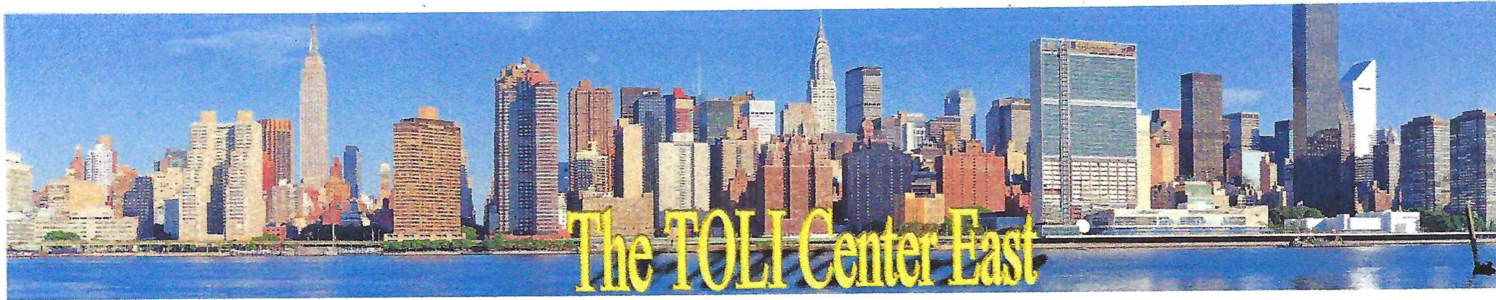

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Dear NCBA Attendee

June 13, 2024.

I hope you found our session useful and of interest. Keep in mind that your client is most likely unfamiliar with most of the topics we discussed, nor any of the "questions to ask a client, listed below. Next time you ask about their life Ins include several of the questions below & urge them to become more familiar with the capabilities of a properly arranged life Ins portfolio.

I'd be delighted to share my 37 years' experience as an independent CFP, CLTC, and act as a resource for you, or a client in this ever-changing world of providing information regarding the right type and right strategy when it comes to making various judgement calls most clients aren't prepared to make.

Keep in mind, 90 % of Fortune 500 Key executives use the tax benefits of a Life Ins policy as a deferred compensation plan to supplement their retirement income. You& your client can as well

Most important questions to ask a client.

Are they aware of the varied tax deferred aspects & the tax-free distribution benefits of Life Ins?
Are they utilizing the tax benefits of a Life Ins product to supplement their retirement income?
Are they strategically managing their Life Ins portfolio to maximize their premium dollars?

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 Memorandum™

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Ride the Resurgent Annuity Wave to Supplement Retirement Income

By Henry Montag
The TOLI Center East

Annuities are back, says Henry Montag, Certified Financial Planner with The TOLI Center East, explaining how to match the right type to the income needs and risk tolerances of your clients, your parents, or yourself.

In the ever-changing landscape of financial instruments, annuities have regained their significance as an income tool, as a result of the recent dramatic rise of interest rates from all-time lows of 1–2% to their current 4–5% returns for six-month CDs and 5–6% passbook saving rates.

Today's annuities can provide a guaranteed rate of return based on a stated fixed interest rate, or a rate of return based on the appreciation of the value of the stock, bond market, as well as indexes or sub-accounts geared to replicate the stock market funds and exchange-traded funds (ETFs). There are now also several opportunities to place a level of protection against potential losses using hedging strategies and buffers.

Maximize Retirement Income

So, if you're looking for protection against volatile markets and potential losses and you'd like to provide a guaranteed income in later years by utilizing tax-deferred growth in equities, as well as to address inflation and rising taxes, you should consider today's annuities. Because as the old adage goes, it's not what you earn that matters, it's what you get to keep that counts.

During my 35+ years as a CFP practitioner I've seen many individuals who have saved well for their retirement, and those who haven't. It's not a secret that those who have spent at least as much time looking at how their current investment vehicles are doing as they do planning for a one-week vacation have managed to save more, have maximized their assets and income, and are happier and better off financially than those who haven't. Most account holders will agree that it's been a while since they've exercised their ability to reallocate their investment choices in their 401s or 403s regardless of the changes in our economic climate, or for that matter did anything other than reading the bottom line of their statements to see their current account values. It's up to the owner to manage and take charge of these plans if they hope to maximize their income at retirement.

A systematic automatic deposit from your checking account into a new supplemental retirement savings/investment account, once a month for a pre-determined amount of dollars over and above any current deposits made into your existing retirement plans can be an important start to one day being one of those better-off and happier individuals.

