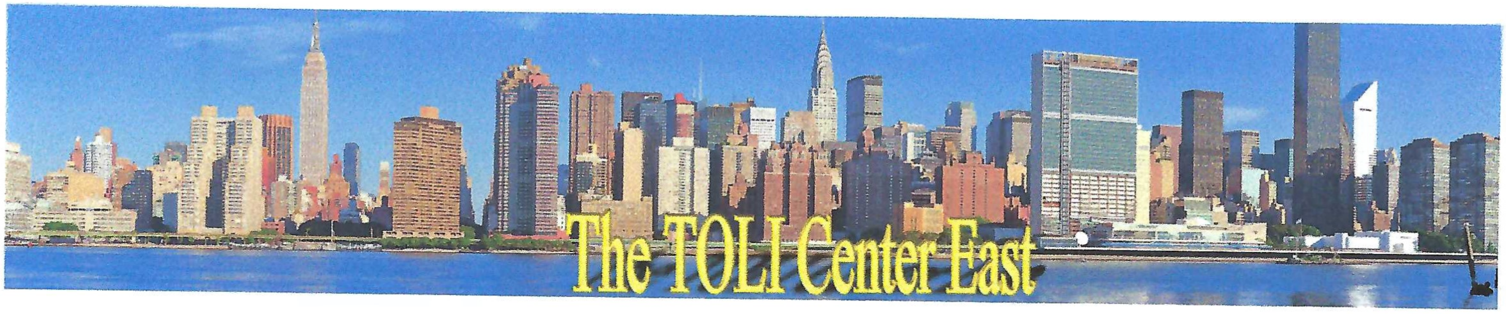

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Dear Suffolk Academy of Law Attendees

August 2, 2023.

I hope you found our session regarding 'Maintaining Life Ins coverage in ILIT's useful and of interest. Most clients are unfamiliar with most of the "Points to Keep in Mind". Consider asking a client about their life Insurance coverage, be it owned individually or in an ILIT, include several of the questions below. Urge them to get the answer if they're Not familiar with the answers.

I'd be delighted to share my 37 years' experience as an independent CFP, CLTC, & act as a resource for you, or a client in this ever-changing world of providing information regarding the right type of life Insurance and appropriate strategies that **most clients aren't familiar with.**

For example, should I consider the traditional guaranteed or non-guaranteed life Insurance with or without the ability to pay for any qualified long term care costs directly from the death benefit of the policy tax free? What type of a policy works best if client is single or married. Should I surrender my policy for its cash value or is there a better alternative?

The points to keep in mind are as follows. ***Have the client compare what they think they have to what they actually have. How long will their existing coverage last? Are they sure? When was the last time their personal or trust owned life Insurance was evaluated? Lack of management results in 40-45% of Non-Guaranteed Universal Life coverage expiring early. It's the Owners'/Trustees' sole responsibility to manage their policy & prevent a premature lapse.***

I've attached several relevant articles I thought you'd find of interest. Please feel free to call or email if I can answer any general or personal questions as I am a very good resource of info.

Best Regards,

Henry Montag CFP, CLTC

Bloomberg Tax

Tax Management Estates, Gifts and Trusts Journal™

What an Attorney and CPA Must Know About Maintaining the Life Insurance Coverage in an Irrevocable Trust (ILIT)

*By Henry Montag CFP**
The TOLI Center East
Long Island, NY

The purpose of this article is to provide professional estate planning advisors with pertinent analysis and recommendations on life insurance developments in order to help them:

1. Protect their clients from any unexpected unpleasant surprises regarding their life insurance coverage funding their irrevocable life insurance trust (ILIT) expiring early.

