

VIDEO TRANSCRIPT: Irrevocable Life Insurance Trusts**RECORDING DATE: September 12, 2023*****Bruce Van Vreede:***

Hello everybody we're back talking Estates gifts and trusts. I'm Bruce van Vreede, Director of Marketing with Brady Ware and I'm here with Mark Kassens who leads that part of our practice. Today's subject is ILITs. Let's start us off with who uses an ILIT.

Mark Kassens:

So an irrevocable life insurance trust (an ILIT) is used by settlor that is expecting to pay state taxes when they pass away. This policy is outside of their state. It's held by an irrevocable trust not included in their estate if it's done correctly, and the reason that these trusts are used is that they provide liquidity, control for the heirs of the estates, the beneficiaries, can either make them whole for the estate taxes that they that the estate has paid out, or provide the liquidity to actually pay those taxes that the beneficiaries can then contribute back to the estate. And kind of trade off with assets that they might not want to sell off. So basically this is this is a trust that's outside of someone's a decedence state that that's value and also liquidity when they pass away.

Bruce Van Vreede:

Okay how do the premiums work? Who's paying for those, and where those come out of?

Mark Kassens:

Well really the trustee pays the premium. So the trustee is not on the hook for coming up with the money. What happens is the settlor--when they set these up--it's really funded with just the policy. So if you have a new policy, there's no value in a new policy. You have to start paying the premiums before there is value. Let's say you just start with a new policy, and you have the owner of that policy be the ILIT from the get-go.

To fund that, the settlor would make a gift to the trustee to the trust and then that trustee would then pay those premiums from the trust checking account. So when they make these gifts...really it's not a present-interest gift that we talked about on one of our previous videos. So to create that present-interest in that premium, and sometimes, you know, these premiums we're not talking about--you know--a couple hundred or 1500 a day type thing that you see on TV.

We're talking about a substantial amount of premiums that are coming out of someone's account here. So you might have a hundred thousand dollar premium from year to year that's paying these so you want to use that present-interest amount to be able to use that annual gift exclusion. So the trustee would send out, when they receive that money, they send out the Crummey Letters. And they have to have that money in the account, too. You can't immediately get that contribution to pay the premiums and immediately pay the premiums and then at the same time tell the beneficiaries that they have a right to

withdraw that, if there's nothing withdrawal because you're already worth a check to the insurance company.

So the trustee has to leave that money in the account for a time--you know usually 30 days sometimes 60 days or 90 days--to allow the beneficiaries to exercise that right of withdrawal if they want to. That gives it a present-interest, and you can use that annual exclusion on your gift tax to minimize the effect on your lifetime exemption. Then so that's kind of how it's done. I mean it's a process. It should be done every year, but as the premiums are contributed, you send out your Crummey Letters, the beneficiaries acknowledge that they not exercising that right, or they know that they've gotten letters, and it's clear that that it's actually sent out and it's done right.

Then the premiums are paid. So the trustee is really responsible for paying the premiums, and he's responsible for managing the insurance policy to make sure it's enforced to make sure everything is kind of locked in. And the trust is funded by this eventual death benefit. So that that's kind of works.

Bruce Van Vreede:

I think you just answered my next question, but who's receiving the death benefit? Sounds like the trustee?

Mark Kassens:

Yeah. So yeah, when the death benefit the beneficiaries the trust, so the trustee then is in charge of when that death benefit is paid. The trustee then is in charge of going through the trust document, figuring out who the beneficiaries are of that trust, paying out the death benefit to the beneficiaries, and you know sometimes there's minor children involved--minor beneficiaries, minor children, grandchildren, whatever the case may be. You may have a trust set up for those individuals that takes care of that money until they reach the age of majority.

Bruce Van Vreede:

And you mentioned kind of comparing this against what you see on TV for the kind of low dollar amount per day. What kind of insurance is used here?

Mark Kassens:

Yeah, those TV commercials are usually for term policies. And term policies are fine for an ILIT if that suits the need of this of the settlor. The problem with term is it's an annual policy, basically, so you're not locked into a premium for a lifetime or an escalating premium. You're basically at the mercy of the life insurance company, and that's fine if you're 40 years old, 50 years old. But once you get above that mark, though, you know, those premiums really ramp up there because you're being insured for one year. And you're betting on whether you can outlive that one year and beat the mortality tables.



So if you're talking about a 70-80 year old, those premiums can be prohibitive. So it's sometimes better to use a permanent policy like a universal life policy. But really, that should be discussed with the insurance provider, with your insurance agent. There's a lot of different policies, new things that that have come around. It's not just whole life or term, you know. There's Universal and variable life, all this kind of stuff, so it really depends on the individual. It depends on the individual's assets, the individual's goals, and that can all be hashed out with good financial planning and the right insurance agent to help you along

Bruce Van Vreede:

Okay. Well thanks, Mark, for covering this topic. And for those who've been tuning in and for those new on our website, on the home page we've got a direct link to all these videos. You'll see the schedule of what we've already covered and what's coming up. But you can always just subscribe and reach out to us through the contact us button on our website or you can email Mark directly at mkassens@bradyware.com. So we appreciate you tuning in, and we will be back with another installment next month. Thank you and have a great day.