Because annuities are able to place their tax-deferred umbrella over investments with well diversified levels of risk, they're an ideal vehicle to use as a Supplemental Retirement account. But it's important to be aware that all annuities come with penalties if money is withdrawn prior to age 59-1/2 and there are charges for early withdrawals. Point being an annuity is an ideal place for a 35- to 40-year-old individual saving for retirement but not a good place for that same 35- to 40-year-old saving for a down payment for a house or a child's college tuition.

The Long History of Annuities, Briefly

In its simplest terms, an annuity is a financial instrument, issued by an insurance company pursuant to a contract to an annuitant, *the person who receives the payout.* The payout is based on the accumulated sum of money that has grown tax deferred in a pre-determined risk category and guaranteed settlement option (terms of payment) of the annuitant's choosing. Once selected, settlement options are irreversible.

The practice of annuities has its roots deeply embedded in ancient Rome, where citizens exchanged with an annuity dealer a lump sum of upfront money for a guaranteed lifetime stream of payments known as *annua* or annual stipends for a fixed term or for the rest of their life. Although tax deferral for an unlimited length of time is an extremely attractive and important feature today, the creation of annuities was not tax driven; it was driven by the need for security in an uncertain world.

Annuities made up a small portion of the life insurance marketplace until the stock market collapse in 1929 and the Great Depression that followed as both caused

concerns about the stability of our economy and entire financial system. This drove interest in products perceived to have stability to make good the lifetime guaranteed payments they offered. In the ensuing "New Deal" era, in which Americans wanted to accumulate assets over a long period of time in order to soak in the "Save for a Rainy Day" philosophy, resulting in the growth of the group annuity marketplace for corporate pension plans.

Now, generations later, pensions are in decline, and annuities have evolved into new types of investment vehicles catering to the needs and risk tolerances of various consumers. We'll look at six different types of annuities and focus on what they do and what situations they're best suited for.

Risks and Rewards

Insurers today fully expect robust growth in the areas of annuities due to anticipated higher income taxes, a desire to address inflation, and the SECURE Act. They offer different types of annuities that allow the annuitant to earn higher returns based on the tax-deferred treatment of an annuity plus a higher level of risk or lower returns with greater levels of protection. Annuities can diversify a traditional investment portfolio to balance out the risk and reward options. In addition, several annuities can provide a safe haven against a "sequence of return risks," thus avoiding having to withdraw assets for required minimum distributions (RMDs) during down years in the stock market, especially in the early years.

While no marketing or sales charges are deducted from the growing principle, the accumulated funds are subject to a "surrender charge" in exchange for the tax deferral, if funds are withdrawn within the first 5–7 years. A typical surrender charge may be 7% during year one and decline to 6% for year two, 5% for year three, 4% for year four, etc. However, many insurers permit annuitants to withdraw up to10% of the principal annually with no surrender charge. But funds withdrawn before the annuitant reaches age 59-1/2 are subject to an early distribution penalty consisting of immediate income taxes on any gains, as well as a 10% penalty imposed by the federal government.

After the surrender withdrawal period is over, the annuitant has the ability to renew the contract with the same company or transfer the tax-deferred funds to another insurer that offers a more competitive interest rate or reduced fees under a "1035 tax-free exchange," which allows them to continue the tax deferral status. They can also opt to take a lump-sum payout or a payment over a set number of years or for one's lifetime or over the lifetime of two people. Keep in mind with non-qualified annuities there are no income limits, deposit limitations, or RMDs.

Fixed Annuity

Fixed annuities are characterized by their ability to provide a guaranteed fixed-amount of tax-deferred return on investment for a period typically ranging from one to five years. They provide a haven for risk-averse investors seeking protection against market fluctuations. In 2022, fixed annuity purchases exceeded $225 billion, with approximately $1.3 trillion currently under contract.

With today's higher interest rates, individuals currently earning 5% in a taxable CD or savings account should consider the option of earning the same 5% in a fixed annuity for as many years as they choose. Doing so not only provides the same guarantee, but in addition allows the accumulated funds to grow on a compounded tax-deferred basis. The only caveat is that the annuity should only be used for distributions over age 59-1/2 and that the accumulated funds are subject to a surrender charge for the first 5 to 7 years. There is however an ability to withdraw 10% of the principal each year without a surrender charge but the penalty for under age 59-1/2 withdrawals still applies. I've found that laddering several single premium deferred annuities, SPDA), rather than placing additional money into one flexible premium deferred annuity (FPDA), makes sense as they can be annuitized individually only as additional money may be required at retirement.

