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Tax-Free Compounding: The Most Powerful Force in Investing and How to Achieve It with Private Placement Life Insurance (PPLI)

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Three Physicists Lead the Way for Us

- Albert Einstein
  - $E = MC^2$ ....What?
  - "Compound interest is the eighth wonder of the world."
  - "The hardest thing in the world to understand is the income tax."
- Blattmachr's corollary: Tax Free Compounding is the most important aspect of successful investing.

Is the Corollary True?

- How important is the compounding? You probably cannot exaggerate it
  - $100, which earns 5% a year **without compounding**, grows to $150 in 10 years and to $300 in 40 years
  - $100, which earns 5% a year **with compounding**, grows to $162 in 10 years and to $704 in 40 years or **2.3 times more**
  - $100, which earns 10% a year **without compounding**, grows to $200 in 10 years and to $500 in 40 years
  - $100, which earns 10% a year **with compounding**, grows to $259 in 10 years and $4,500 in 40 years or **nine times more**

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Lessons Learned from the Corollary

(1) The longer the term, the greater the effect of compounding

(2) The higher the interest rate, the greater the relative increase in wealth with compounding

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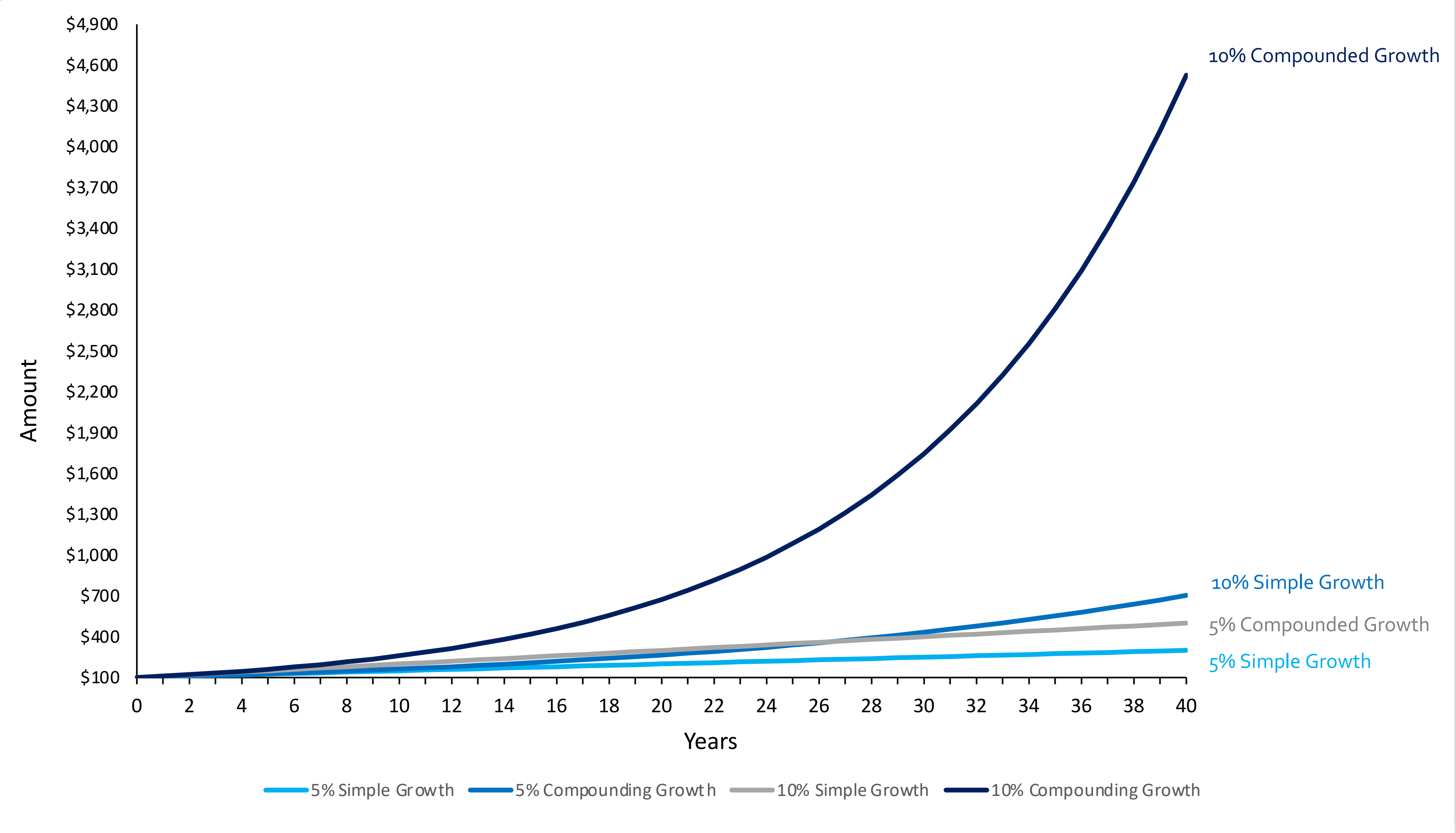
Simple vs. Compounded Return



