

The Perspectives of Estate Planning

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Some things you need to know

- This information assumes that the life insurance is not a modified endowment contract, or MEC. As long as the contract meets the non-MEC definitions of IRC Section 7702A, most distributions are taxed on a first-in/first-out basis. Surrender charges may apply to partial surrenders. Loans and partial surrenders form a MEC will generally be taxable, and if taken prior to age 59 ½, may be subject to a 10% tax penalty. Loans and partial surrenders will reduce the cash value and the death benefits payable to your beneficiaries, and withdrawals above the available free amount will incur surrender charges. If your contract were to lapse with a loan outstanding, the loan amount in excess of basis will be treated as a distribution and all or a portion will be subject to income tax.
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Agenda

- Estate planning introduction
- Federal estate & gift tax system overview
- Federal tax relief areas
- Advanced estate planning strategies
- Flexible estate planning strategies

Federal Estate and Gift Tax System



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Federal estate and gift taxation

- **Federal Estate Taxation (FET)**
 - Transfer tax
 - Assessed upon transfers made at death from taxable estate
 - Retained ownership
- **Federal Gift Taxation**
 - Gift transfers during lifetime on “completed gifts”
 - Transfer tax on transfers below “fair market value”
 - Deferred tax but cumulative throughout lifetime of giver

Federal estate tax schedule

<u>Tax Year</u>	<u>Applicable Exclusion Amount</u>	<u>Top FET Bracket Percentage</u>
2001	\$1,000,000	55%
2009	\$3,500,000	45%
2010	REPEAL: Unlimited	REPEAL: 0%
2011-12	\$5,000,000	35%
2013	\$1,000,000	55%

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FET: applicable exclusion amount and credit schedule

<u>Tax Year</u>	<u>Applicable Exclusion Amount</u>	<u>Estate Tax Credit</u>
2001	\$1,000,000	\$345,800
2009	\$3,500,000	\$1,455,800
2010	REPEAL: Unlimited	REPEAL: NA
2011-12	\$5,000,000	\$1,730,800
2013	\$1,000,000	\$345,000

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Federal Tax Relief Areas



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Annual gift exclusion

- \$13,000 for 2010
- Per donor, per recipient, per year
- Non-cumulative

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Unlimited marital deduction

All years except 2010

- Unlimited transfers to spouse
- Gift taxes during lifetime
- Estate taxes at death
- Gift tax allows easy re-titling of assets during lifetime
- Limited basis adjustment in 2010

Applicable exclusion amount

- **The “exemption equivalent”**
 - 2006-2008: \$2,000,000
 - 2009: \$3,500,000
 - 2010: No Estate Tax
 - 2011-12: \$5,000,000
 - 2013 \$1,000,000
- **Transfer to anyone**
 - Not limited to spouse or family
- **“Use it or lose it” rule is gone—FOR NOW**
 - Per person, per lifetime
 - Now is “transferable” to spouse

Advanced Estate Tax Planning Strategies



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“Amateurs practice until they get it right.
He practices until it can’t possibly go
wrong.”

