의 일부 재산과 수입을 보호하는 법들이 있다.

법원 소송 절차를 통해 중산층 환자가 메디케이드를 수혜하는 데 필요한 법적 조치를 취할 수 있도록 판사로 부터 승인을 받는길도 있다. 또한 사후에 메디케이드가 시니어 수혜자의 집에 저장권을 설정하는 절차로부터 면제받을 수 있는 메디케이드용 트러스트가 있다. 월 수입이 정부 한도액을 초과해 메디케이드 수혜를 받지 못하는 시니어를 위해서는 메디케이드 수혜를 위해 정부 승인을 미리

받고 설립하는 수입 면제용 특수 신탁도 있다. 또한 노후 재산이 일정 수준을 초과했다면, 재산을 모두 잃지 않도록 재산 일부를 정부의 간호 비용 부담을 위해 넘기고, 나머지 재산을 자녀들이 받을 수 있도록 정부 승인을 요청할 수도 있다. 따라서 세밀한 계획을 세우면 중산층 가정도 장기 간호를 요하는 응급 사태가 발생했을 때 메디케이드 수혜자가 되는 길을 많은 경우 만들어 낼 수 있다. 또한 너싱홈에 입원하기를 원치 않으시는 분을 위해서는 집에서 간호를 받도록 미리 계획할 수 있고, 너싱홈 입원을 간절히 희망하시는 분을 위해서는 너싱홈 입원 신청이 거부 당하지 않도록 준비 절차를 밟을 수도 있다.

실행 가능한 수많은 법적 조치들 중 몇 가지만을 간단히 소개하기 위해 뉴욕주의 홈케어 간병인 메디케이드 수혜 케이스를 예로 들어 설명하면 다음과 같다:

### 강숙자님의 케이스

올해 65세이신 강숙자님(가명)(“어머님”)은 1977년 한국에서 남편 강진수(가명)님과 사별하신 후 두 자녀들을 데리고 뉴욕으로 이민 오셨다. 1977년에 \$6만5천달러에 산 어머님의 주택의 시가는 현재 \$55만달러가 되었다. 홀로 평생 열심히 일하셔서 약 \$20만달러를 모으셨고 지금은 안전한 예금에 투자되어 있다. 소셜 시큐리티 연금과 은퇴 연금 등 월 수입은 약 월 \$3,500달러이다. 어머님께서 계속 오르는 생활비와 세금 그리고 의료비 때문에, 힘들게 저축하신 재산이 순식간에 없어질 것을 항상 우려하신다.

어느 날 어머님을 자주 찾아 뵙는 강숙자님의 자제 분들은 어머님의 기억력이 평생시보다 감퇴했다는 것을 눈치챈다. 집안이 이전보다. 지저분해지고 깨끗하지 못하다는 것도 유의하게 된다. 어머님께서 걷는데 불편해하시는 것 같고 관절염 때문에 간단한 일도 힘들어하시는 것을 보게 된다.

얼마 후 아드님은 어머님의 이웃으로부터 이상한 전화를 받게 된다. 어머님께서 공원 벤치에 앉아 계시는데 정신 혼란을 겪으시는 것 같고 집으로 가는 길을 기억하지 못하신다는 것이었다. 이때 아드님은 가족과 상의한 후 어머님을 위해 홈케어 간병인(Home Health Aide)을 마련하기로 결정한다. 문제는 이렇게 하는데 매일 약 평균 \$150달러, 또는 월 약 \$4천5백달러의 비용이 든다는 것을 알게 된다. 강숙자님의 자제분들은 경제적으로 여유가 없기 때문에 이러한 비용을 지불하기 위해 어머님의 재산을 사용할 수밖에 없다는 것도 깨닫게 된다. 그러나 앞으로 최소한 15년은 더 사실 수 있는 어머님의 남은 재산이 몇 년 내에 모두 없어질 것이라는 난처한 결론에 도달한다. 이런 상황일 경우 어떻게 할 수 있는가?