Those concerned that interest rates may go down next year can assuage their fears with a multi-year guaranteed annuity (MYGA) locking up today's rates for four or five years.

Fixed annuities are good vehicles to accumulate funds on a guaranteed tax-deferred basis but are not good vehicles to hold onto at death as they offer no protection against income taxation when gains are eventually withdrawn. So, if the annuitant/client doesn't need the money for retirement, a better idea to transfer assets that would otherwise be allocated to the next generation, would be to annuitize the contract and use all or part of the income proceeds to purchase an individual, or depending on the age differential and the health of each partner, a second to die life insurance policy with a significantly larger leveraged tax-free death benefit than that of the annuity's taxable and non-leveraged net payout. If you or a client is considering this strategy, be aware that the cost of life insurance increases annually and the longer one waits health conditions may prevent qualifying for coverage.

Variable Annuity

Variable annuities cater to annuitant investors willing to embrace higher risk for the potential of higher returns. This type of annuity offers no guarantees of income nor protection of accumulated deposits, it can lose value. But if the stock market does well, the annuitant will earn a higher return based on the full appreciation of the sepa-

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rate accounts chosen be they the equity, bonds, or the international sector of sub-accounts in which they choose to invest. Annuitants have the ability to switch their allocation of assets from an aggressive equity holding to a conservative equity holding to a bond portfolio, or to a money market, all at no cost and without incurring any taxes or fees for changing their sub-accounts. The great majority of variable annuities have a built-in guaranteed benefit equal to the initial principal less any withdrawals or to the highest value that the annuity reached less any withdrawals. But that's only in the event the annuitant dies while the annuity's value is less than the initial investment, or the highest value. The responsibility to manage these accounts is left to the investor. Even managed accounts need to be reviewed as no one will care as much about your account value as you.

The Teachers Insurance and Annuities Association-College Retirement Equity Fund, TIAA-CREF, was the first variable annuity sold, in 1952, to supplement a fixed-dollar annuity to finance retirement pension plans for teachers.

Guaranteed Lifetime Benefit riders (GLBs) are extremely popular options that can be added to variable annuities at an additional cost to allow buyers to make guaranteed withdrawals from their sub-accounts. From a practitioner's point of view, too often I see individuals purchase these options but never exercise them, rendering them a waste of money. Many GLBs will provide a lifetime of guaranteed income even if their contract runs out of money. GLBs were introduced in the late 1990s. The riders became popular in the early 2000s to ease consumer concerns around market volatility after the downturn in 2001–2002.

The trend today is to use variable annuities without the riders as stripped-down tax-deferred accumulation vehicles with current costs *in the vicinity of 1.25% vs. fees of more than twice that when they were initially purchased years earlier.* The great majority of annuitants haven't looked at their contracts in many years and are unaware of the rates they are currently earning, or the higher fees they are paying nor for the benefits they've paid for but never exercised. A great many annuitants are not aware of available new features such as a long-term care annuity that would be advantageous to them and their spouse.

Fixed Indexed Annuity

Fixed indexed annuities (FIAs) combine features from fixed and variable annuities, for a balanced approach. This type of annuity provides an annuitant with a 1–2% guaranteed minimum return. Since FIAs cannot lose any principal, their investment in various potentially higher yielding indexes—such as the Nasdaq 100 or the S&P 500, the international/global marketplace, or the Russell 3000, smaller growth companies—is typically capped at only the first 10–12% of their index's annual growth. A cap of 10% with a subaccount earning 15% means the annuitant only earns 10%, and the Insurance company retains the other 5% in return for the downside protection against any loss of principal.

When FIAs first entered the market in the late 1990s, there was $3 billion in force; by 2024, the number will be in the vicinity of $80 billion. As a result of the SECURE Act enacted in 2019, annuities will become more popular as the Act includes their use and promotes the use of lifetime income options.

Like variable annuities, FIAs offer various riders at an additional cost. A typical rider today would provide leverage to pay for qualified long-term care expenses as well as a guaranteed lifetime withdrawal benefit, regardless of how well or poorly one's sub-account has performed. The various indexes can be changed at no cost nor tax consequence reflecting the annuitant's or financial adviser's perceived direction of the market.

Immediate Annuity/Longevity Annuity

Immediate annuities cater to those in pursuit of immediate retirement income. This type of annuity provides fixed and variable payout options, and favorable taxation treatment known as an "exclusionary ratio," which takes into account that each payout includes part gain and part principal. Keep in mind that once a payout/annuitization is selected the decision is irreversible.

