



The Wealth Counselor

A monthly newsletter for wealth planning professionals

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The Fisher Law Office focuses on estate and wealth planning, business acquisition, operations and succession planning, and business and commercial law for single, married, or domestic partner situations or businesses in Maryland, Texas and the District of Columbia.

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Policy Reviews of Trust Owned Life Insurance (TOLI) - Why you should make it part of your standard estate planning process

This issue of The Wealth Counselor explores many of the common misperceptions about trust owned life insurance - plus a process for you to add significant value for your clients by incorporating policy reviews of trust owned life insurance.

Although trust owned life insurance (TOLI) is a common planning vehicle for high net worth individuals and families, relatively few TOLI policies ever meet their initial projections. Industry studies reveal that TOLI portfolios rarely receive the required vigilant fiduciary oversight routinely associated with other assets held in trust, such as equities, real estate, etc.

Seven Common Client Misconceptions - and Facts - about Life Insurance

Misconception #1: Unlike other assets, life insurance policies do not need management and regular review to avoid risk and optimize performance.

Fact: Policy performance can change dramatically over time. Without regular review by an insurance expert, policies - especially older ones - can pose very significant risk or not achieve their original goals.

Misconception #2: If the client pays premiums according to the schedule in the original insurance illustration, the policy will pay at death.

Fact: Even with regular payment of premiums projected from the original policy illustration, policies can fail if not monitored properly.

Misconception #3: If the policy was in jeopardy, the carrier would notify the client in advance.

Fact: Carriers will not necessarily provide advance notice of policy problems to trustee owners of TOLI policies.

Misconception #4: If one carrier has turned down the client for insurance, it is not possible to get adequate coverage from another carrier.

Fact: The competitive nature of the insurance industry means that it is often possible to secure appropriate coverage from a highly rated carrier even if another carrier has already rejected the client.

Misconception #5: Premiums will remain level for the life of the policy regardless of economic conditions or interest rates.

Fact: Premiums are always a reflection of the insurance carrier's cost of providing coverage, current interest rates, and other economic conditions. Any of these changing factors can cause the premium rates to change.

Misconception #6: Policies purchased many years ago are cheaper than current policies because the insured is older.

Fact: Improved mortality rates as well as better underwriting and policy features created by industry competition often produce less expensive coverage on new policies (or increased coverage for the same premium).

Misconception #7: If the client no longer needs the insurance coverage provided by a policy, the only option is to surrender it to the carrier for relatively little value.

Fact: A variety of alternatives, including improved life settlement opportunities, make it possible to gain substantially greater value than that provided by cash surrender to the carrier.

What is a Trust Owned Life Insurance Review?

A TOLI review is an objective review of the policies owned by a trust to ensure that those policies perform as the client intended. A TOLI review also examines options for reducing premiums or selling policies that the client may no longer need because of changed circumstances, increased exemptions, etc.

Why should advisors tell their clients about TOLI review?

Advising your clients of a TOLI review will give immediate value during your interview. Few clients get excited about spending time or money on estate planning. By incorporating a "Life Insurance Policy Review," the estate planning advisor can now create opportunities for immediate cash savings or profits for clients in addition to the standard planning and "projected estate tax savings at death."

Planning Tip: A TOLI policy review not only benefits the client, it also makes good business sense for the advisor. Such a review generates good will, gives the client a real appreciation of the advisor's concern for the client, and frequently generates more than enough savings to pay for the advisor's fees.

Why do the clients like the idea of a TOLI Review?

Nobody likes paying premiums and very few clients understand life insurance. When their advisor suggests an objective "audit" of insurance policies to determine if they could reduce their premiums, clients are receptive. They appreciate that you are trying to help them and that you are not selling them anything.

Why are trust companies rushing to implement TOLI Reviews?

Nearly every week banking journals publish articles on the fiduciary issues related to Trust Owned Life Insurance as institutional trust companies develop "best practices" to manage and monitor trust owned policies. Over 40% of institutionally trustee policies reviewed have serious deficiencies or problems. Few institutional trustees have the necessary level of insurance expertise for proper policy review. Trust companies fear a lawsuit for improper management of their trust owned insurance policies.

Planning Tip: Your clients need their advisors' guidance to better understand both the risks and the improved opportunities from TOLI. The potential risk for your clients is substantial. Policy grantors and trustees need to recognize that life insurance is an asset that must be periodically reviewed by an independent expert to avoid risk and to optimize asset performance.

What are the results of reviewing Trust Owned Life Insurance policies?

Facts about TOLI policy reviews - there is a high likelihood that:

1. The TOLI policy represents a considerable percentage of the client's total estate.
2. The TOLI policy has not been reviewed or managed since purchase.
3. The TOLI policy is not performing as originally projected.
4. The client must pay additional (unexpected) premiums before death.
5. The client can get more insurance for the same premium (despite being older).
6. The client can get the same insurance coverage for less premium outlay.
7. The trustee has never reviewed the policy.
8. The agent who sold the policy is no longer in touch with the client.
9. The insurance coverage is no longer appropriate for the client.
10. The policy provisions and guarantees are obsolete.
11. The client and the trustee do not really understand the impact of falling interest rates since policy inception.

Planning Tip: The average non-institutional trustee (for example, brother-in-law, friend, etc.) is even less informed than is an institutional trustee - and even less likely to audit policy performance. Therefore, the insurance risk is even greater with non-institutional trustees, but they may be less likely to act upon that risk.

What features are important in a reliable provider of TOLI review service?

- Insurance expertise
- Independence
- Objective advice

Planning Tip: Look for a turnkey TOLI review service that can offer not only an expert policy review and a clear comparison of all policy solutions, but also a cost-effective, comprehensive program to manage client policies.

Conclusion

Offering your clients an objective TOLI review provides them with significant value added and peace of mind as to their wealth planning; specifically, it increases the likelihood that their planning will achieve their stated objectives. Consider working with an advisor who can perform an objective TOLI review to accomplish this much needed - and often overlooked - analysis.

To comply with the U.S. Treasury regulations, we must inform you that (i) any U.S. federal tax advice contained in this newsletter was not intended or written to be used, and cannot be used, by any person for the purpose of avoiding U.S. federal tax penalties that may be imposed on such person and (ii) each taxpayer should seek advice from their tax advisor based on the taxpayer's particular circumstances.

You have received this newsletter because I believe you will find its content valuable, and I hope that it will help you to provide better service to your clients. Please feel free to [contact me](#) if you have any questions about this or any matters relating to estate planning.

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