### 중산층 메디케이드 수혜 계획 -(1) 자택 보호/면제

Mrs. 강 의 거주용 자택은 뉴욕주 메디케이드법상 신청 시점에만은 면제 자산에 해당되어 일단 메디케이드 혜택을 받는데 걸림돌이 되지 않는다. 문제는 어머님께서 작고하신 후 이 자택에 정부는 메디케이드 린(lien; 저당권)을 설정한다는 것이다. 따라서 만약 어머님께서 생애에 \$40만달러 상당의 혜택을 받으셨으면 돌아가신 후 집을 자녀들이 받지 못하고 우선 메디케이드를 갚는데 \$40만달러를 사용해야 한다. 이러한 상황을 방지하려면 자택을 메디케이드 집 보호용 신탁(Medicaid trust: 트러스트)에 넣으므로 메디케이드 린으로 부터 면제 받을 수 있다. 어머님께서 계속 여생을 집에서 보내실 수 있도록 법적으로 보호할 수 있으며 어머님 유고시 자녀들이 상속받도록 보호받을 수 있다. 유언장을 사용할 경우 생기는 유언 검증 법원 절차와 비용도 피할 수 있게 된다. 또한 일반적으로 중산층 시니어의 경우 신탁 관리인으로 믿을 수 있는 자녀나 친척을 임명하므로 연 트러스트 관리 수수료 없이 트러스트를 유지할 수 있다.

메디케이드 신탁 사용의 또 하나의 중요한 혜택은 자산 매매차익과 관련된 세금(capital gains tax)을 없애거나 대폭 줄일 수 있다는 것이다. 현행 세법상 부모가 자택을 자녀들에게 생전에 증여할 경우 자녀들은 집을 팔 때 부모의 매입가에서 부터 세금을 계산해서 내야 한다("carry over tax basis"). 그러나 절세 계획을 포함시킨 신탁을 사용할 경우 어머님께서 작고하시는 날의 시가를 사용해 세금이 계산되도록 할 수 있다("stepped up tax basis"). 따라서 어머님 작고 후 즉시 매매할 경우 자산 매매차익 관련 수만달러의 세금은 없어지는 것이다. 물론 이러한 계획을 세울 때 메디케이드 신청전 5년간의 자산 양도 페널티(Medicaid "5-year look back" and penalty)가 발생하는 것을 어떻게 대처할 수 있을지 미리 계획함으로 낭패를 보는 일은 피해야 한다.

### 중산층 메디케이드 수혜 계획 -(2) 유동 자산

\$20만 달러의 예금 문제. 현재 뉴욕주에서 메디케이드 혜택을 받기 위해서는 배우자와 사 한 미망인일 경우 유동 자산이 \$15,150을 초과해서는 안된다(2018년 수치). 따라서 \$20만달러의 예금은 메디케이드 신탁을 설립하거나(5년 증여 페널티가 적용되지 않는 홈케어 간병인 메디케이드의 경우) 자녀들에게 증여 할 수 있다. 물론 증여를 할 경우 자녀에게 예금을 넘긴 기록은 모두 정부 메디케이드 행정기관에 정직하게 공개해야 한다.

### 중산층 메디케이드 수혜 계획 -(3) 초과 수입 면제 조치

월 \$2,500달러 수입 문제. 뉴욕주 메디케이드법상 미망인 수혜자의 월 수입은 2018년 현재 \$862을 초과해서는 안된다. 그러나 어머님

께서는 월 \$2,500달러의 수입이 있으시기 때문에 \$1,638의 초과액이 발생한다. 뉴욕주의 경우 이러한 초과 수입(Excess Income)은 일반적으로 정부에 납부하고 메디케이드를 수혜할 수 있다. 그러나 더 좋은 방법은 메디케이드 수입 신탁을 설립해 사용하면 매월 초과 수입을 면제 받으면서 어머님께서 메디케이드 수혜자가 될 수 있다. 어머님께서 이 초과액을 매월 사용할 수 있게 되지만, 정부와 신탁 관리기관에 지출 내역을 공개해야 한다. 어머님의 매월 초과 수입은 수입 신탁으로 보내진 후 어머님과 관련된 경비(재산세, 전기료, 전화세, 신용카드 청구서 등등)를 지불하는데 사용될 수 있다. 다른 사람의 경비를 지불하거나 현찰로 전환할 수 없다는 제약을 제외하고는 대부분의 경비를 지불하는데 사용할 수 있으므로 편리하고 안전한 법적 도구이다.

이처럼 어머님의 자택을 위해 보호용 메디케이드 신탁을 설립하고, 예금을 정부 메디케이드 행정기관에서 인정하는 신탁으로 유지하거나 자녀들에게 양도한 후 정부에 모두 보고하고, 매월 초과되는 수입을 수입 면제용 신탁으로 보내 어머님의 경비를 지불하게 하면 어머님의 거의 모든 재산과 수입은 면제 또는 보호받게 된다. 정부에 어머님의 모든 트러스트 설립 문서 및 수입원을 모두 깨끗하게 공개하므로 어머님은 형사 처벌을 받을 수 있는 불법이나 편법 조치가 아닌 법적으로 투명한 방법으로 합법적인 홈케어 메디케이드 수혜자가 되실 수 있다. 단, 유의해야 하는 것은 주마다 노후복지법, 메디케이드법의 큰 차이가 있으므로 환자가 거주하는 주에서 어떠한 법적 조치들이 정부 승인을 얻을 수 있는지 반드시 확인해야 한다.

