FINANCIAL EXPERTS NETWORK | WEBINAR

Estate Planning in a Large Exemption Landscape

Why the OBBBA's Permanent Higher Exemptions Mean It's Time to Revisit Legacy ILITs, Trust Structures, and the Life Insurance Inside Them

Trust Decanting & Restructuring · Repositioning ILIT-Held Life Insurance · Veralytic Policy Benchmarking · The Case for Retention

CO-PRESENTERS

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Today's Agenda

2 hours · 7 sections · CE credit eligible

1	**The Exemption Landscape Shift**	*Why OBBBA changed the math for legacy estate plans*
2	**Is the ILIT Still Needed?**	*A decision framework, Crummey burden, GST & grantor trust basics*
3	**Trust Decanting**	*Mechanics, state variation, and a case study*
4	**Broader Trust Restructuring**	*Options beyond decanting, fiduciary duty, trustee/beneficiary dynamics*
5	**Repositioning ILIT-Held Life Insurance**	*Veralytic benchmarking, 1035 exchanges, life settlements, transfer-for-value*
6	**The Case for Retention**	*Income-tax-driven reasons — including a qualified-plan case study*
7	**Insurability & Practical Execution**	*What it actually takes to implement any of this*

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Focus: The '3-Ls' — Legacy, Long-Term Care & Longevity Planning

- Advanced estate & wealth transfer strategies for business owners and high-net-worth families
- ILIT design, review, and repositioning strategies for legal & financial advisors
- Functions as a sub-advisor supporting advisors — not a direct-to-consumer practice

Professional Designations:

- Certified Financial Planner (CFP®)
- Certified Exit Planning Advisor (CEPA®)
- Accredited Estate Planner (AEP®)
- Chartered Life Underwriter (CLU®)
- Chartered Financial Consultant (ChFC®)
- Certified in Long-Term Care (CLTC®)

Partner Resources: Andrew Weinhaus, Esq. (legal/tax counsel) · National Business Valuation Firm · Veralytic

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Attorney — Estate Planning, Tax & Business Succession

- Practice focuses exclusively on estate planning, tax strategies, and business succession for closely held entities

Career Background:

- Tax Department — Coopers & Lybrand LLP (now PricewaterhouseCoopers), St. Louis
- VP, Advanced Sales & Marketing — General American Life Insurance Co. (MetLife subsidiary), 1993–2003+
- 10+ years nationwide practice in wealth transfer & business succession for closely held entities

Current Practice — Office of Andrew Weinhaus, L.L.C.:

- Estate planning, generation-skipping trusts, ILIT design & life insurance trust strategies
- Trust decanting, restructuring, and Connelly-compliant buy-sell structures
- Advanced deferred compensation — Section 409A compliance

Credentials: Missouri Bar · Bar Assoc. of Metropolitan St. Louis · Adjunct Faculty, Washington University Graduate Tax Law Program · Author, "Generation-Skipping and Life Insurance"

SECTION 1

The Exemption Landscape Shift

Why a permanent, much higher exemption changes the planning conversation

The Federal Exemption Has Moved a Long Way, Fast

Per-person federal estate & gift tax exemption, selected years

THE TIMELINE



- OBBBA (2025) made the higher exemption permanent starting 2026 rather than letting it revert — roughly $7M/person had TCJA simply sunset

What the One Big Beautiful Bill Act Actually Changed

THE LAW

No Sunset

Removed the scheduled Jan 1, 2026 reversion to roughly half the exemption. The higher level is now permanent law, not a temporary window.

Higher Starting Point

2026 federal exemption set near $15M per person ($30M per married couple), indexed for inflation going forward.

Portability Preserved

DSUE (deceased spousal unused exclusion) rules continue, so married couples can still combine exemptions with proper elections. On a timely filing of form 706. GST Exemption is NOT portable to a surviving spouse.