As a result of the Pension Protection Act, immediate annuities can now be used to pay for long-term care insurance premiums on a tax-free basis if they are directly paid from one insurer to the other insurer.

A longevity annuity, on the other hand, will first accumulate its growth on a tax-deferred basis for a period of years, and then provide a larger payout than an immediate annuity as a result of the years of accumulated earnings not having been paid out.

Registered Index Linked Annuity

After the market's major financial losses of 2008–2009, accompanied by sustained reduced interest rates, the insurance industry created a new type of annuity investment vehicle: The Registered Index Linked Annuity (RILA), also known as a buffered or a structured annuity.

If a fixed annuity is for a conservative investor and a variable annuity is for a more aggressive investor, then a RILA is for someone right in the middle. Because the annuitant is willing to *accept the lion's share of the market risk*, the issuing insurance company is willing to offer a larger return (higher cap), than with a fixed or index annuity. For example, the annuitant of a RILA, as of this writing would have *the option of protecting against the*

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Using Life Insurance to Supplement Retirement

By Henry Montag CFP[*]
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New York, NY

There are three basic strategies I've seen employed by people when it comes to saving for their retirement.

First, those that do nothing and wake up one morning in their 50's or 60's and realize they made a mistake in not having had some sort of a systematic method to save a portion of their current income during their working years to have it grow and be available for their retirement.

Second, there are those that are content with putting away what they're either able or allowed to put away in their IRAs, 401(k) plans, or 403(b) plans and use the traditional retail stocks, bonds, mutual funds, or ETF's to grow their investments.

Third, there are those that look to supplement the maximum contributions to their current 401ks, 403bs, or even their corporate pension/profit sharing plans. In my practice these high wage earner practitioners, key executives, or business owners will often set up a nonqualified Deferred Compensation Plan (DCP), a Supplemental Executive Retirement Plan (SERP), or a Supplemental Owners Retirement Plan (SORP), to deposit funds over and above their allowable limits using various types of life insurance policies to diversify their portfolios. Although they don't get a tax deduction, they do so to take advantage of the specific benefits found in a life insurance product that we'll discuss.

In addition, there are those that use a life insurance policy not only for its death benefit but also as an "Asset Class" for its "Living Benefits." As an investment vehicle life insurance allows assets to grow and accumulate on a tax deferred basis and also allows the owner/insured, at a time of their choosing to distribute the accumulated cash value on an income tax free basis. This is done through annually surrendering the cash value up to basis, and then borrowing the excess cash value through annual loans that are not taxable and will never have to be paid back as long as the life insurance policy survives the insured.

DEFERRED COMPENSATION PLAN FOR KEY EMPLOYEES OR PRINCIPALS

Often times an owner of a business or professional practice will incorporate a DCP in order to retain a key employee using the symbolic "Golden Handcuffs" with the unsecured promise of a death benefit for their beneficiaries along with a side fund that will one day be withdrawn income tax free to supplement their retirement assuming the executive meets the criteria in the DCP.

The two primary investment funding methods for DCPs, SORPs, and SERPs are either traditional stocks, bonds, etc., or a life insurance policy. For purposes of this article, we'll be discussing various life insurance policies that build up significant cash value. The policies of choice to fund either of the above plans are Whole Life (WL), Indexed Universal Life (IUL), and Variable Life (VL), as they are all intended to take advantage of a policy's ability to accumulate its cash value for a prolonged period of time.

[*] 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 the Tax Management 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 & News 12. He co-authored an American Bar Association Flagship publication, January 2017, titled, The Advisors' & Trustees' Guide to Managing Risk.

This article may be cited as Henry Montag, *Using Life Insurance to Supplement Retirement*, 47 Tax Mgmt. Ests., Gifts & Trs. J. No. 5 (Sept. 8, 2022).

DISTRIBUTION OF ACCUMULATED DEFERRED ASSETS

Let's look at a typical situation in which an employee, or owner aged 40, might consider a DCP to provide a supplemental retirement income for when they retire in say 20 or 25 years regardless of how much they may have already contributed to their IRA, or any other type of retirement plan. For example, the employee could choose to defer $25,000 of their income in a DCP, funded with a life insurance policy with a $1 million death benefit that will continue to grow on a tax-deferred basis until they reach a desired age. At that point, the employee, assuming he/she was a nonsmoker and in good health, would have paid in $500,000 after 20 years. Then on the 20th or 25th year, at age 65 or 70, the employee could begin to draw out an annual income, including the gains, all on a tax-free basis assuming the policy survives the insured. One of the main reasons life insurance funding is to strategically design the policy to accomplish the above stated objective based on a degree of risk an owner wishes to take.