2. Assist their clients in leaving as large a legacy as possible to their family via an ILIT.

The intent is to assist you in better understanding a life insurance portfolio from a personal, as well as a professional perspective. While the current federal estate tax exemption is approximately $11,500,000, it will sunset at the end of 2024 back to approximately $5,500,000. In addition, many states tax inheritances of more than $1,000,000. Life insurance plays a large part in settling the estate taxes which are due and payable within nine months of the date of death, with several exceptions, before any part of the estate can go to the family. Typically, your client's eldest son or daughter is asked to act as an unskilled/amateur trustee and is not aware that the life insurance for which they are responsible and, as a fiduciary liable, is possibly in danger of expiring prematurely. As a result of the passage of the Uniform Prudent Investor Act (UPIA), trustees are now held to a higher standard than under previous law. Trustees have been put on notice that they must treat life insurance as they would any other trust asset such as stocks, bonds, or real estate.

THE PROBLEM: UNIVERSAL LIFE INSURANCE MAY NOT LAST FOREVER

As a trusted adviser to your clients, you have an opportunity to educate them and their unskilled trustees concerning the fact that as many as 50–60% of universal life insurance contracts written over the last 25 years are not guaranteed and 35–40% of those policies (about a quarter of policies overall) are now in danger of expiring prematurely, as highlighted in *The Advisors' and Trustees' Guide...*, cited above (see press release). This has occurred as a result of significantly reduced interest rates coupled with neglect over the last two decades. It affects individually owned as well as trust-owned life insurance policies, as all non-guaranteed life insurance policies have been equally adversely impacted.

Prior to the mid-1980s there were two types of life insurance policies, both guaranteed.

- Term Life Insurance, in which a specific dollar amount of life insurance was guaranteed to remain in force for a specific period of time — one, five, 10, or 20 years — and at a specific guaranteed premium.

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* Henry Montag, CFP, Managing Director of The TOLI Center East in practice since 1976 with offices in Long Island, NY, has authored articles and acted as a source for NYSBA; NYSSCPA; Bloomberg's Daily Tax Report and Estates, Gifts & Trusts Journal; Trusts & Estate Magazine; Accounting Today; and The Wall Street Journal. He has appeared as a guest on Wall Street Week, Fox Business News, and News 12. He co-authored an American Bar Association flagship publication, *The Life Insurance Policy Crisis: The Advisors' and Trustees' Guide to Managing Risks and Avoiding a Client Crisis*, released at the Heckerling Institute on Estate Planning in January 2017.

This article may be cited as Henry Montag, *What an Attorney and CPA Must Know About Maintaining the Life Insurance Coverage in an Irrevocable Trust (ILIT)*, 48 Tax Mgmt. Est., Gifts & Tr. J. No. 2 (Mar. 9, 2023).

- Whole Life Insurance/Permanent Coverage, which was guaranteed to remain in force for the insured's life as long as the stated premium was paid each and every year. Whole life policies contained a tax deferred accumulation account known as cash value which was credited 3% annually.

Creation of Universal Life

Prior to 1984, if a consumer wanted their life insurance coverage to last beyond age 80, when a term policy would expire, they had no choice other than to purchase a whole life policy whose cash value was growing annually at a guaranteed 3% while bank deposits or CDs had continuously increased the yield on their deposits which at the time were yielding 15–17% annually. As one can imagine, it wasn't long before the general public saw the economic sense in borrowing the cash value from their current whole life policy, or in some instances completely cashing out the accumulated cash value from their existing 3% life insurance policy and transferring it into a higher-yielding bank deposit.

Then E.F. Hutton, primarily known as an investment brokerage firm, realized that there was a competitive advantage to be first to market a welcomed new type of life insurance policy that was flexible and less costly to already dissatisfied consumers. The new E.F. Hutton life insurance company offered a competitive, flexible interest rate to purchasers of its newly created universal life insurance. This type of policy provided the insured an assumption that their policy would be credited with a more competitive interest rate than the 3% that was previously paid by a whole life insurance policy. A universal policy offered coverage beyond age 80, and an assumed yield of 12–14% for an assumed 20 or 30+ year period which, if rates matched expectations (which they didn't), could have resulted in a significantly lower premium than the traditional whole life insurance policy.