- Net effect: many clients who built ILITs, GRATs, and irrevocable structures under a $5–7M exemption assumption are now meaningfully over-insured against a tax that, for them, may no longer exist at the federal level

Why Legacy ILITs and Trust Structures Now Break

THE PROBLEM

- Purpose mismatch: many ILITs were funded specifically to provide liquidity for a federal estate tax bill that, for a growing share of clients, is now unlikely to apply
- Irrevocability cuts both ways: the same structure that once protected the death benefit from estate inclusion now locks the client out of assets and flexibility they may actually need
- Crummey notice administration continues indefinitely, creating real annual cost and liability exposure for trustees with no offsetting estate tax benefit for many clients
- State estate tax remains very real: 12 states plus D.C. impose their own estate tax, often at exemption levels far below the federal number, so the planning conversation shifts rather than disappears
- **The result: the question is no longer “how do we fund the ILIT,” it's “do we still need this structure, and if not, what do we do with the policy inside it” — which is the rest of today's agenda**

SECTION 2

Is the ILIT Still Needed?

A framework for the threshold question, before touching decanting or the policy itself

A Threshold Framework: Still Needed?

THE FRAMEWORK

Reasons It May Still Be Needed

- Client is in or near a state with its own estate tax and a low exemption threshold
- Large qualified plan balances create income-in-respect-of-decedent (IRD) exposure the death benefit can offset
- Asset protection or divorce/creditor insulation for beneficiaries independent of estate tax
- Blended family or control concerns the trust structure was also designed to solve
- Business succession liquidity (buy-sell funding) separate from the estate tax question
- If estate is illiquid, assuring some funds available to next generation or to fund legacy goals.

Signals It May No Longer Be Needed

- Total estate is comfortably under the federal (and any applicable state) exemption, even after growth projections
- The policy was funded solely for federal estate tax liquidity that is now unlikely to apply
- Crummey administration burden and trustee liability outweigh any remaining benefit
- Client's liquidity needs or family circumstances have changed since the ILIT was drafted

The Crummey Power Administrative Burden

THE ADMIN COST

- What it requires: annual written notice to every trust beneficiary for every gift to the ILIT, a real withdrawal window (typically 30 days), and documentation the notice was actually given and the window actually ran
- Why it doesn't go away: the annual exclusion gift tax treatment the trust relies on depends on beneficiaries having a genuine present interest — skip the notices and the IRS can recharacterize prior gifts
- Where it breaks down in practice: trustees change, beneficiaries move, notice addresses go stale, and after 10–20 years the paper trail often has real gaps — exactly when it matters most under audit

If Estate Tax Exposure Is Gone…

- …the ongoing Crummey administration is pure cost and pure trustee liability with no offsetting estate tax benefit
- **That imbalance is often the clearest, most concrete argument for revisiting the structure with the client**

GST & Grantor Trust Status — What Changes When You Touch the Trust

THE QUICK PRIMER

GST Exemption Allocation

- Most ILITs are drafted to be GST-exempt, protecting the trust from generation-skipping transfer tax as it passes to grandchildren
- Decanting or restructuring can inadvertently taint that exempt status if not handled correctly — this is one of the first things to confirm before any restructuring
- The 2026 higher GST exemption (also made permanent by OBBBA) mirrors the estate/gift exemption increase
- GST exemption is not portable to a surviving spouse

Grantor Trust Status

- Whether the trust is a “grantor trust” for income tax purposes determines who pays tax on trust income, and drives strategies like the sale to an IDGT discussed later today
- Swap powers, loan provisions, and other grantor trust triggers need to be preserved (or intentionally toggled) during any restructuring
- Losing grantor trust status unintentionally can create an unwelcome income tax surprise for the client

SECTION 3

Trust Decanting

Pouring an old trust into a new one — legally, and for a reason

Trust Decanting — The Mechanics

THE TOOL

- What it is: a trustee with discretionary distribution authority distributes (“pours”) the assets of an existing irrevocable trust into a new trust with updated terms
- What it can fix: outdated tax provisions, missing modern administrative language, rigid distribution standards, an obsolete trustee succession plan, or a trust that no longer needs to be structured around federal estate tax liquidity
- What it typically cannot do: decanting generally cannot add new beneficiaries, and most states won't let a trustee use decanting to accomplish something the original trust's terms clearly prohibited
- **Authority source: either an express decanting power in the trust instrument, or state statutory decanting authority — which is why state law is the very next question**

