

# Information on Life Insurance Policy Collateral Assignments

Life insurance policies are valuable financial assets that have the potential to accomplish a variety of important individual and business objectives.

**Policy ownership includes a number of valuable rights. One of these rights is the ability to name one or more beneficiaries to receive policy death benefits when the insured dies. Another ownership right is the ability to assign policy cash values and/or death benefits to someone other than the named beneficiaries. Policy death benefits and cash values may be assigned as security for the repayment of a liability or to secure a promise to pay.**

## What is a Collateral Assignment?

A collateral assignment is a written document. Through it the policy owner and an assignee notify the life insurance company that an interest in the policy's cash values and death benefits have been assigned to the assignee. After an insurer has received a written assignment, it has the duty to protect the assignee's rights. A valid assignment usually gives an assignee priority to cash values and/or death benefits over named beneficiaries. Thus, the assignee's rights supersede the rights of a beneficiary up to the amount that is due. An assignment generally does not obligate the assignee to pay any premiums or policy loan interest; however, if an assignee does so, the payments made are added to the amount due the assignee and earn interest at a rate the assignee may fix from time to time.

### Rights Assigned

**Unless otherwise limited in writing, a collateral assignment gives the assignee the sole right to:**

- Collect the net policy proceeds at the insured's death.
- Surrender the policy and receive the surrender value.
- Obtain policy loans from the insurer.
- Receive any and all distributions from the insurer for dividends, surplus, deposits and additions to the policy during the time the assignment is in effect (these sums normally stay in the policy unless the assignee specifically demands distribution in writing).
- Exercise the policy's non-forfeiture provisions.

### Rights Retained

**As long as the policy is not surrendered, these rights are retained by the assignor/policy owner and excluded from the assignment:**

- To collect any disability benefits payable in cash that do not reduce the amount of insurance.
- To designate and change the primary and contingent beneficiaries.
- To elect an optional mode of settlement.

### Assignee's Promises

**The assignee generally agrees:**

- To pay any sums received from the insurer (either cash values or death benefits) in excess of what is owed to the persons entitled to receive them under the policy as though the assignment had not been executed.
- If there has been a default in payment on the underlying liability for which the assignment was executed or the policy owner has failed to pay the policy's annual premium, to give the assignor 20 days prior written notice through first class mail (sent to the Assignor's last known address) before surrendering the policy or borrowing from it.
- To forward to the insurer without unreasonable delay any change of beneficiary, election of an optional mode of settlement or policy endorsement which may be requested by the assignor.

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# When are Collateral Assignments Likely to be Used?

Many collateral assignments stem from two types of transactions:

## 1. Bank/Commercial Loans

When an individual or business borrows money from a bank or other commercial party, the lender wants to make sure it will be fully repaid. To maximize its options for repayment and to minimize the risk of default, the lender may request that the borrower assign it an interest in a life insurance policy insuring the borrower's life. This increases the lender's security for repayment. If the insured dies unexpectedly, the lender may have difficulty recovering what it is owed and even if it does, that recovery may take a long time. A collateral assignment of a life insurance policy on the borrower's life can speed up and simplify the repayment process so the lender gets repaid quickly and efficiently. Many banks request the collateral assignment of life insurance policies as a condition to making business or personal loans.

## 2. Loans/Advances to Pay Policy Premiums

Many people like the potential benefits life insurance provides, but may not wish to pay the policy premiums. Sometimes policy owners can get a loan or advance to pay premiums from other people or entities. When this happens, a good way for the premium payer to protect his/her right to repayment is by filing a collateral assignment against the policy with the insurer. Premium advances and loans can be common when life insurance is used in family wealth transfer planning, business succession planning and executive benefit planning for business owners and key employees. Four well-known premium payment strategies that usually involve collateral assignments are:

- Split Dollar Advances
- Intra-Family Loans
- Business Loans
- Premium Finance Loans (a bank/commercial lender lends funds to pay premiums).