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Returns and Taxation – What the Numbers Tell Us

- 20 years of compounded investment:
  - At 6% annually, each dollar grows to $2.65 (or $2.19 with a 20% annual income tax or a 17% reduction)
  - At 10% annually, each dollar grows to $6.73 (or $4.66 with a 20% annual income tax or a 31% reduction)
  - At 20% annually, each dollar grows to $38.34 (or $19.46 with a 20% annual income tax or a 49% reduction)
  - At 30% annually, each dollar grows to $190.05 (or $73.86 with a 20% annual income tax or a 61% reduction)
- Moral: **The higher the return, the more the return is eroded by *current* income taxation**

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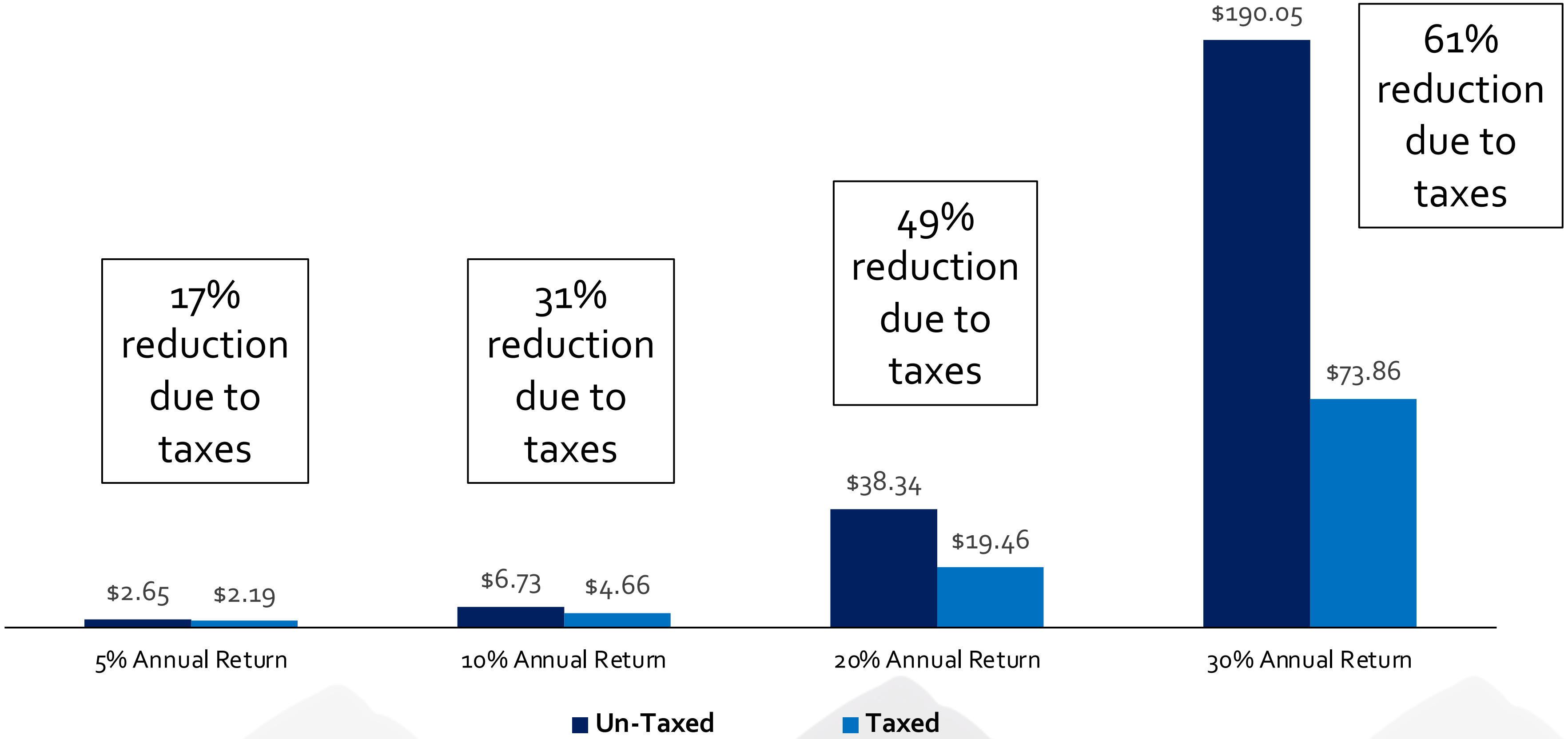
Effects of 20% Annual Taxation on Compounded Returns After 20 Years



