

# STRATEGIC

LAW GROUP PC

Strategic Integrated Planning

## **Estate Planning - Life Insurance In An Estate Plan**

Besides protecting your family from financial hardship, life insurance also can be an estate-planning tool to transfer large sums to your loved ones free of estate tax and at little or no gift tax cost. This can be done using a life insurance trust. Life insurance trusts can have significant current and future use in a wide variety of individual circumstances.

Life insurance proceeds are subject to estate tax if the insured owned the policy at death, or transferred it within three years of death. Even if the policy was transferred to another, an insured is considered to still own the policy if, for example, the insured possesses any of the following: the right to change the beneficiary, the right to borrow against the policy, the right to surrender the policy for its cash value, or the right to pledge the policy for a loan. In other words, all of these "incidents of ownership" in the policy must be transferred more than three years before death for the proceeds to escape being included in the insured's estate.

If these obstacles are overcome, substantial estate tax savings can be realized by transferring a life insurance policy. But if you give a policy to your spouse who predeceases you, the policy's value will be taxed in your spouse's estate. You probably do not want to give the policy to your children either, unless they are mature and financially secure in their own right.

It is for these reasons that life insurance trusts have become such popular devices. If a life insurance policy and all policy rights are transferred to an irrevocable trust, and the ex-owner survives for the next three years, the policy proceeds can escape estate tax in the surviving spouse's estate as well as the insured's. A trust also provides flexible settlement options. You can have the funds managed professionally, protecting beneficiaries from financial inexperience. The trustee can be given discretion to pay income in varying amounts to beneficiaries depending upon their needs and their tax situations.

If you want to set up a life insurance trust, you also have to decide whether it should be funded or unfunded. If the trust is to be funded, you will have to transfer cash or other property to it to pay the premiums on the policy. If it is unfunded, you or someone else will have to make periodic contributions to it so that the premiums can be paid. As with any trust, there are income tax and gift tax consequences that have to be planned for.

The tax-saving opportunities of life insurance trusts are so substantial that some lawmakers have called for their elimination. Nevertheless, insurance trusts have survived the current round of budget balancing and deficit reduction, and if there are any future changes in this area, in all likelihood, they would not apply retroactively.

If you are interested in setting up a trust or learning more about this technique, please don't hesitate to call us. 1-866-657-0246 or [jwaage@strategiclawgroup.com](mailto:jwaage@strategiclawgroup.com)