Common Reasons to Decant an ILIT Today

- Remove provisions drafted around a $5–7M exemption assumption
- Add flexibility to distribute or reposition the policy
- Modernize trustee succession and administrative powers
- Convert to (or preserve) grantor trust status intentionally
- Update situs to a more favorable trust jurisdiction

Decanting Is Not One-Size-Fits-All — State Law Controls

STATE VARIATION

Statutory Authority	Most states now have a decanting statute; a handful still rely on common law only — confirm the governing state before assuming the power exists
Notice Requirements	Some states require advance notice to beneficiaries (and a waiting period) before decanting; others do not
Standard-Change Limits	States vary widely on whether a trustee can decant from a fully discretionary trust into one with narrower distribution standards
Beneficiary Consent	A few states require some form of beneficiary consent or court involvement; most do not for routine decanting
Trust Situs	Decanting is sometimes used specifically to move a trust to a more favorable state — which then makes that state's rules the ones that matter going forward

Case Study — Decanting an Obsolete ILIT

ILLUSTRATIVE EXAMPLE

THE SITUATION

- Background: an ILIT drafted in 2009 holds a $4M survivorship policy, funded specifically to cover an anticipated federal estate tax bill under a $3.5M exemption environment
- The trigger: the grantors' combined estate is now well under the current federal exemption, and they live in a state with no estate tax; the trust's rigid HEMS distribution standard no longer serves the family's actual needs
- The move: the trustee decants into a new trust with a broader distribution standard, modernized trustee succession provisions, and updated administrative powers, while preserving GST-exempt status
- **The outcome: the family retains the flexibility to eventually distribute or reposition the policy, without disturbing the trust's grantor and GST status**

SECTION 4

Broader Trust Restructuring

When decanting isn't available or isn't enough

Beyond Decanting: The Rest of the Toolkit

MORE OPTIONS

Non-Judicial Settlement Agreement

Where state law allows, all interested parties agree in writing to modify trust terms without court involvement — faster and less costly than litigation, but requires everyone at the table

Judicial Modification / Reformation

Petitioning the court to modify or reform the trust, typically used when decanting authority is unclear, beneficiaries won't consent, or the change is significant enough to warrant judicial blessing

Trust Merger / Combination

Combining two or more trusts with substantially similar terms and beneficiaries into one, reducing administrative duplication and cost

Trust Protector / Modification Powers

If the trust already grants a trust protector the power to amend administrative provisions, that may be the simplest path — worth checking before reaching for decanting or court

Trustee Fiduciary Duty & Successor Dynamics

WHO'S ON THE HOOK

- The trustee's duty doesn't pause during a restructuring: a trustee who decants or restructures still owes the same duties of loyalty, impartiality, and prudent administration to every beneficiary, including ones who may be unhappy with the outcome
- Document the “why”: a clear written record of why the restructuring serves the beneficiaries (not just the grantor's preference) is the trustee's best protection if a beneficiary later objects
- Successor trustee handoffs are a common failure point: institutional knowledge about why the ILIT exists, what it's funded for, and what's already been done to it often doesn't survive a trustee transition — restructuring is a natural time to fix that
- **Beneficiary communication matters even when consent isn't legally required: beneficiaries who are surprised by a restructuring are far more likely to challenge it than beneficiaries who were kept informed**

Case Study — Trustee Succession Meets Trust Restructuring

ILLUSTRATIVE EXAMPLE

THE SITUATION

- Background: a corporate trustee named in a 20-year-old ILIT is retiring from the trust business; the named successor trustee (an adult child) has never administered a trust and doesn't know the policy exists
- The trigger: the trustee transition surfaces gaps in Crummey notice documentation going back over a decade, and the family realizes no one has reviewed the policy itself in years
- The move: a non-judicial settlement agreement updates the trustee succession provisions and administrative powers at the same time the policy is sent out for Veralytic review
- **The outcome: a modernized trust with a capable, informed trustee, and a policy that's finally being evaluated rather than quietly renewing**

SECTION 5

Repositioning ILIT-Held Life Insurance

Once you know the ILIT isn't needed for its original purpose, what happens to the policy?

