

# Strategic Insights

## Who Should Own A Survivorship Policy?

### A Deceptively Complex Question

When both insureds of a survivorship policy die, the death benefit passes to the beneficiaries income tax-free. However, it is not estate tax-free. If the insureds retain any incidence of ownership, the policy is included in their estate for estate tax purposes.

Although legislation has been passed to repeal estate taxes, the repeal is not effective until 2010, and then, a sunset provision in the tax law reinstates the tax in 2011. If the insureds own the policy, the death benefit can be included in their estate. And with estate tax rates continuing as high as 45% through 2009 and returning to 55% in 2011, the results can be devastating.

Year	Unified Credit Exemption Equivalent	Highest Estate Tax Rates
2001		
2002	\$1,000,000	50%
2003	\$1,000,000	49%
2004	\$1,500,000	48%
2005	\$1,500,000	47%
2006	\$2,000,000	46%
2007	\$2,000,000	45%
2008	\$2,000,000	45%
2009	\$3,500,000	45%
2010	repealed	
2011	\$1,000,000	55%

### What Does Ownership of a Life Insurance Policy Mean?

If you're the owner of a policy, you have the right to:

- borrow against the policy
- change the beneficiary
- revoke, cancel or assign the policy

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If you have any of these rights, you may be considered to have an incident of ownership in the policy. And having an incident of ownership means that the death benefit will be included in your estate. To avoid this scenario, basically you have two options:

- Ownership of the policy by another individual.
- Ownership of the policy by a trust.

## Which Option Is Best for You?

Like any financial decision, choosing the proper ownership arrangement for life insurance policies is a matter of choosing what best fits your situation, after weighing the advantages and disadvantages.

## Ownership By Another Individual

The survivorship policy can simply be owned by your children. But consider the implications. What if **any one** of the children...

- Encounters financial difficulties
- Declares bankruptcy
- Divorces
- Dies before the insureds

## Ownership By a Trust

Irrevocable Life Insurance Trusts (ILITs) are trusts created for the purpose of owning and serving as beneficiary of a life insurance policy. By placing the policy in the trust, you remove it from the taxable estate. When death benefit proceeds are paid, they are paid to the trust. The result is a death benefit that is passed through the trust to the trust beneficiaries according to your instructions, unreduced by estate or income taxes.

### Advantages

- Preservation of the estate for your beneficiaries
- Liquidity to help pay estate taxes, if needed, after your death
- Management of life insurance proceeds for your beneficiaries
- Protection of the policy from creditors
- No trust tax return required if life insurance is the only asset held by the trust

### Disadvantages

- Irrevocable
- Loss of control over the policy
- Possible significant expenses associated with drafting the trust
- Possible annual trust tax return
- Records must be kept

## The Next Step

ILITs are only one – albeit one very important – component of an overall estate plan. To develop a plan that will not only preserve your estate from unnecessary taxation but embody your wishes for how assets will be distributed, all facts and objectives must be considered. An ILIT can be drafted with flexibility to meet your needs whether estate taxes are repealed or not.



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