A new type of a life insurance product was born, and people were in a frenzy to set their own reduced premiums based on the non-guaranteed higher interest rate assumptions they or their agent used to calculate the anticipated premium. At the time there was no regulation and if someone wanted to assume a 12–13% anticipated rate of return they were free to do so.

By the late '80s, nearly every major life insurance company offered a universal life policy. Consumers and agents were more concerned with the assumed interest rates and lower premiums than with the fact that the assumed interest rate was not guaranteed.

However, if the assumed interest rate was not achieved consistently over the next 20 or 30+ years, the duration of the coverage would be shortened. Consumer and agents were not aware that the actual achievement of the assumed interest rate should have been recalculated every few years. For example, if the credited rates increased, they could have paid a lower premium — but if interest rates decreased, as they continuously did, then the premiums should have been increased to make up for the lower actual return. In other words, non-guaranteed life insurance should have been treated as a buy-and-manage asset rather than as a buy-and-hold asset.

Types of Trustees

Many accountants and attorneys have suggested that their high-net-worth clients use an institutional trustee for their trust-owned life insurance policies, while many others have chosen to serve as trustees of such trusts themselves. Since many institutional trustees charge a fee for their service, very few trust-owned life insurance (TOLI) policies — less than 10% — use a corporate/institutional trustee to professionally manage a client's irrevocable life insurance trust (ILIT). These trustees, unlike their unskilled counterparts, actively manage the policies entrusted to them as they are under the watchful eye of the Office of the Controller of the Currency (OCC), which monitors their activity on an annual basis. If their offices don't have the necessary expertise to evaluate the performance of a policy, they would of course retain the services of an expert who does.

The other 90% of TOLI policies are managed by the grantor's son or daughter who for the most part, acting as unskilled trustees, don't have the basic understanding that the policies for which they're responsible are not guaranteed and require active management just like their stock/bond or real estate portfolios, otherwise their coverage could expire prematurely — as increasing proportions of them already have. Most trustees are unaware that they've assumed 100% of the performance risk as well as the fiduciary responsibility and liability when they agreed to act as a trustee for a non-guaranteed universal life insurance policy. Since most unskilled trustees are not equipped to evaluate the risks, nor monitor the performance, of a non-guaranteed universal life insurance policy, they are unlikely to do what is necessary to remediate the underlying problems to prevent premature expiration.

While the majority of problem has come from flexible premium, non-guaranteed universal policies, the problem extends to variable and even whole life insurance contracts that are being paid for out of their cash value — when the owner or trustee fails to pay a premium, for instance.

The Source of the Problem

So how can the attorney/accountant, acting as trustee themselves or an adviser to the policy owner/

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trustee know if their or their client's universal life policy has problems? The original illustration is generally of no help since life insurance illustrations are simply computer printouts that show various aspects of the policy, i.e., premiums, cash values and the duration of the death benefits using assumed interest crediting rates often made 20+ years ago when assumed interest rates were significantly higher than they have been over the recent past. The insurance company is not required to meet these estimates, nor were they ever guaranteed. The only certainty about illustrated values is that the policy's actual performance will differ from the original proposals.

While the annual policy statement contains footnotes that can highlight a problem, it is usually missed in the 6–8-page report and is filed along with the policy without much attention being paid to the early warnings provided by the insurance company. The best way to understand how a policy is performing is to *order an in-force historic re-projection.* This evaluation is an illustration of the policy from the inception to the present and contains its current values which must now be projected into the future based on current guaranteed crediting rates and increasing mortality costs. A universal life policy is based upon an assumed crediting rate often set by the insurer's board of directors annually, while a variable universal life policy relies on the assumed sub-account stock or mutual fund returns. The difference between what was initially projected and what is currently needed determines whether the current premium is sufficient to carry the policy to maturity or if it should be increased.

