

A decorative graphic in the top left corner consisting of several overlapping, stylized arrow shapes pointing to the right. The arrows are in shades of grey and red.

## Legal update

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### Payment of death benefits on employer-owned insurance policies

From 1 March 2012, an employer who is the policyholder of a lump sum death benefit insurance policy can claim an income tax deduction in terms of section 11(w)(i) of the Income Tax Act for the premiums paid *only if* the amount is included in the taxable income of the employee concerned. For that reason, the premium must be added to the employee's remuneration as a fringe benefit and taxed accordingly without further deduction. Furthermore, the premiums paid by the employer have to be for an insurance policy *directly or indirectly for the benefit of the employee or his or her spouse, child, dependant or nominee* (refer paragraph 2(k) of the Seventh Schedule of the Income Tax Act). If these requirements are met, the proceeds from the insurance policy will be paid out tax-free to the employee, dependant or nominee in terms of section 10(1)(gG) of the Income Tax Act.

Following these changes, Momentum Employee Benefits has changed the wording for all new lump sum death benefit insurance policies to provide as follows with regards to the payment of the death benefit:

*On production of a death certificate satisfactory to Momentum and such other information as Momentum may require in respect of a Member, Momentum shall pay the Death Benefit to the Policyholder for the benefit of the natural person nominated, in writing, by the Member or failing such nomination (or part thereof) to the estate of the Member.*

This means that Momentum will pay the benefit to the employer as the policyholder. The employer must then ensure that the benefit is paid to the member's nominated beneficiaries, who must be a natural or living person. If the member did not make a nomination (or the nomination does not distribute 100% of the benefit), then the employer will have no alternative but to pay the whole or a portion of the benefit to the member's estate. The employer does not have any discretion. The employer cannot for instance decide to distribute the benefit to the member's beneficiaries in the proportions they consider appropriate and ignore the member's nomination.

We recommend that the employer makes sure that each member completes a beneficiary nomination form for the lump sum death insurance benefit and keep these nominations up to date. The nomination of beneficiaries made by a member in respect of his / her pension / provident fund cannot be used for these death benefit insurance policies. The employee must complete a separate nomination form for each of the benefits. For example if the employee belongs to a pension fund and has group life cover from the pension fund (approved benefit) and from an employer-owned insurance policy, they need to complete two beneficiary nomination forms. This will result in their rightful beneficiaries receiving the death benefit. The employer can [click here](#) for the beneficiary nomination form. All FundsAtWork forms are available on [www.momentum.co.za/fundsatwork](http://www.momentum.co.za/fundsatwork).

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