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How Do We Reduce the Impact of Income Tax?

- Buy and hold (limitations and tradeoffs) and wait for the "step up" at death
- Municipal bonds?
- IRAs (Qualified Plans):
  - Deferral only and time limited
  - No avoidance of estate tax (a great "eroder" of wealth)
- Roth IRAs: Is it worthwhile?
  - Erosion of base
  - Higher/lower tax rate?
  - Does it matter?
  - Estate tax advantage
- The Wise Old Accountant's Adage: **A Tax Dollar Delayed May Never Be Paid Up**

Other Ways?

Charitable Remainder Trust

- Description
- Is the PV of the retained interest > after tax return?
- Is 90% > 80%?
- Comparison is not perfect (type of income, inflexibility)

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Life Insurance: The Best and Safest Tax Shelter?

- The most misunderstood financial product
- The structure: NAAR plus investment component
- “I don’t believe in life insurance”
- Its best attribute: Tax Free Compounding
- Why isn’t it used by everyone?
  - Cost (NAAR cost, fees, hidden fees and taxes)
  - Complexity
  - Limitations
  - Lack of understanding
- The solution for some: **private placement life insurance**

Private Placement Life Insurance

- Life Insurance and SEC Regulation
- Wholesale NAAR and Flexibility of Investments (code limitations and rules)
- Capacity and complexities
- Is the cost worth the effort?

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An Example

- Blattmachr's Formula: **Anticipated Annual Cost** (in BPs) **divided by the Anticipated Annual Income Tax Rate** (in BPs) **must be greater than the Anticipated Annual Return on the investment**
  - Example: Anticipated Annual Cost (e.g., 100 BPs) divided by the Anticipated Annual Income Tax Rate (e.g., 40 BPs) equals the minimum threshold (e.g., 2.5 or rate of anticipated annual return should be higher than 2.5%)
  - Example: Hedge Fund Anticipated Annual Return: 9%. Anticipated Annual Income Tax: 45%. Net after tax return: 4.95%.
  - Earned Inside a Private Placement Policy with an Annual Cost of 1% (100 BPs), the net annual return is 8%.
  - The difference is having $1.62 for each dollar invested outside the policy vs. $2.16 inside the policy, after ten years
  - Another Example: Fund's Anticipated Annual Return: 30%. Anticipated income tax: 45%.
  - The difference is having $4.61 for each dollar invested outside the policy vs. $12.76 inside the policy, after ten years (difference is less if returns or tax rates are lower)