In the case of a lapsing policy with a loan, the policy owner can be subject to income taxes, as a result of forgiveness of debt if the policy expires before the insured. Likewise, if a trustee or grantor forgets to pay the premium or assumes no premium is due when in fact it is, most insurance companies will automatically pay the premium from the cash value to keep the policy in force. Further, it will consider those premiums as a loan and charge a cumulative 5% interest rate on the loan each year. The trustee/owner is often unaware that this loan accrues interest compounding each year and draining the policy's cash value until it prematurely expires.

A Necessary Procedure

My 35+ years' experience as a practitioner has led me to believe me that a typical unskilled trustee has no procedure in place to properly manage a TOLI policy. Further exacerbating the problem is the fact that, contrary to popular belief, neither the insurance agent/broker nor the insurance company are obligated to make certain that your premium is sufficient to keep your policy in force. Nor is it in the insurer's interest that your coverage remains in force. The insurer after just eight years of an insured paying a premium, breaks even and after 20+ years stands to gain substantially if the policy lapses, because then it retains all the years of premiums paid without ever having to pay out a death benefit. Keep in mind that the insurance company is merely required to send out premium notices to the insured, provide one annual statement and pay the death benefit if the policy is in force at the time of the insured's death. The management of the policy to make certain the premium is sufficient to maintain the death benefit to a desired age is solely up to the owner/trustee.

Therefore, every grantor of a TOLI and every trustee should have in place an actively managed annual review process which includes a documented Trust Investment Policy Statement (TIPS), stating how the trust asset should be managed and what's important to the grantor under normal circumstances as well as in the event of certain future contingencies such as required premium increases. An Adequate Funding Statement (AFS) outlining the financial evaluation to assure the premium is adequate to maintain the coverage. In response to backlash and complaints, the insurance industry has begun to offer "No-Lapse Guarantee Riders" to new universal contracts to prevent their coverage from expiring prematurely. However, they do not apply to any of the non-guaranteed policies issued prior to the creation of these riders.

SOLUTIONS TO FIX A FAILING LIFE INSURANCE POLICY

An insured could start paying a higher premium to guarantee that a policy's coverage will not expire earlier than five years beyond their normal life expectancy. Or the death benefit could be reduced to a smaller amount without adjusting the premium. If the client is healthy and it makes economic sense, they could consider the purchase of a new policy available in the open marketplace today, based on lower mortality costs, and increased underwriting classifications. In addition, they could take advantage of new "Living Benefits" of Life Insurance as an "Asset Class," which was previously unavailable. This includes the ability to *pay for long-term care costs directly from the death benefit, tax free.* If it's determined that the necessary premium is more than the insured wishes to spend, or can afford, the trustee should retain the services of a *licensed life settlement broker to sell the policy as a life settlement* in the secondary market to an institutional investor rather than simply allowing the policy to expire worthlessly. It's been my personal experience as a practitioner that this strategy can re-

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turn upwards of 100% more than an insured would receive if they were to merely surrender the policy to the insurer for its cash value. With proper guidance and intrafamily communication, a trustee or individual owner can turn a bill into an asset. If intervention is needed, the logical go-to is a tax or legal advisor working in conjunction *with an experienced independent life insurance consultant familiar with these issues.*

The trustee should make certain that all beneficiaries are based on the insured's current wishes, rather than rely on what was put in place years ago when the coverage was first applied for. There is no better way to inure yourself to the next generation than to suggest a meeting to assist the son or daughter responsible for maintaining and managing a significant amount of life insurance allocated to financially assist the next generation by paying their estate taxes and maximizing the legacy left by their parents. The most important question in addition to inquiring how much life insurance is available, is to ask: *How long is your current life insurance coverage guaranteed to last? How do you know?*

Educate on Any Trustee Hold Harmless Clause

If a trust contains a hold harmless provision, make certain the grantor is aware of its existence and its meaning. Since the trustee has the sole responsibility for managing the trust asset, if he or she lacks life insurance evaluation expertise and the trust has a hold harmless provision, how will it affect the management and the ultimate duration of the life insurance coverage? Might it not make more sense to provide the amateur trustee with the guidance he/she will need, rather than allow the beneficiaries' inheritance to suffer because the grantor didn't want to ensure that the trustee could fulfill the responsibility entrusted to him/her?