- *Hank Haney*
Master Teaching PGA Professional



Advanced estate planning strategies

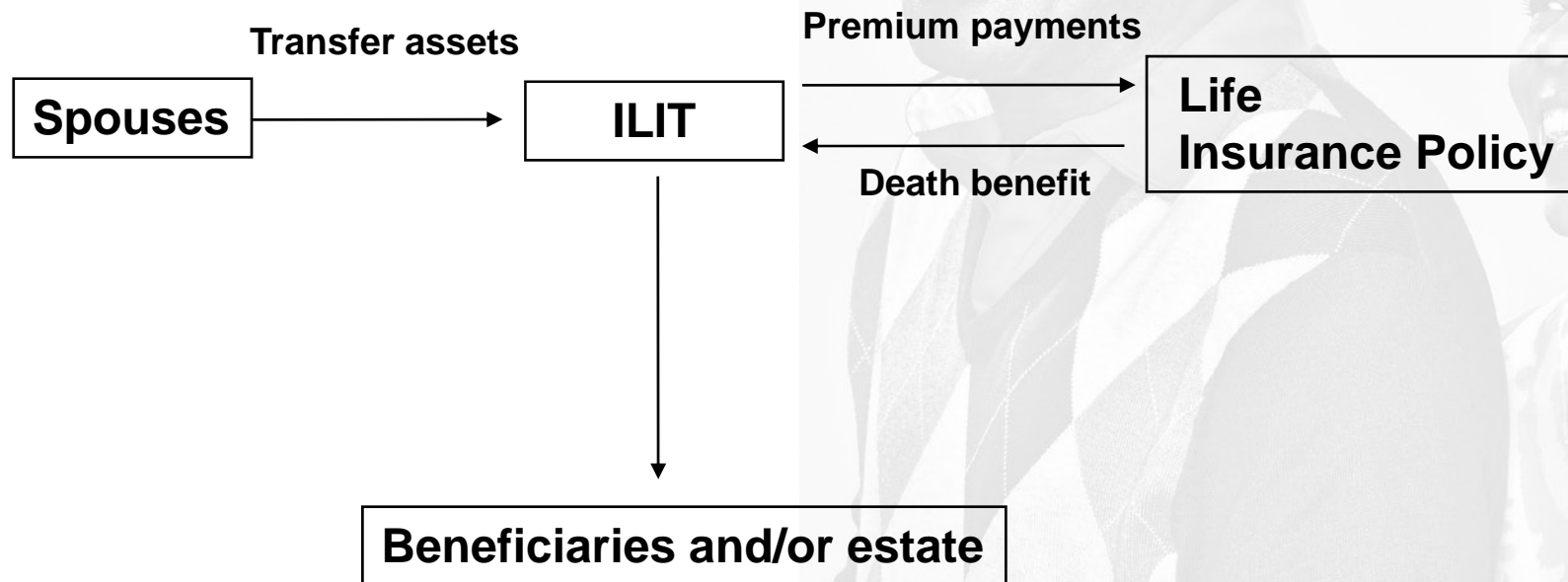
- Credit exemption trust
- ILIT
- Dynasty and Delaware trusts
- Family limited P/S (FLPs)
- GRATs, GRUTs & QPRTs
- Private annuity trusts
- Intentionally defective irrevocable trust (IDIT)
- Spousal Lifetime Access Trusts
- Single Owned Survivorship Trusts

Credit exemption trust and the marital deduction trap

- Estate split into two trusts
- A Trust : Marital deduction/Survivor's Trust
- B Trust: Non-marital/Credit exemption trust
- Credit exemption trust limitations

Irrevocable life insurance trust

- How is an ILIT set up?



Irrevocable life insurance trust

- Trust grantors also usually pay the premium
- Use of annual gift tax exclusion
- Crummey beneficiaries

Irrevocable life insurance trust

- Tax advantages
 - No gift tax on premium transfer
 - No estate tax on premium transfer in event of death
 - No FIT/capital gains tax on cash value growth within the survivorship life insurance policy
 - No estate or gift tax on survivorship policy death benefit to grantors at second death
 - No gift tax on trust distribution of death benefit to children
 - No income/capital gains tax on distribution of death benefit to children from trust

Irrevocable life insurance trust

- Other issues surrounding the ILIT
 - Premium financing
 - Private split dollar
 - Collateral assignment split dollar
 - Use as supplemental retirement vehicle with income tax defective design

Dynasty and Delaware Trusts

- Dynasty trusts help leave a legacy to grandchildren and beyond
- Delaware trusts allow you to pick a favorable site for your trust

Dynasty trust

- Generation skipping transfer tax (GSTT)
- GSTT exemption transferred to dynasty trust
- Dynasty trust buys life insurance for leverage
- Don't forget about the grandchildren

Delaware trust

- The State of Delaware has favorable and liberal legal environment for trusts
 - Total return features allowed
 - No rule against perpetuities
 - No state income tax on retained income
 - May be an excellent location for dynasty trusts

Intentionally defective irrevocable trust (IDIT)

- Used for wealth transfer by larger estates
- Grantor is taxed on trust income
- The asset and its appreciation are removed from the clients' estate
- Advantage: income and capital gains taxes usually lower than estate taxes

Flexible Estate Strategies using Life Insurance



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"Historically wealth has been described as the reliability of the income. Its 'size' of income stream, not the size of the asset."

-anonymous-



Spousal lifetime access trust

- Need for life insurance not to be part of estate
- Need for spousal access to life insurance cash value
- Spousal lifetime access trust
- Irrevocable
- Trustee cannot be insured person
- Insured person cannot own policy
- Limited distributions

Single-owned survivorship (SOS) trust

- **Modern-day estate planning alternative**
- **Single-owned survivorship trust (SOS)**
 - Combination of estate tax planning and retirement income funding for clients who are:
 - Most likely in their 40s, 50s and 60s
 - Unwilling to give up access and control over the cash value of the policy
 - Unwilling to make irrevocable arrangements

Summary

- Federal estate and gift tax system
- Federal tax relief areas
- Advanced estate planning strategies
- Flexible estate planning strategies using life insurance
- Common estate planning mistakes

Questions?



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