- Moral: **The higher the return and/or the higher the tax rate, the more powerful the private placement chassis becomes**

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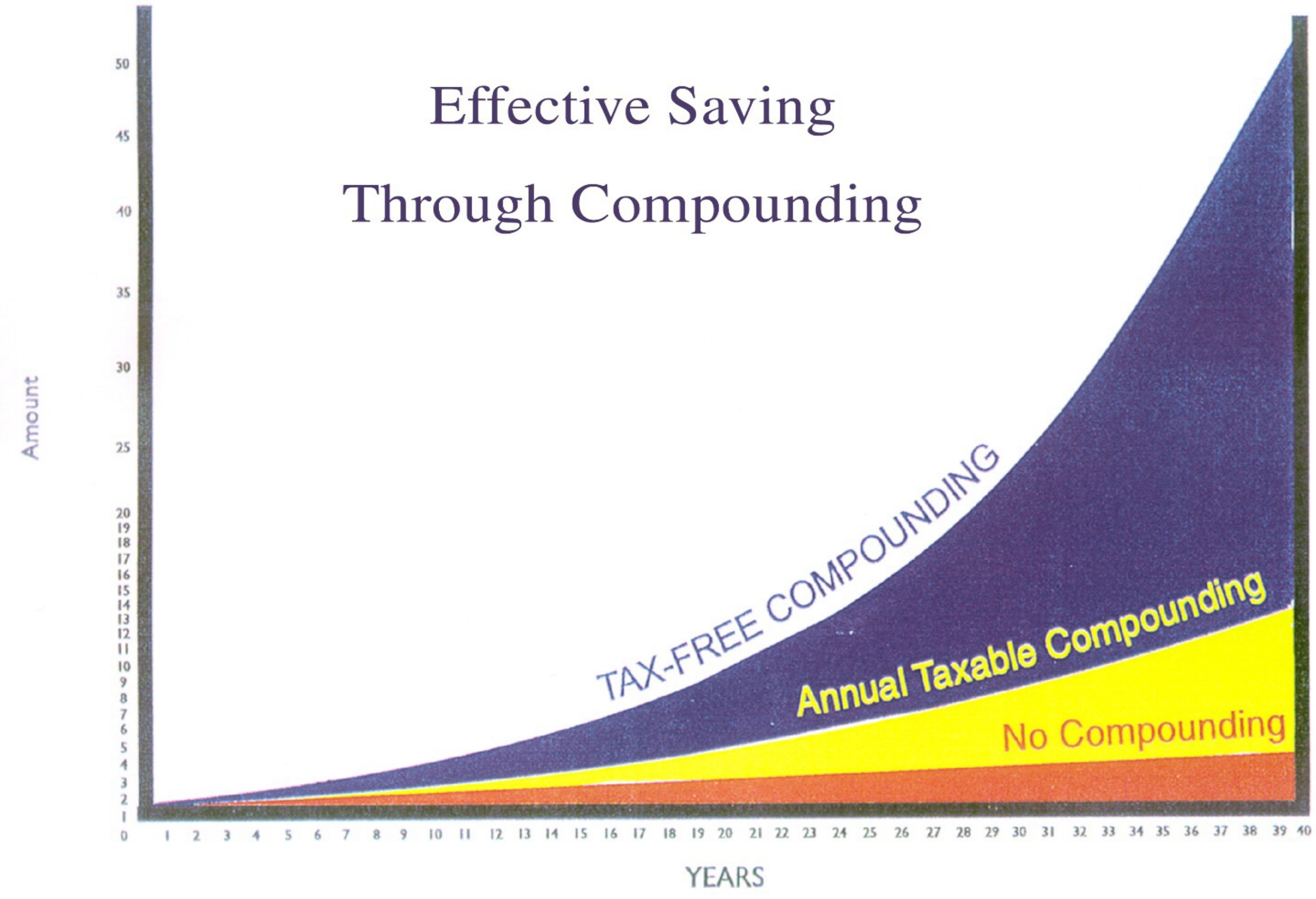
Effective Saving Through Compounding



