

TAC
Trust Asset Consultants, LLC

Premium Adequacy Percent - 0%
1,000 Random Trial Illustrations

0%
■ Sustains
■ Does Not Sustain

TOLI Fiduciary Risk Management Consulting • The TOLI Center • Large Case Specialty Analysis and Products • Litigation Support

Estate Planning with a Life Insurance Trust

An Irrevocable Life Insurance Trust (ILIT) remains a cornerstone of sophisticated wealth management. An ILIT is implemented to achieve measurable asset preservation, cash flow and tax leverage, liquidity timing, and income planning objectives. This economic analysis, prepared by the grantor's legal and/or tax professional advisor, documents the expected trust return (death benefit proceeds) and affirms the level of risk (100% premium adequacy to successfully sustain the policy for the insured's lifetime).

Life insurance, a risk transfer mechanism, is ideally suited for ILIT ownership and trustee management. For example, a trustee can:

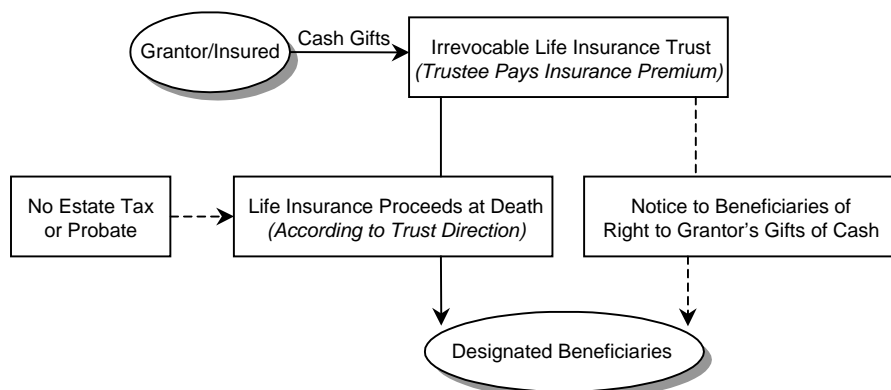
- **Transfer** performance risk to the underwriting carrier by accepting a guaranteed death benefit policy, paying scheduled premiums, and monitoring carrier third-party ratings.
- **Retain** performance risk by accepting a non-guaranteed death benefit policy, managing premium adequacy and policy values, and monitoring carrier ratings.

Trust Operation - The ILIT usually pays life insurance policy premiums from gifts made by the insured/grantor to the trust. Under current tax law, an individual can give up to a scheduled annual gift exclusion amount to a donee in any year without paying gift tax on this amount, provided the donee receives a *present interest* in the property. Generally, a present interest gift means the donee becomes the outright owner of the gift.

To provide a present interest in a gift to an ILIT, trust beneficiaries must have the real and legal right to withdraw the grantor's contribution to the trust. This right is referred to as a *Crummey* withdrawal right. Beneficiaries must be notified in writing of their right to withdraw the grantor's current contribution/gift to the trust within a specified period of time (usually 30 to 60 days). After the right to withdraw lapses, the trustee can pay the premium.

Based on trust agreement instructions, proceeds from the ILIT insurance policy can be used for the benefit of (or distributed to) the grantor's spouse, children, grandchildren, and/or other beneficiaries.

Diagram of an Irrevocable Life Insurance Trust



Trustee Duty - The basic duty of a fiduciary is to maximize the probability of a favorable outcome to the trust estate. An ILIT trustee has the sole responsibility to accept and manage the trust-owned policy consistent with trust objectives. At the time of acceptance, the trustee should confirm trust objectives and obtain trust operation guidance from the attorney preparing the trust document.

Trustee acceptance of a non-guaranteed policy and premium adequacy risk implies grantor approval to do so and the requisite actuarial evaluation expertise to manage this risk. Unless otherwise agreed, grantors and beneficiaries may reasonably assume, at the time the policy is accepted and at all times during which the trustee maintains management control, the trustee has determined that scheduled premiums are adequate to (1) sustain the policy for the insured's lifetime, and (2) successfully achieve the trust objectives. If a trustee lacks active management expertise, it should decline acceptance of a non-guaranteed policy.

TOLI Investment Policy Statement – A TOLI Investment Policy Statement (TIPS) is the single-most important document to demonstrate a trustee's reasoned investment strategy and risk management process for new, in-force, and restructured TOLI policy determinations. A TIPS should clarify grantor expectations, trust objectives, product suitability considerations, beneficiary communication, and expected professional advisor and/or third-party policy performance monitoring assistance.

TIPS is a dynamic document that warrants annual review and updating, if appropriate. Since an insurance trust usually spans a 10 to 50 year time horizon, TIPS should provide practical guidance in dealing with changes in trust objectives, tax law, grantor gifting capacity, and life insurance products.

Actuarially Defensible Policy Evaluation - Actuarial evaluation employs common standards, impartial analysis, and objective data to assess premium adequacy. If a scheduled premium evaluates at less than 100% or an approved lower percentage, actuarial evaluation can determine the needed premium adjustment. If a policy warrants restructure, actuarial evaluation facilitates a credible comparison of restructure options.

Regulator Compliance – A national bank must demonstrate compliance with OCC Reg. 9 (12 CFR Part 9) risk identification and mitigation standards. 9.6 requires pre-acceptance trust review, initial post-acceptance trust asset review, and periodic account review determinations. In making its policy acceptance and periodic reviews of a non-guaranteed policy, a trustee must demonstrate credible policy evaluation expertise.

This summary is intended for informational purposes. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a legal or tax professional.