Advocate for the Next Generation (of Clients)

Someone needs to advocate for the grantor's beneficiaries and coordinate all of the above to make certain that the next generation's future inheritance and well-being are not endangered as a result of outside economic conditions or neglect. There is perhaps no better way to meet and engage your next-generation clients than to initiate a conversation regarding the current state of their life insurance coverage and to let them know that it's important to determine exactly how long their existing coverage will last based on the current premiums they're paying and what can be done to preserve the inheritance left by your client, their parents. While it may be easier to draft an exculpatory clause in the trust, rather than provide guidance to an amateur trustee, the rewards of that guidance will be far greater and appreciated by your next-generation client. The estate planning attorney or the CPA is the professional advisor best positioned to arrange, invite, and manage such an initial meeting.

IN SUMMARY

In conclusion, you as a trusted advisor can choose to anticipate and avoid various family infighting and finger pointing as to who is to blame for a significant amount of life insurance coverage disappearing as a result of a lack of proper management. You can do this by setting up your own system taking all of the above into consideration. Or if you don't have the inclination or expertise, you can suggest that an unskilled trustee retain the services of an independent non-biased consultant who will evaluate, monitor, and review their life contracts and make suggestions based on additional ways to take advantage of various preventative measures or, if needed, provide some positive remediation strategies. Your clients will thank you.

The better approach for all parties is to require that the trustee treat a life insurance policy like any other trust asset, evaluating it and determines its appropriateness on a continuing basis — and getting paid for these services. Sometimes, penny wise really is pound foolish — for both the payor and the payee. It should be obvious that while relieving a trustee of various duties may lower the cost in trustee fees, it will also leave the trust without anyone to assure that the full value of the death benefit gets to the family.

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Tax Management Memorandum™

When Premature Life Insurance Expiration Disrupts an Estate Plan

By Henry Montag
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Non-guaranteed life insurance policies may expire earlier than expected due to decades of reduced sustained interest rates and fiduciaries need guidance on how to prevent that from happening, says Henry Montag of The TOLI Center East.

While there are numerous aspects of our lives that we cannot control, there are strategic steps that clients can be advised to take that will will mitigate their financial risks and result in a predictable and known financial outcome for them. No, we're not speaking about investment risk, as there's no such thing as a predictable and known outcome in that world. Instead we'll examine several financial planning strategies that, if properly identified and drafted with appropriate wording by an experienced attorney and combined with a properly selected and managed insurance product, can go a long way in minimizing the risk for a client who otherwise may have been headed for a loss of assets. We'll be discussing the typical issues as they relate to the everyday life of a typical Bloomberg reader and their clients.

For example, trusts and business agreements are set up for clients for a variety of reasons. An irrevocable life insurance trust (ILIT) is used to provide liquidity for estate taxes. A grantor trust is set up for a parent or grandparent wanting to provide family income, professional management, and guidance for an inheritance earmarked for the next generation. A special needs trust (SNT) provides for the welfare of a child after their parents are no longer here to take care of them. A spousal lifetime access trust (SLAT) can be set up to arrange tax-friendly reciprocal trust benefits for a husband and wife.

A buy-sell agreement is used to assure the orderly transfer or disposition of one's professional or business interest for the benefit of their family and business partners. Since over 90% of the Fortune 500 corporate clients have a deferred compensation plan (DCP) many small business owner clients have similarly requested to establish a deferred compensation plan to supplement their retirement income, or perhaps to allow a class of key employees the ability to defer a portion of their income as a perk at their place of employment.

The Role of a Life Insurance Policy

What do all of these trusts, buy-sell and other agreements have in common? A life insurance policy funding them. It's therefore important for the grantor as well as the amateur/accommodation trustee, usually the grantor's eldest child, to know their responsibilities as well as their fiduciary duties and legal liabilities associated with managing the various types of life insurance policies funding these trusts and agreements. If they don't, they may effectively let the life insurance coverage expire years earlier than anticipated, rendering useless the agreements and trusts that rely on the coverage.