TAX BENEFITS

There are particular tax benefits to a DCP depending on whether the entity offering the DCP is a C corporation, a subchapter S corporation, or a limited liability company. The entity type will determine whether the employer selects a traditional plan, which the employee pays for and owns the policy himself. Or whether a nontraditional plan is used, in which the employer will make a loan to the employee, and by using a split-dollar arrangement, will still allow the employee to take a tax-free distribution.

LIVING BENEFITS

Estate planners have primarily used life insurance to provide for the payment of estate and other transfer taxes using discounted dollars. In addition, insurance has also been used to provide a source of tax advantaged supplemental income. Today they are also able to use the death benefit to pay for qualified long term care expenses on a tax-free basis. It is now far more common for life insurance professionals to do planning with products such as Private Placement Life Insurance (PPLI), and IUL policies for entire segments of the upper income and high-net worth marketplace of consumers.

IUL AND PPLI LIFE INSURANCE FOR HIGH-NET WORTH (HNW) AND ULTRA HIGH-NET WORTH (UHNW) CLIENTS

The most simplistic explanation of IUL is that it is a version of universal life but rather than have a stated interest rate like traditional UL, a guaranteed premium and death benefit similar to guaranteed UL, or have investment sub accounts like VL, IUL is classified as a fixed product with crediting linked to an index, most commonly the S&P 500 Index. It is postured as a product with upside potential without the downside risk. For example, the crediting of cash value in an IUL product may have a cap of 10% with a floor of 0%. This means that when the Index is up 10% or more, the policy crediting is only 10%. However, when the index is negative, the policy is credited with 0% and the client won't lose any money as a result of the negative return. When the return is between the two, the policy is credited with that return.

The UHNW clients are now far more interested in acquiring life insurance policies as an asset class that provides favorably taxed income distributions, as well as income and estate tax free death benefits to meet their estate tax and wealth preservation objectives. This comes as a result of a unique life insurance strategy which now allows a larger amount of accumulated cash value to grow and accumulate tax deferred indefinitely despite the recently enacted SECURE Act.[1] Recent changes to I.R.C. §7702, and the full-frontal onslaught that the UHNW client faces as a result of the current tax environment, have made PPLI even more efficient than it was just last year. Equally significant, is that PPLI offers better pricing and lower costs due to a host of factors which the insurer in turn passes on to the insured. These factors, in addition to significantly reduced institutional rather than retail commissions, result in a larger cash value buildup and unlike their retail counterparts have no early withdrawal nor surrender charge penalties. Transaction fees are curtailed by the use of a hedge fund manager which can provide a more cost-efficient outcome. Although the policy has a death benefit it primarily acts as an accumulation vehicle for the HNW client wishing to allocate a large premium with the ability to later distribute income to the owner on a tax-free basis. Although there are no guarantees with a VL insurance product, such a product in my practice is primarily used by those that significantly overfund the necessary premium and in doing so, use the policy as a accumulation vehicle thus preventing the policy from lapsing prematurely. In addition, I make them aware of the heightened market risk in using a VL insurance product.

CONCLUSION

Various types of life insurance products can be used to diversify existing traditional stock and bond portfolios with the ability to reduce market risk by offering

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[1] Pub. L. No. 116–94.

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various guarantees against a loss of principal. Since there are no income limitations as there are in a Roth IRA, any gains are unaffected by the SECURE Act and can continue to grow tax deferred for as long as the owner wishes. Then if set up correctly, he/she can distribute all of those proceeds income tax free. At death, all life insurance policies pay out a leveraged death benefit, which if set up correctly, is income and estate tax free. One of the more important "Living Benefits" is the ability to add a long-term care rider to a life insurance policy, which as a result of the Pension Protection Act,[2] allows an insured immediate access to withdraw up to the full death benefit to pay for any qualified long term care expenses income-tax free.

While PPLI offers access to institutional hedge funds rather than traditional retail mutual funds, as well as various other significant features and tax advantaged income benefits, it is a registered security. As such it requires an experienced team consisting of an attorney, an accountant, and an independent insurance professional to properly structure and maintain such an arrangement, so it can be costly to set up. However, when properly implemented for the right client, the benefits far outweigh the initial costs.

