The Demanding Job of an ILIT Trustee

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ILIT Trustee Responsibilities

When you agreed to become the trustee of an Irrevocable Life Insurance Trust (ILIT) you also became a "fiduciary." That means you must look out for the interests of the trust's beneficiaries and can be held to a very high standard when it comes to managing the trust's assets.

Being a trustee of any trust can be challenging, however, serving as the trustee of an ILIT can be especially demanding. That's because although life insurance can provide attractive tax advantages, they are complex financial products. Without a working knowledge of life insurance, you may need the assistance of an insurance professional in analyzing different policies to determine which one(s) may be best suited to your trust.

As an ILIT trustee, these are some of the challenges you may face:

- You must follow the rules of a trust document you didn't write.
- You must manage life insurance policies selected by others.
- You may need to pay premiums with money the trust doesn't yet have.
- You can't revise the terms of the trust to meet unexpected situations.

In addition, you can be held personally responsible if something goes wrong with the trust. If the trust doesn't work out as the beneficiaries expected, they may hold you responsible for any shortfall. In today's litigious world, **serving as an ILIT trustee can be hazardous to your personal wealth.**

New Trustee Standards

During the last 20 years, more than 40 states have adopted new standards for trustees contained in the Uniform Prudent Investor Act (UPIA). These new standards include:

- Requiring trustees to apply modern investment practices in managing the trust assets. That means diversifying assets to increase total return is encouraged.
- Requiring trustees to create a formal "Investment Policy Statement" to describe how the assets in the trust will be managed. In the past it was generally expected that the trustee would retain and manage the ILIT's life insurance policies until the insured died. Now the UPIA's new fiduciary standards make automatic retention of the original policies a potentially dangerous strategy.

In short, as a trustee, your decisions regarding the trust may be reviewed closely. If beneficiaries think you performed poorly or gave another beneficiary preferential treatment, they can claim that you failed to protect their interests and hold you responsible for their alleged losses.

What Can Go Wrong in an ILIT?

Managing an ILIT, on its surface, appears deceptively simple. It seems all the trustee has to do is to pay the policy premiums while the insured is alive and collect the death benefits when he/she dies. In reality, however, managing an ILIT can be much more complicated. Over the years any of these situations may arise:

- Funds to pay premiums may not come into the trust.
- A life insurance policy may not perform as originally anticipated.
- The original policies may become outdated as new life insurance products that potentially provide more benefits become available.
- Withdrawals and/or loans from cash values may cause the policy to lapse.
- Federal and/or state tax law changes may negatively impact the policy or the trust itself.
- Developments in the life of a beneficiary may require some emergency action.

Protect Yourself

The standards for determining if a trustee has acted properly can vary from state to state. Unfortunately, many trust documents don't give the trustee much protection. Here are some strategies you can use to help protect yourself:

1. Review the trust document and make a list of your responsibilities.
2. Create a written Investment Policy Statement to explain how you intend to manage the trust's assets.
3. Review the life insurance policies owned by the trust on a regular basis and track performance.
4. Hire one or more professionals to assist in the life insurance policy review process.

As an ILIT trustee you don't have to be a life insurance professional. The UPIA gives you the ability to hire professionals to review the policies for you. If you hire qualified professionals and manage them properly, you may act on reasonable recommendations they make. Trustees who adopt and follow a reasonable Investment Policy Statement may have less exposure to personal liability.

A Voya™ Life Companies' representative can help you design and adopt an Investment Policy Statement. He/she has experience with life insurance products and can make recommendations about retaining specific policies and can also show you if there are any new life insurance products available that may be more suitable for the trust.

A Voya Life Companies' representative can suggest strategies that may reduce your potential liability while increasing the benefits the trust produces for the beneficiaries.

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