101(j) Notice and Consent: Preparation Checklist

A checklist to prepare, not the legal notice or consent form itself. Use the carrier's form or your attorney's. For policies a business owns on an owner or employee with the business as beneficiary (IRC 101(j), issued after Aug. 17, 2006).

Before the policy is issued

- [ ] Written notice to the insured that the business intends to insure their life
- [ ] Notice states the **maximum face amount** the business might buy (leave room, for example "up to $2,000,000")
- [ ] Written notice that the business will be a **beneficiary** of the death proceeds
- [ ] Insured signs a **written consent** to being insured, including coverage **continuing after employment ends**
- [ ] Consent is signed and dated **before the policy issue date** (a consent signed after issue does not count)
- [ ] Copies filed with the policy records and with the CPA

Confirm an exception applies (the consent is still required)

- [ ] At issue, the insured was a **director**, a **highly compensated employee** under IRC 414(q), or in the **top 35% of pay** under the modified 105(h) rule; or
- [ ] The insured was an employee at any time in the **12 months before death**; or
- [ ] Proceeds are paid to the insured's **family, designated beneficiary, trust or estate**, or used to **buy the insured's ownership interest** from them (buy-sell)

Every year the business owns the policy

- [ ] **Form 8925** filed with the business tax return (IRC 6039I)
- [ ] Records kept: number of employees, number insured, total coverage in force, and whether a valid consent exists for each insured

When something changes

- [ ] New policy, or a material change to an existing one: get a fresh notice and consent before the change
- [ ] Coverage increased above the maximum in the original notice: new notice and consent
- [ ] Business sold, or policy transferred: review 101(j), transfer-for-value and reportable policy sale rules with the CPA first

If a consent was missed, there is no formal IRS correction program. Options (new policy with proper consent, beneficiary or structure changes) need your CPA and attorney.

Read the full guide: moraninsurancegroup.com/blog/101j-notice-and-consent-employer-owned-life-insurance

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