[2] Pub. L. No. 109-280.

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Don't Make This Most Common Retirement Blunder

9 comments

Henry Montag

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Summary

You've worked your entire adult life to secure a comfortable retirement; so make certain you don't mess up as you're about to make one of your most important decisions.

The HR department of your company is not responsible for making the best decision on your behalf; they're only responsible for completing their paperwork.

Once a decision is made it cannot be changed so make certain you obtain independent assistance. No one has a greater vested interest in your retirement than you do.

You're excited today is the day you've been waiting for. You have an appointment with your human resource department to go over your retirement packet containing all of your financial information. You'll see exactly how much money you can expect to receive each and every month under certain conditions once you retire.

You'll usually have three choices:

1.If you're married, you can get a higher monthly amount guaranteed to you for the rest of your life if you agree to have the payment end upon your life.[Life Only]

2. You can take a little less each month and have that benefit paid to your spouse for the rest of your spouse's life. [Joint and Survivor]

3. You can have the payment guaranteed at no less than 10 or 20 years. [Period Certain].

Regardless of which option you chose you have just purchased a single premium immediate annuity from an insurance company with the money that was previously in your retirement acct. You'll sign the papers and your first monthly guaranteed payment will start within a few weeks.

Congratulations, you've just made one of the most common retirement mistakes.

What you should have done instead is take option No. 4, usually not mentioned, which is to request a total withdrawal into your own rollover IRA. In this manner you can do the following:

Call several insurance companies or an independent Broker and give them the exact dollar amount in your rollover and ask them for the figure for each of the three above-mentioned options they would pay. What you'll find either on your own or with the assistance of a qualified CPA or CFP is whether the amount you were given by your company's HR department was in fact the highest payout you could expect from the open marketplace. Oftentimes I find that by competitively shopping, a client can earn an extra 7-10% and that's for each and every month for the rest of his life.

The reason this occurs is in most cases HR administrators are just using the information from the one insurance company that they happen to be using, whereas if you're doing it for yourself you'll probably shop with a little more interest than they have, and as a result you'll probably find a far more competitive rate. The prime responsibility of human resource pension

administrators is to complete their ERISA fiduciary responsibility and get you off their payroll. It's not their job to get you the best quote; that's your job.

Competition is a wonderful thing if it's used to your advantage. So realize that it's extremely important that you understand all of your options *before* you make any decision. When you're dealing with any retirement option within any company be aware that once you make a decision, it's irreversible.

There are several other very effective uses of a single premium immediate annuity such as providing you with a significantly greater net income than, say, a CD because of its favorable tax treatment.

Lastly if combined with a life insurance contract you may find that you are not only able to significantly increase your retirement income but you can also guarantee a greater amount of principal to your spouse and beneficiaries through a strategic option of providing your spouse with the ability to supplement and control her own retirement income.

The point is that you should consider the various options and alternatives available well before you make any retirement decisions.

Disclosure: I/we have no positions in any stocks mentioned, and no plans to initiate any positions within the next 72 hours.

I wrote this article myself, and it expresses my own opinions. I am not receiving compensation for it. I have no business relationship with any company whose stock is mentioned in this article.

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Expand

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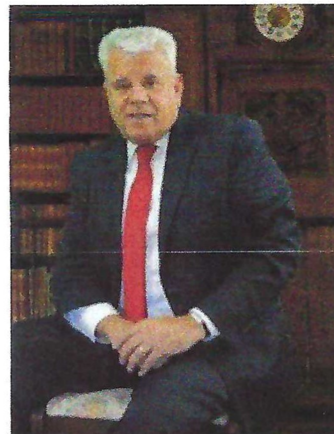

Henry Montag CFP, Managing Director of The TOLI Center East in practice since 1976 with offices in L.I N.Y, has authored articles and acted as a source for NYSBA Senior Lawyer, NYSSCPA Tax Stringer, Tax Facts, Bloomberg's Estates Gift & Trust Journal, Trusts & Estate Magazine, Accounting Today, Long Island Business News, Financial Planning, & The Wall Street Journal.

He has appeared as a guest on Wall Street Week, Fox Business News & News 12. He's provided CPE & CLE continuing education credits to NYSBA, ABA, AICPA, NYSSCPA, & the estate Planning Council. He co-authored an American Bar Association Flagship publication, Jan 2017, titled; "The Advisors' & Trustees' Guide to Managing Risk" The Jan 2019 issue of Commerce Clearing House, referred to him as; "One of today's best brains in life Insurance.