Why This Isn't Optional: The Fiduciary Case for Independent Verification

THE STANDARD OF CARE

- An ILIT is legally a "managed account" under the Uniform Prudent Investor Act, not a simple custodial holding — a trustee has an ongoing duty to justify the reasonableness of costs (UPIA §7), evaluate performance expectations (UPIA §2(c)(5)), and assess risk (UPIA §2(b)) on the life insurance the trust holds, the same as any other trust asset
- Comparing sales illustrations side-by-side no longer satisfies that duty, and risks breach of duty to exercise reasonable care, skill, caution, diligence and prudence: regulators and industry authorities increasingly treat pure illustration-comparison as "misleading," fundamentally inappropriate, and unreliable, since a carrier can quote a low premium while embedding high internal costs that only surface later as a lapse or an unexpected premium call

This Isn't Theoretical

- The CFP Board has publicly censured a CFP® professional for recommending an exchange of two existing policies, one with LTC benefits, for a new policy — without obtaining sufficient information to compare the internal costs of the old and new policies, without analyzing whether the client had a continuing need for the coverage given her existing assets, and without documenting that the recommended product was actually consistent with her needs
- **The findings: violations of the duty of care and the duty to exercise prudent professional judgment — the exact standard a trustee is held to when deciding what to do with an ILIT-held policy**
- Independent, objective benchmarking — like Veralytic benchmarking on the next slide — is what turns this from a subjective sales conversation into a defensible, documented decision

Start With Veralytic — Before Any Repositioning Decision

STEP ONE, ALWAYS

- Why first: every path discussed today — keep it, 1035 it, or sell it — depends on knowing the appropriateness of policy assets actually is today, not what it was illustrated to be at issue
- Independent, objective, verifiable: Veralytic provides third-party benchmarking against a database of comparable in-force policies, so the review isn't coming from the carrier or some selling agent/broker
- **Built specifically for trust and gifting decisions: Veralytic's independent ratings are designed to surface hidden policy risks and produce transparent, defensible recommendations for trusts and premium gifting — exactly the fiduciary posture a trustee needs when deciding what to do with ILIT-held coverage**

What it evaluates:

  - Policy costs — mortality, expense, and rider charges relative to **Independent Benchmarks**
  - Policy performance — crediting rates, sustainability of the death benefit at current funding
  - Carrier financial strength and related risk — ratings trends, not just a snapshot

- **The output feeds directly into the retention-vs-reposition decision on the slides that follow, and gives the trustee an independent record supporting whichever path is chosen**

From Custodial to Actively Managed — What the Review Can Unlock

BEYOND A ONE-TIME CHECK

- ILITs have historically been administered as “custodial” holdings — filed away and left alone — even though they're legally managed accounts requiring the same active oversight as any other trust asset. Identifying and reducing embedded policy costs through an independent review can free up value that gets redirected back into the trust, not just confirm the policy is “fine.”

Cost savings identified through an active review can be used to:

- Reduce or eliminate ongoing gifting requirements
- Eliminate the risk of a future “premium call” and reduce risk of total loss
- Address “phantom taxable income” risk in the policy
- Support withdrawal of “excess” account value for reinvestment
- Add additional benefits/riders: guarantees, LTC, etc.
- Respond proactively to a carrier ratings downgrade
- Increase the death benefit and account growth
- Help cover trust administration fees

Three Paths for a Policy the ILIT No Longer Needs

THE OPTIONS

01

1035 Exchange → LTC-Rider Policy

Tax-free exchange into a policy with a long-term care rider — turns a death-benefit-only asset into one that also addresses the Longevity/LTC leg of the 3-Ls

02

1035 Exchange → Annuity

Tax-free exchange into an income annuity; when the original policy has minimal gain, the resulting exclusion ratio makes most of the income stream non-taxable

03

Life Settlement Sale

Selling the policy on the secondary market, typically appropriate when the insured's health has changed, the death benefit is no longer needed at all, or cashflow has changed and policy no longer affordable.