When Amateur Trustees Don't Understand Their Fiduciary Responsibility

All too often, a person—be it the client's advisor or eldest child—will accept the title of trustee but won't fully understand the ramifications, the responsibility, or the fiduciary liabilities that come along with that title. One of the prime responsibilities of a trustee using any type of a life insurance policy is to make certain that the policy will be in force when the grantor dies.

In the 1990s, if a client purchased a $1 million life policy it would have been suggested that the policy be owned by someone other than the insured to keep the death benefit out of the grantor's taxable estate. In order to do so, an attorney would draft an ILIT that, besides being irrevocable, would also provide management and creditor protection. In only 10% of the situations would the grantor have chosen to use an institutional or corporate trustee, simply because such trustees charge a fee and very few grantors are willing to pay that fee. In the other 90%, the trustee was most often the grantor's eldest child or a friend. A trustee who had the responsibility but not the necessary knowledge, experience, nor guidance to effectively manage the life insurance policy to prevent it from expiring prematurely. Typically, this amateur trustee who unwittingly assumed 100% of the performance risk for the policy wasn't aware that the duration of their coverage was not guaranteed and required active management in order to remain in force for the remainder of the insured's life.

During the ensuing three decades of reduced sustained interest rates, the amateur trustee wasn't aware that the life insurance premium should have been increased to make up for the reduced interest crediting rates. In other words, not paying a larger premium caused the duration of the death benefit coverage to be significantly shortened.

Consider this, if you keep paying the same premium and maintain the same coverage but earn less of a return then the only variable is the duration which results in the coverage ending sooner than expected. As a result, many 80-year-olds today are discovering that their life insurance coverage is only going to last for a few more years unless a significantly higher premium is paid to make up for the insufficiency created over the last 25-plus years caused by reduced interest rates and neglect.

This does not go over very well with an octogenarian client who hopes they will live for another 10-plus years. ''How can that be?'' asks the client. ''I've paid all of my premiums on time, in full and I never borrowed any of my cash value.'' What neither they nor their amateur trustees and advisors understand is that the contract they purchased 25 or 30 years ago (in the majority of cases) was for *non-guaranteed* universal life insurance. The premium was set based on an anticipated interest rate in the range of 9-10% that didn't materialize. Most trustees mistakenly treated life insurance as a ''Buy and Hold'' asset rather than as a ''Buy and Manage'' asset. They assumed that the insurance company was automatically going to determine and increase the billed premium necessary for them to continue the coverage for the rest of their lives. Instead, the insurance company continued to send them the same billed premium which has resulted in an increasing number of non-guaranteed life insurance policies pre-deceasing the insured.

This is and has been a recipe for financial disaster as it often leads to amateur trustees being sued by their siblings for wasting a financial asset, that they were responsible for maintaining for the trust beneficiaries, their siblings' families.

How Should You Handle This Situation?

It's essential for a client to understand that life insurance policies do not come with an automatic management function and that the policies funding their respective trusts and agreements — be they universal, indexed, or variable policies — all require an ongoing review because unexpected personal events happen, and economic situations can and do change.

How would you as an advisor to an amateur trustee of an ILIT react to receiving a notice from the insurer stating that the $1,700,000 life insurance policy in the trust is going to lapse in the next 12 months unless a significantly higher premium is paid?

The insured is age 81, in good health and so far, has paid over $400,000 in premium. Your action is needed immediately. What would you advise? The point is if you, the advisor, or your amateur trustee client doesn't have the necessary skills to do a stress test to evaluate the insured's life expectancy and the necessary premium to keep the coverage in force to a particular age, then it's their fiduciary duty as a trustee to retain the services of someone who does.

