Who should own your life insurance policy?

Published on October 12, 2017

If you own life insurance policies at your death, the proceeds will be included in your taxable estate. Ownership is usually determined by several factors, including who has the right to name the beneficiaries of the proceeds. The way around this problem is to not own the policies when you die. However, don't automatically rule out your ownership either.

And it's important to keep in mind the current uncertain future of the estate tax. If the estate tax is repealed (or if someone doesn't have a large enough estate that estate taxes are a concern), then the inclusion of your policy in your estate is a nonissue. However, there may be nontax reasons for not owning the policy yourself.

Plus and minuses of different owners

To choose the best owner, consider why you want the insurance. Do you want to replace income? Provide liquidity? Or transfer wealth to your heirs? And how important are tax implications, flexibility, control, and cost and ease of administration? Let's take a closer look at four types of owners:

1. You or your spouse. There are several nontax benefits to your ownership, primarily relating to flexibility and control. The biggest drawback is estate tax risk. Ownership by you or your spouse generally works best when your combined assets, including insurance, won't place either of your estates into a taxable situation.

2. Your children. Ownership by your children works best when your primary goal is to pass wealth to them. On the plus side, proceeds aren't subject to estate tax on your or your spouse's death, and your children receive all of the proceeds tax-free. On the minus side, policy proceeds

are paid to your children outright. This may not be in accordance with your estate plan objectives and may be especially problematic if a child has creditor problems.

3. Your business. Company ownership or sponsorship of insurance on your life can work well when you have cash flow concerns related to paying premiums. Company sponsorship can allow premiums to be paid in part or in whole by the business under a split-dollar arrangement. But if you're the controlling shareholder of the company and the proceeds are payable to a beneficiary other than the business, the proceeds could be included in your estate for estate tax purposes.

4. An ILIT. A properly structured irrevocable life insurance trust ("ILIT") could save you estate taxes on any insurance proceeds. The ILIT owns the policy and pays the premiums. When you die, the proceeds pass into the ILIT and aren't included in your estate. The ILIT can be structured to provide benefits to your surviving spouse and/or other beneficiaries.

Please contact us with any questions.

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