- *All three assume the Veralytic review is complete and the policy has been benchmarked for cost, performance, and carrier strength*

Path 1 — 1035 Exchange Into an LTC-Rider Policy

MECHANICS

- The exchange itself is tax-free under IRC §1035, as long as the policy is exchanged directly into a new life insurance contract (or one with a qualifying LTC rider) with the same insured
- Any gain in the original contract carries over rather than being taxed at the time of exchange — basis and gain transfer to the new policy
- The LTC rider allows the death benefit to be accelerated, tax-free, to pay for qualifying long-term care expenses while the insured is living — directly addressing the Longevity/LTC leg of the 3-Ls

Don't Skip: Can the Trust Actually Pay the Benefit to the Insured?

- The trust, not the insured, owns the new policy — the LTC benefit is paid to the trust. Most ILITs deliberately exclude the grantor/insured as a permissible beneficiary to avoid §2036 estate inclusion, so the trust may have no clean way to pass the benefit through for the insured's actual care
- **If the estate-tax shelter is no longer needed, decanting to add the insured (or a spouse who is already a beneficiary) as a permissible distributee can fix this — but that's a deliberate trade-off, not a formality, and should be confirmed with counsel before the exchange, not after**

- **Best fit: clients whose estate tax exposure has diminished but whose LTC exposure has not — which describes a large share of the ILIT population once you run the numbers**

Path 2 — 1035 Exchange Into a Lifetime Income Annuity

MECHANICS & THE TAX POINT

- The exchange itself is tax-free under §1035, exchanging the life policy's cash value directly into an annuity contract
- **The key technical point: when the original life contract has minimal gain relative to its cash value, the resulting exclusion ratio on the annuity's income payments is highly favorable**
    - With minimal gain in the original contract, most of each distribution comes back out non-taxably, funding a Hybrid LTC or life-with-rider solution tax-efficiently, not just tax-deferred

Two Structuring Questions Since the Trust Stays the Owner

- Ownership: tax deferral on unannuitized growth depends on the trust holding the contract “as an agent for a natural person” under §72(u) — generally satisfied for a grantor trust ILIT, less certain for a non-grantor trust
- Stretch at death: there's no “see-through trust” regime for non-qualified annuities — a trust beneficiary is generally limited to the 5-year payout rule, not life-expectancy stretch, and most carriers exclude trust beneficiaries from their stretch programs. Confirm with the specific carrier before assuming otherwise

- **Best fit: clients who want a guaranteed, largely non-taxable income stream funded from a policy that no longer serves an estate tax purpose**

Path 3 — Life Settlement Sale

MARKET OVERVIEW

- What it is: selling the policy to a third-party investor for a lump sum greater than cash surrender value but less than the death benefit
- When it fits: the death benefit is no longer needed at all (not just repositioned), the insured's health has changed since issue in a way that increases the policy's market value, cashflow/affordability changes or the client would otherwise lapse or surrender the policy for far less
- The market has matured: institutional capital, established secondary and tertiary markets, and state licensing/disclosure requirements in most jurisdictions now govern these transactions
- **Veralytic's role: benchmarking the in-force policy is exactly the data a life settlement broker needs to solicit competitive offers, and gives the trustee an independent basis for the fiduciary decision to sell**

Life Settlement Taxation — When the ILIT Is the Seller

THE THREE-TIER FRAMEWORK

Since the 2017 Tax Cuts and Jobs Act, sale proceeds are taxed in three tiers, and the rule applies the same way whether the seller is an individual or a trust:

Return of Basis

Tax-Free

Proceeds up to cumulative premiums paid — basis is no longer reduced by cost-of-insurance charges, which is more favorable than the pre-2018 rule