Information on these premium payment strategies has been posted on these **Voya™** advanced sales microsites:

### **Wealth Transfer/Estate Planning**

Private Split Dollar and Intra-Family/  
Private Loans  
[VoyaWealthTransfer.com](http://VoyaWealthTransfer.com)

### **Business Planning**

Business Succession Planning, especially  
Cross Purchase Buy-Sell Arrangements  
funded through Collateral Assignment  
Split Dollar Arrangements and Split  
Dollar Loan Arrangements  
[VoyaBusinessPlanning.com](http://VoyaBusinessPlanning.com)

### **Executive Benefits**

Collateral Assignment Split Dollar  
Arrangements and Split Dollar  
Loan Arrangements  
[VoyaExecutiveBenefits.com](http://VoyaExecutiveBenefits.com)



# Releasing a Collateral Assignment

**Collateral assignments should only stay in place while the debt/loan is outstanding.**

When it is repaid, forgiven or otherwise terminated, the assignment should be released. This is generally accomplished by executing a “release” and sending it to the insurer. A release generally indicates the assignee no longer has any interest in or rights to the policy. If the debt/loan is terminated but the insurer is not notified, its records will not be changed and the collateral assignment will remain active.

**Why not change the beneficiary designation by adding the assignee as a beneficiary?** An assignee may not want beneficiary status; it may wish to be in a better position than a beneficiary. Beneficiaries generally have no rights to policy cash values; they are only assured of receiving funds after the insured's death. A collateral assignment puts the assignee in a stronger position than a beneficiary. Assignees may have potential rights to policy cash values and they are preferred over beneficiaries when it comes to receiving policy death benefits. At the insured's death, the assignee's interest is paid off first. Any remaining death benefits are paid to the beneficiaries according to the terms of the policy beneficiary designation.

## Collateral Assignments at the Voya Life Companies

**A policy owner may request that a Voya life company recognize a written collateral assignment and add it to the policy's records.**

The Assignment may be executed any time after the policy has been issued. It may be submitted to Voya's Policy Service unit in one of three ways:

- (1) by e-mail to [Servicecenter@voya.com](mailto:Servicecenter@voya.com),
- (2) by fax transmission to 877-788-6305,
- (3) or by mail to: Voya Customer Service Center, 2000 21st Avenue NW, Minot, ND 58703.

If the collateral assignment is in good order, it will be added to the policy's records. The filing of the assignment will be confirmed by letters sent to the policy owner and the assignee at their respective addresses of record.

Releases of collateral assignments are handled in the same way. A release can be submitted by mail, email or fax to the addresses above. If the release is in good order, it will be added to the policy's records. The filing of the Release will be confirmed by letters to the policy owner and the assignee.

How do you know if the assignment or release is in good order? The easiest way is to fully complete Voya's sample collateral assignment form or to make sure the written information submitted includes everything requested in the Voya form. Links to Voya Life's sample forms are included at the end of this document.

## Warning – Collateral Assignments of Modified Endowment Contracts

**The collateral assignment of one type of life insurance policy could potentially trigger income tax consequences.**

Modified Endowment Contracts (MECs) are subject to different income tax rules than policies which satisfy the requirements of IRC Section 7702. MECs are taxed under the tax rules for annuities. As a result, the assignment of a MEC could potentially trigger income taxes and penalties. Clients should consult their tax and legal advisors before assigning a MEC contract.

The Voya Life Companies' sample forms can be found on the [Voya for Professionals website \(voyaprofessionals.com\)](http://VoyaforProfessionals.com), under Forms, or access below:

- ▶ [Life Insurance Policy Collateral Assignment form](#)
- ▶ [Release of Life Insurance Collateral Assignment form](#)
- ▶ [Split Dollar Collateral Assignment form](#)

These materials are not intended to and cannot be used to avoid tax penalties and they were prepared to support the promotion or marketing of the matters addressed in this document. Each taxpayer should seek advice from an independent tax advisor.

The Voya Life Companies and their agents and representatives do not give tax or legal advice. This information is general in nature and not comprehensive, the applicable laws change frequently and the strategies suggested may not be suitable for everyone. Clients should seek advice from their tax and legal advisors regarding their individual situation.

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