Once a problem is discovered, trustees and beneficiaries alike often begin looking at who is at fault and who can be blamed for their problem. ''Isn't it the agent's responsibility, or ''Shouldn't the insurance company have billed me correctly?'' or ''Shouldn't my attorney who drafted the trust or my CPA who is involved in all my financial decisions have advised or informed me?'' The answer to the above questions is ''No.'' It's the trustee who has 100% of the responsibility to manage the life insurance policy and is the only one authorized to increase or decrease the billed premium.

It's these life insurance policies that fund the trust that are used to provide the family with ongoing income. It's the buy-sell agreement that a business partner relies on to assure a deceased partner's family will get their appropriate payout with 100% tax-free life insurance proceeds upon that partner's death, thus allowing the remaining partner to retain 100% ownership in the business. Perhaps it's the deferred compensation plan an executive or business owner contributed to over the years to supplement their retirement income. Or it could be for the special needs trusts that a parent funded to make certain that their child's life will remain comfortable, even after their parents pass on.

A sizable portion of life insurance coverage is specifically purchased to pay for one's debts, administrative costs and state and federal estate taxes. As a result of sunsetting provisions in our tax laws, the federal exemption will decrease from approximately $12 million to $6 million adjusted for inflation effective January 1, 2026. This will result in even more individuals being required to pay a federal and state inheritance tax. Many individuals will rely on life insurance to pay these taxes since the proceeds (if set up correctly) will be income and estate tax free and, if it's a second-to-die policy, will be made available exactly when needed, at the death of the second spouse.

Because life insurance companies' profitability margins have been adversely affected by years of sus-

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tained reduced interest rates which severely impacted their earnings and the impact of Covid on their losses, they are currently seeking to do what they can to offset their losses. This includes raising their COI (Cost of Insurance), which further reduces the net crediting returns of a policy and further exacerbates an already deteriorating situation, causing a policy's duration to shorten even quicker.

Advise your clients that the life insurance company has no obligation to provide guidance to the insured nor the beneficiaries. Instead, their obligation is to their stock or shareholders. When an insured decides he can't or won't pay a significantly higher premium the policy lapses and the insurance company gets to keep all of the premiums that were paid, without ever having to pay out a death benefit. This results in a very profitable situation for the insurance company and not for your client.

But there are options.

The Life Settlement Option

When it's discovered that a client's life insurance policy is in trouble of expiring years earlier than expected, the question becomes what should I do now? Should I surrender the policy back to the insurer in exchange for the cash value? Should I merely reduce the death benefit, or should I increase the premium paid to the insurance company to extend the duration of the coverage. Another option may be to just stop paying the premium all together and keep the policy for as long as the coverage lasts? Depending on an individual's health and age, a smarter but less well-known option is an alternate exit strategy known as a "Life Settlement." This is a process where the insured sells all or a portion of their existing life insurance portfolio to an institutional investor, just like they would a stock, bond, or a parcel of land. This strategy most often yields a significantly higher payout than does surrendering the policy back to the insurer. Most importantly it turns an increasing premium bill into an asset.

An Unexpected Disability

Another major disruptor to an individual's estate plan is an unexpected disability occurring during one's working years. The inability to earn a living is extremely disruptive and significant when an individual relies on a salary from their business or employer.

But such an occurrence can also have a devastating impact in one's retirement years as they weren't able to continue contributing to their I.R.C. §401(k) or §403(b) plans. While many actively working individuals purchase life insurance to protect their family, that's not the case with protecting themselves in the event of a disability. Perhaps the reason is that an inexpensive form of life insurance coverage called term life insurance exists, but that's not the case with disability insurance, despite the fact that individuals in their 30s to 50s are three times more likely to have a disability lasting at least a year than they are to die prematurely.

Protecting Against a Long-Term Care Expense

Another major disruptor to a family's retirement plan is when a family member suffers an unexpected medical event requiring them to pay for an unreimbursed long-term care expense. Often times this is caused by an individual's loss of ability to manage their own activities of daily living such as eating, bathing, dressing, or transferring from one location to another. We all know the devastating impact that Alzheimer's or some other form of memory loss or dementia can have. While no one can take away the emotional hurt of having to deal with this problem there are financial and legal steps a family can take today to ease the burden and protect themselves should they become one of the afflicted individuals. An unexpected, unreimbursed long-term illness can have catastrophic effects on one's personal life as well as that of their family.