Ordinary Income

Taxed as Income

Proceeds above basis, up to the policy's cash surrender value

Capital Gain

Long-Term Cap Gain

Any proceeds above cash surrender value — this is where a life settlement typically beats a straight surrender

- Reporting: the buyer files Form 1099-LS (sale amount) and the carrier files Form 1099-SB (basis) under §6050Y — both feed the IRS the numbers needed to check the trustee's math
- **The point that catches families off guard: if the ILIT is a grantor trust (the norm), this gain is reported on the grantor's personal return, not the trust's — the trust receives the cash, but the client personally owes the tax, which is worth planning for as a real cash-flow item, not an afterthought**
- If the ILIT is a non-grantor trust instead, the trust itself pays tax on the gain at compressed trust income tax brackets, unless the proceeds are distributed to beneficiaries in the same year

Transfer-for-Value Rule Exposure

THE TRAP TO AVOID

- The general rule: if a life insurance policy is transferred for valuable consideration, the death benefit can lose its income-tax-free status — the transferee is taxed on proceeds in excess of what they paid plus subsequent premiums
- Where this shows up in today's topics: distributing a policy out of an ILIT to a beneficiary, selling a policy between related trusts, or an IDGT purchasing a policy out of a qualified plan (Section 6) can all raise transfer-for-value questions if not structured correctly

Common Exceptions That Matter Here

- Transfer to the insured
- Transfer to a partner of the insured
- Transfer to a partnership in which the insured is a partner
- Transfer to a corporation in which the insured is an officer or shareholder
- Transfers that qualify for a carryover-basis exception

- **The practical takeaway: any repositioning that moves ownership of an existing policy — not just a 1035 exchange — needs a transfer-for-value analysis before it happens, not after**

Insurability Considerations When Repositioning

DON'T SKIP THIS STEP

- A 1035 exchange into a new life insurance contract (as opposed to an annuity) generally requires new underwriting — confirm current insurability before assuming the exchange path is available
- Health changes since original issue cut both ways: they can make a life settlement more valuable, but they can also make a new LTC-rider policy harder or more expensive to obtain — sequence the conversation accordingly
- An annuity exchange sidesteps new underwriting entirely, which is one more reason it's often the fastest path when time or health is a constraint
- **Practical step: get a ballpark sense of current insurability before spending time building out a specific repositioning strategy with the client and their attorney**

SECTION 6

The Case for Retention

Not every ILIT-held policy should be repositioned — sometimes the income tax math argues for keeping it

Income-Tax-Driven Reasons to Keep the Policy in Place

THE CASE FOR RETENTION

- Large qualified plan balances: when a meaningful share of a client's net worth sits in 401(k), profit sharing, or pension assets, the death benefit can offset the income tax (not just estate tax) hit those assets create for heirs — today's case study walks through exactly this
- Income tax-free death benefit is unusually durable: unlike an estate tax exemption that Congress can and has changed, the income-tax-free treatment of life insurance death benefits under §101(a) has been stable law for a very long time
- State estate tax still applies even when federal doesn't: 12 states plus D.C. tax estates at exemption levels far below the federal number — keeping the death benefit outside the estate can still matter there
- **Basis step-up planning interacts with this decision directly (next slide) — the retention analysis and the basis analysis should happen together, not separately**

Basis Step-Up Planning — The Other Side of the Ledger

DON'T FORGET STEP-UP

- The tension: assets held outside an irrevocable trust generally get a step-up in basis at death; assets that have been irrevocably gifted into an ILIT (or other irrevocable trust) generally do not
- Why this matters more now: with less estate tax to avoid, the calculus for some clients shifts toward keeping appreciated assets in the taxable estate specifically to capture the step-up, rather than gifting them away
- Where this intersects with the ILIT conversation: some clients have used other trust techniques (like a completed-gift transfer of appreciated assets alongside the ILIT) that deserve a fresh look under the same lens — is the estate tax benefit still worth losing the step-up?
- **The life insurance itself is basis-neutral to this question — death benefit is income-tax-free regardless of basis, which is part of why it can remain attractive even as other basis-driven trust strategies get revisited**