### 중산층 장기 간호 계획

물론 위의 예에서도 볼 수 있듯이 이러한 메디케이드법은 수천만 달러 상당의 재산을 보유한 부유층을 위한 것이 아니다. 또한 평생 저소득층 생활을 했고 모은 재산이 없는 분들을 위한 것도 아니다. 평생 열심히 일을 해서 집을 장만하고 얼마의 은퇴재산을 모았지만 장기 간호 보험료를 부담할 수 없었거나, 롱텀케어 보험 혜택이 고갈 되었거나, 또는 보험가입 시기를 놓친 분들에게 일반적으로 해당된다. 평생 "허리가 휘도록" 일을 해서 일구어 놓은 얼마의 노후 대비용 재산을 단 한 번 찾아온 노후 질병 때문에 허무하게 모두 간호비로 상실하거나 환자의 건강한 배우자가 극빈자로 전락하는 것을 막는 것이 법의 취지이다.

그러나 안타깝게도, 미국의 메디케이드법과 규정들은 엄청나게 복잡하다. 또한 환자의 거주 지역에 따라 매우 다른 법들이 적용된다. 심지어 환자 거주 카운티에 따라 법의 해석과 집행의 큰 차이가



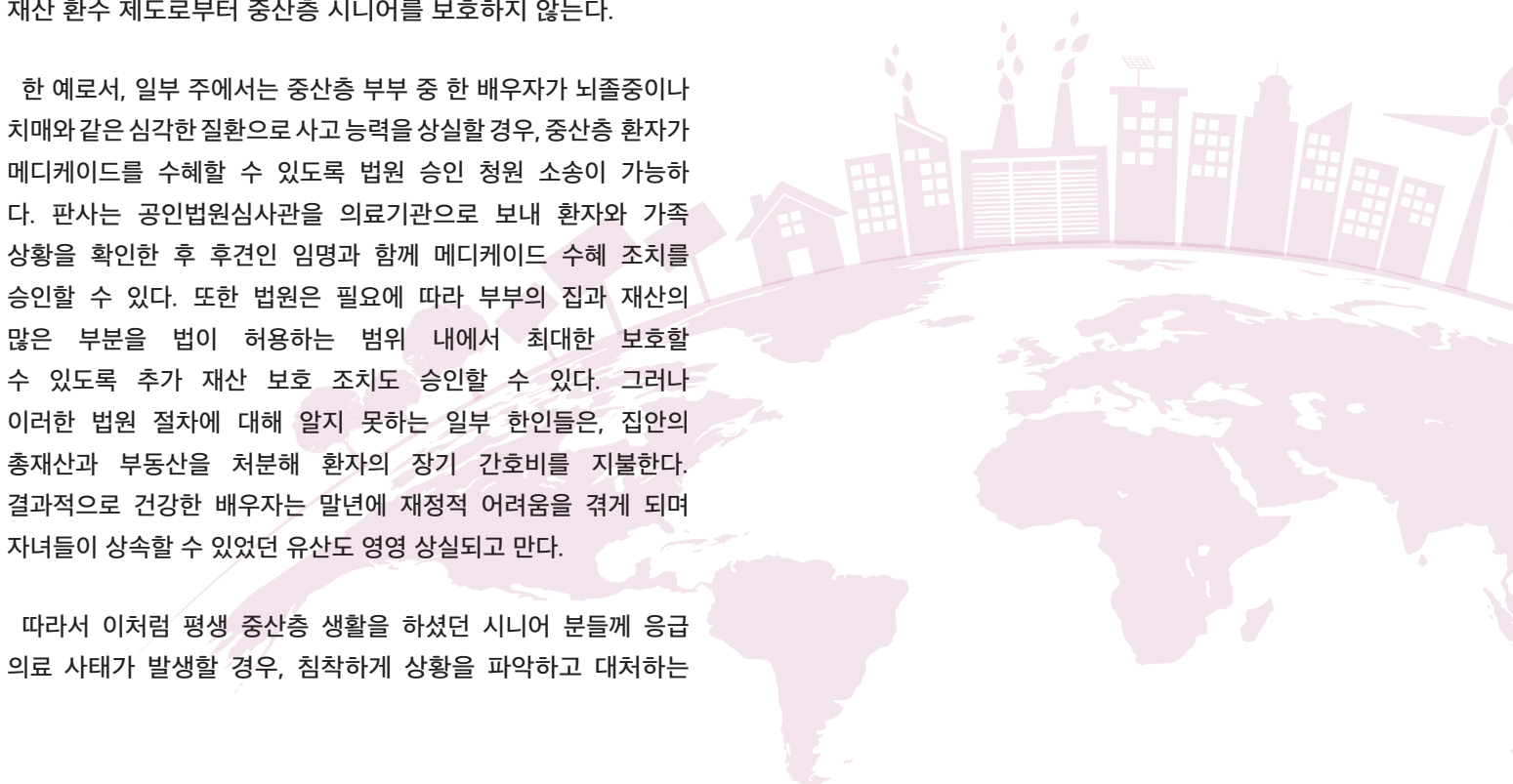
있다. 법과 규정들은 난해한 법적 개념들에 의거해 제정되었고 거듭 개정되기 때문에 일반인은 물론 심지어 사회복지 전문인 및 양로 시설 직원들도 자주 큰 혼란과 어려움을 겪는다. 이로 인해 메디케이드 수혜 조치가 가능한 가족에게 불가능하다고 조언하고, 먼 훗날에 가족에게 큰 손해를 가져올 조치들을 즉시 취하라고 권고하는 경우가 허다하다. 보존 가능한 집안 재산을 모두 써서 없애라고 하는 경우도 자주 있고, 부모 사망시 자녀가 얻게 되는 (수십만달러에 이를 수 있는) 자본증식세 (Capital Gains Tax)의 Basis Step Up혜택을 상실시키고, 수천달러의 시니어 Property Tax 감세 혜택을 매년 잃게 만드는 부동산 명의 변경을 함부로 권하기도 한다. 실제로 메디케이드법 분야에서는 무지함보다 더 위험한 것이 부분적인 지식이다.

