THE TOP 20 INSURANCE PLANNING MISTAKES – HOW TO AVOID OR AT LEAST FIX THEM*

NAEPC WEBINAR

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Personal (Estate Planning) Insurance Transactions

1. Creating Problems in the policy application.

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2. Failing to avoid the three-corner life insurance policy – a different owner, insured, and beneficiary – the Goodman problem.

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3. Creating phantom income by surrendering a policy (or letting a policy lapse) which was subject to an outstanding loan.

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4. Exchanging a policy under Section 1035, which is subject to a loan, for a new policy, not subject to a loan in the same amount.

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5. Borrowing against or withdrawing from a modified endowment contract (a “MEC”), or using such a policy as collateral for a third party loan.

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6. Borrowing against a policy in excess of the owner's income tax basis and then transferring the policy subject to the loan as a gift to a new owner.

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7. Surrendering a participating policy without checking the effect of dividends received on the owner's investment in the contract.

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8. Surrendering a policy for its cash value without checking the life settlement market.

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9. Calculating the amount and character of the gain on a policy sale in the settlement market.

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10. Transferring a new life insurance policy to an irrevocable insurance trust or other third party owner after its acquisition by the insured – the Section 2035 three year transfer rule.

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11. Determining adequate and full consideration for the sale of a policy to an ILIT or a spouse (prior to a gift to an ILIT) to avoid the three year rule of Section 2035.

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12. Avoiding the transfer for value rule where the policy is sold to an ILIT to avoid the three year rule of Section 2035.

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13. Transferring a policy from the insured to a third-party owner (such as an ILIT) without obtaining the policy's gift tax value from the carrier, in advance.

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14. Transferring a policy during the insured’s lifetime without considering the transfer for value rule and its exceptions.

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15. Planning around Section 677(a)(3) if an ILIT is intended to be a non-grantor trust or is planned to be a grantor trust in a way that can be "turned off" if needed.

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16. Making sure premium gifts to an ILIT with Crummey powers qualify for the gift tax annual exclusion, where the policy won't support the withdrawal power.

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17. Naming the insured as trustee of an ILIT.

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18. Failing to restrict the insured's power to remove and replace the ILIT trustee by requiring any appointed successor trustee not be the insured nor a related or subordinate party to the insured.

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19. For ILITs with Crummey withdrawal powers, not drafting the ILIT so that the Crummey power is triggered by both direct and indirect premium gifts to the ILIT.

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20. Failing to recognize that most policies are "buy and manage", not "buy and hold" financial assets.