The Qualified Plan “Tax Bomb” — Why This Matters More Since 2019

THE CONCEPT

- Ed Slott, CPA — Professor of Practice at The American College of Financial Services and one of the country's most cited retirement-distribution experts — has spent years describing tax-deferred retirement accounts as a ticking tax liability, not a completed asset
- The core idea: the balance on a 401(k) or IRA statement overstates real, spendable wealth, because none of it has been taxed yet — the IRS is effectively a silent partner in every qualified dollar
- SECURE Act 2.0 made the bomb louder: the stretch IRA is gone for most non-spouse beneficiaries. Inherited accounts must generally be fully distributed within 10 years, often while the beneficiary is still working and in a high bracket — concentrating decades of deferred tax into a single decade
- **The planning implication: a client's $9.5M qualified balance and their $9.5M in marketable securities are not equivalent assets — one carries a large, deferred, and largely uncontrollable tax liability the other does not**

Case Study — Meet the Clients

ILLUSTRATIVE EXAMPLE

THE PROFILE

The Clients

- Husband, 70 — physician, still actively working, owns his own practice
- Wife, 68
- New York residents
- **Total net worth: approximately $15 million**
- **Of that, $9.5 million is qualified: 401(k), profit sharing plan, and a Cash Balance Pension Plan**

On the Surface

- $15M looks comfortably under the federal exemption — the reflexive assumption is “we don't need estate planning anymore”
- **That assumption misses two things: New York's own state estate tax, and the fact that $9.5M of the $15M isn't really worth $9.5M after tax**

Case Study — The Real Exposure

ILLUSTRATIVE EXAMPLE

THE PROBLEM

- New York state estate tax: New York has its own estate tax with an exemption far below the federal level, and a “cliff” that can tax the entire estate, not just the excess, once you cross it — this family is squarely in that conversation regardless of federal law
- The $9.5M qualified-dollar problem: under SECURE 2.0, non-spouse beneficiaries generally must empty an inherited account within 10 years. The client, his children, and his grandchildren are all expected to be in the highest tax bracket — there is no low-bracket generation to shift the distributions to
- The five existing life insurance policies: currently under review with Veralytic for cost, performance, and risk before any decision is made about repositioning or retention
- **The planning question: how do you get money out of the qualified plan on the client's terms, at today's known tax rate, rather than on the government's terms, at a future and likely higher rate?**

Case Study — Step 1: Benchmark the Existing Coverage

ILLUSTRATIVE EXAMPLE

STEP ONE

- Before any repositioning or new funding strategy, a Veralytic Report is run on all five existing policies for an independent, objective, and verifiable assessment
- Policy Costs — how do mortality, expense, and rider charges compare to independent benchmarks?
- Policy Performance — are these policies sustainable at current funding, or quietly heading toward a lapse?
- Carrier Financial Strength — have any of the five carriers seen a ratings downgrade or trend that changes the risk picture?
- **This assessment sets the baseline for every decision that follows — including whether any of the five should be exchanged, sold, or simply left alone**

Case Study — Step 2: Cash Balance Plan Funds a Policy, IDGT Buys It Out

ILLUSTRATIVE EXAMPLE

STEP TWO — THE MECHANICS

1

The Plan Buys the Policy

The client's existing Cash Balance Pension Plan (already funded from prior years, not newly established) purchases a life insurance policy using pre-tax dollars already inside the plan, with the plan as owner. Premiums are paid over roughly a 5-year period by redirecting a portion of the plan's existing account balance.

2

The IDGT Buys It Out

After year 5, an Intentionally Defective Grantor Trust purchases the policy out of the plan. Because the client is the grantor, the sale doesn't trigger gain recognition to the grantor under grantor trust rules.

3

The IRS Values It — Not at Premiums Paid

The buyout price is based on the IRS's plan-distribution valuation rules for a policy: the interpolated terminal reserve, or PERC.