일반적으로 현행 미국 노후복지법 (Elder Law)은 서민과 중산층의 두 가지 권익을 어느 정도 보호한다. 우선, 부부중 한 배우자에게 심각한 건강 문제가 발생하여 메디케어나 의료 보험으로 지불되지 않는 장기 간호 비용이 발생하면, 건강한 배우자가 재산과 수입을 모두 잃고 극빈자로 전락하지 않도록 보호를 베푼다. 이에 더해, 중산층 부모가 평생 모은 재산 중 적어도 일부분은 노후에 간호비로 모두 상실되지 않고 자녀들에게 상속시킬 수 있도록 부모의 재산을 어느 정도 보호한다. 그러나 문제는 이러한 법의 보호가 자동적으로 베풀어 지지는 않는다는 것이다. 즉, 법의 보호나 혜택을 누리기 위해서는 법적 절차를 통해 법의 보호를 적극적으로 요청해야 한다. 법에 대한 지식이 부족할 경우, 법은 장기 간호비로 집안 재산을 모두 상실하게 되는 위험이나, 막대한 세금이나 정부 혜택 재산 환수 제도로부터 중산층 시니어를 보호하지 않는다.

한 예로서, 일부 주에서는 중산층 부부 중 한 배우자가 뇌졸중이나 치매와 같은 심각한 질환으로 사고 능력을 상실할 경우, 중산층 환자가 메디케이드를 수혜할 수 있도록 법원 승인 청원 소송이 가능하다. 판사는 공인법원심사관을 의뢰기관으로 보내 환자와 가족 상황을 확인한 후 후견인 임명과 함께 메디케이드 수혜 조치를 승인할 수 있다. 또한 법원은 필요에 따라 부부의 집과 재산의 많은 부분을 법이 허용하는 범위 내에서 최대한 보호할 수 있도록 추가 재산 보호 조치도 승인할 수 있다. 그러나 이러한 법원 절차에 대해 알지 못하는 일부 한인들은, 집안의 총재산과 부동산을 처분해 환자의 장기 간호비를 지불한다. 결과적으로 건강한 배우자는 말년에 재정적 어려움을 겪게 되며 자녀들이 상속할 수 있었던 유산도 영영 상실되고 만다.

따라서 이처럼 평생 중산층 생활을 하셨던 시니어 분들께 응급 의료 사태가 발생할 경우, 침착하게 상황을 파악하고 대처하는

것이 중요하다. 최악의 상황에서도 올바르게만 대처하면 여러 주에서는 중산층 환자도 합법적인 메디케이드 수혜 자격 조건에 도달할 수 있다. 많은 경우, 중산층 시니어 환자가 메디케이드를 수혜하는데 걸림돌이 되는 비면제 재산과 수입을 면제 재산과 수입으로 전환할 수 있는 합법적인 길들을 찾을 수 있기 때문이다.



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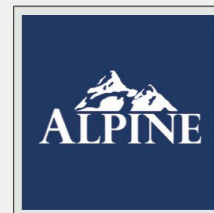
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