

# Controlled Executive Bonus Plan Using Indexed Universal Life

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Insured: Alan Westbrook (Age 45)

## Repayment of the Bonus

Employer: Midland Oil Supply, Inc.  
S Corporation

### Background

A Controlled Executive Bonus Plan is a fringe benefit in which an executive is paid a recurring taxable bonus which is used to purchase a life insurance policy with an emphasis on maximizing cash value accumulation. Subject to the terms of a separate Employment Agreement, the executive is required to repay the bonus under certain circumstances such as voluntary termination of employment by the executive prior to a certain date or event described in the Agreement or termination by the employer for cause.

### Question

Can the executive deduct the repayment if it occurs?

### Comments

The executive may be able to deduct the repayment under IRC Sec. 1341 (computation of tax where taxpayer restores an amount held under a claim of right). If the executive's bonus repayment is not deductible, and a policy loan is used to provide all or part of the funds for the bonus repayment, there is meaningful tax leverage available as tax free cash flow will have been accessed from the policy's tax deferred assets as the source of funds for repayment.

The employer must recognize any amount repaid as income under IRC Sec. 61.

**Important Note:** This information is for educational purposes only. In all cases, the approval of a client's legal and tax advisers must be secured regarding the implementation or modification of any planning technique as well as the applicability and consequences of new cases, rulings, or legislation upon existing or impending plans.