Today individuals have a choice of purchasing a traditional stand-alone long-term care insurance policy or the combo plan that allows an individual to withdraw cash on a tax-free basis from the death benefit of the policy. There are advantages and drawbacks to each, and they must be compared before a client decides which one to use.

Arrangements that people make or don't make while they are younger and healthy will determine the quality of life for themselves and their families going forward. Those who plan ahead will avoid having to deal with the financial and legal issues, in addition to the ever-present medical and emotional issues, thus avoiding a significant family crisis.

Term or Permanent Life Insurance?

A buy-sell agreement between business partners can be funded with either a less expensive term life insurance policy, which is guaranteed to last anywhere from 5 to 30 years, but only up to age 83. Or it can be funded with a permanent life insurance policy that costs significantly more but lasts a lifetime because it builds up cash value on a tax-deferred basis. This cash value can later be used to supplement their retirement income on a tax-free basis through a series of loans and withdrawals. If a business, or young family is first starting out and cash flow is an issue, they should use a term policy to provide the maximum death benefit for the longest period of time, for the least amount of premium outlay. But if your client is involved in a well-established company where cash flow is plenti-

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ful, they may consider utilizing a permanent life insurance policy for its tax deferred accumulation benefits which, in addition to providing life insurance coverage, can later be used as an asset class to supplement their income at retirement.

Keep in mind that some insurers allow a term policy holder the opportunity to convert to a permanent policy without any evidence of insurability up to age 65 or 70. This conversion privilege is extremely important to any individual who has developed an illness, as it ensures that the individual will be given the opportunity to convert their insurance coverage to one that will last for the rest of the insured's life, without any evidence of insurability. This opportunity is often missed and, once it passes, is lost forever.

A quick word about inexpensive group term life insurance offered through trade or professional associations such those for attorneys, CPAs, etc. The coverage is inexpensive until a person reaches age 45. However, with premiums increasing every five years, the premium will double at age 50 and triple at age 55. This association group term insurance coverage should never be used if the intent is to maintain coverage beyond age 55-60 as the cost is high and the coverage reduces at age 70 and ends at age 75.

Fortunately, Guaranteed Universal life insurance policies are available today. It's especially important for parents setting up a special needs trust to use a policy that's 100% guaranteed to remain in force for the duration of their lives and will be there to support their child after they are gone. Point of information, a guaranteed policy is more expensive than a non-guaranteed policy so make certain you know the type of coverage you or your client is purchasing.

In Summary

Keep in mind, your client is usually not familiar with their life insurance portfolio, does not know that it can expire years earlier than originally anticipated, is not comfortable talking about the subject, and does not understand how non-guaranteed life insurance and interest crediting rates work. Many incorrectly believe that they are not healthy enough to qualify for certain coverages, or that certain coverages are too expensive. In many cases their existing policy(ies) has not seen the light of day since it was purchased many years ago. You wouldn't treat your stock and bond investment portfolio that way, and you shouldn't treat your risk management portfolio that way either. To remedy this situation and take advantage of many more little-known strategies, develop a relationship with an experienced independent life insurance professional (CFP, CLU).

It is imperative that you take a proactive role, advocating for the next generation by making your client aware that reduced sustained interest rates over the years may cause their life insurance coverage to expire before they do—totally disrupting their estate plan. Make certain your client, where appropriate, uses corporate/business assets to purchase personal benefits at the lowest available tax rates. Most importantly, the sooner a problem is identified the more options are available to fix the problem and to do so at a lower cost.

Life insurance today does more than provide a death benefit to the beneficiary; it can also provide a very significant living benefit to the insured as an asset class that takes advantage of the tax-deferred accumulation aspect and tax-free distribution benefits of a traditional or a Private Placement Life Insurance policy for the high- and ultra-high-net-worth client.

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