Case Study — Step 3: Fund a Second-to-Die Policy Now

ILLUSTRATIVE EXAMPLE

STEP THREE

- The move: take a current distribution from qualified dollars, pay the income tax now at a known rate, and use the after-tax proceeds to fund a second-to-die (survivorship) policy on husband and wife, for the benefit of children and grandchildren
- Why survivorship makes sense here: the death benefit isn't needed until the second death, which typically produces more efficient pricing than two single-life policies for this purpose
- Why now rather than waiting: this converts a deferred, uncertain future tax liability into a known, current one — and replaces it with an income-tax-free death benefit that the SECURE 2.0 10-year rule can't touch
- **This directly addresses the “no low-bracket generation” problem: the client, children, and grandchildren are all expected to be in the top bracket, so there's no benefit to waiting for a lower-bracket heir to inherit the qualified dollars instead**

Case Study — Why Pay the Tax Now Instead of Later

ILLUSTRATIVE EXAMPLE

THE RATE-RISK ARGUMENT

- Today's rates are historically favorable and known: current individual income tax rates reflect the rates locked in and made permanent by the 2025 tax legislation — a known quantity the client can plan around today
- The federal fiscal trajectory points one direction: with the federal government carrying a historically large and growing debt and deficit load, there is a real and widely discussed probability that marginal income tax rates move higher, not lower, over the next 10–20 years — exactly the window in which this family's children and grandchildren would otherwise be taking distributions
- The asymmetry: if rates rise, waiting to distribute the qualified dollars later means paying tax at a higher rate than today's — there is no upside scenario where waiting produces a better outcome for a family already expected to be in the top bracket
- **Bottom line: “pay the tax now, at a rate you know, on your terms” is a materially stronger position than “pay the tax later, at a rate you don't know, on the government's 10-year clock”**

SECTION 7

Insurability & Practical Execution

Turning any of today's strategies into an actual engagement

What It Actually Takes to Implement This

THE PROCESS

Confirm the exemption math

Model the client's actual federal and state estate tax exposure under current law before deciding anything about the ILIT

Run the Veralytic Report

Independent benchmarking on every existing policy — cost, performance, risk and carrier strength — before any repositioning decision

Loop in counsel early

Decanting, trust restructuring, and any policy ownership change should be reviewed by the client's estate planning attorney before execution, not after

Check insurability & transfer-for-value

Confirm underwriting feasibility for any new policy, and clear any ownership-change transaction against the transfer-for-value rule

Document the fiduciary rationale

Trustees should have a clear written record of why a given path serves the beneficiaries, especially for decanting or restructuring

Sequence the qualified-plan strategy

For cases like today's, the Cash Balance Plan funding, the 5-year hold, and the IDGT purchase need to be planned as a single, coordinated timeline

Key Takeaways

BEFORE WE GO

- “Still under the exemption” is not the same as “no planning needed” — state estate tax and qualified-plan income tax exposure don't disappear just because the federal number went up
- Every legacy ILIT deserves a fresh threshold question: does this structure still do the job it was built for, given current law?
- Decanting and trust restructuring are real, usable tools — but state law controls, and the trustee's fiduciary duty doesn't take a break during the process
- A policy that's outlived its original purpose has real options: an LTC-rider exchange, a tax-efficient annuity exchange, or a life settlement — always starting with independent Veralytic benchmarking
- **Large qualified plan balances change the retention calculus entirely — the death benefit can offset an income tax bomb that SECURE 2.0 made far more urgent**

Action Steps for Your Practice

STARTING MONDAY

1. Pull a list of clients with ILITs funded before 2018 — that's your highest-priority review list
2. For each, run current federal and state estate tax exposure under today's law, not the assumptions the trust was drafted under
3. Get every ILIT-held policy benchmarked through Veralytic before any conversation about keeping, exchanging, or selling it
4. Flag clients with large qualified plan or cash balance plan balances relative to their total net worth — they may need this conversation regardless of ILIT status
5. Loop in your estate planning attorney early on any decanting, restructuring, or policy ownership change

Questions & Discussion

We welcome your questions on any of today's topics

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