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Ask Your Investment Advisor This Question:

“How much more could you earn for me if I were tax exempt?”

Conclusions

- Tax-free compounding is probably the most important factor in investing
- The higher the return the more important compounding is
- The higher the return the greater the drag current income taxation is on yield
- Tax-free compounding is available with **Private Placement Life Insurance** but the details are complicated (divide the anticipated annual cost by the anticipated annual tax rate to start the comparison—and the enhanced yield by investing in a tax-free environment may reduce or eliminate the annual cost)
- It might be possible to achieve a 30% annual return on average which will make tax avoidance even more important

I) Overview: What Is PPLI?

A) Private Placement Life Insurance (“PPLI”) is a cost-efficient cash value life insurance policy

- Tax efficient investment and planning vehicle for US and non-US persons
- Variable policy
- Constitutes a ‘security’ with unique aspects

I) Overview (cont.)

Comparative Economic Results: $10M Investment

75% STCG / Ordinary Income; 25% LTCG

	Assumed ROR Net of IM Fees	Account Value at Life Expectancy	IRR at Life Expectancy	Impact of Taxes at Life Expectance
Taxable Investment Account	9%	$61,129,242	4.63%	4.37%
	7%	$39,653,849	3.5%	3.5%
	5%	$25,601,514	2.38%	2.62%
	Assumed ROR Net of IM Fees	Insurance Benefit at Life Expectancy	IRR at Life Expectancy	Impact of PPLI Fees and Charges at Life Expectancy
PPLI Insurance Benefit	9%	$226,045,399	8.42%	0.58%
	7%	$109,781,841	6.41%	0.59%
	5%	$52,564,854	4.4%	0.6%

I) Overview (cont.)

B) Desired Opportunities

- **Sale of Business**
  - ‘C’ corporation vs. ‘S’ corporation
  - Pass Through Entity
  - Hedge Fund
- **Control of Portfolio**
  - Investments in selected non-marketable securities
  - Desire for concentration
  - Desire for influence in selecting investments
- **Transaction with Policy Assets; Risk Factor**
  - Premium payments in kind
  - Installment sales
  - Options

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I) Overview (cont.)

C) PPLI can provide substantial or enhanced confidentiality

D) There are many different types with various features

E) PPLI can be customized to fit the particular needs of a client

F) Main current benefits for any cash value insurance policy

- Ability to earn income on investments without paying US federal income tax
- Ability to exclude the value of policy assets from US estate tax
- Ability for policy beneficiaries to receive death benefits without paying US federal income tax

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I) Overview (cont.)

G) Main differences between PPLI and retail life insurance:

- Diminished costs
- Better handling of investments: Policy owner has broader flexibility with regard to investments, and many hedge fund investment choices are available (note: policy owner cannot exercise direct or indirect control over the policy investments)
- Policy purchasers must meet 'qualified purchaser' and 'accredited investor' guidelines under SEC rules
- Policy fees are more competitive than retail insurance products as in most cases there are low front-end loads on premium payments and the annual charges against policy cash values are a small fraction of the annual tax cost associated with similar investments in a taxable environment

H) Depending on the type of policy, the client may have access to policy cash without triggering US income tax (e.g., return of premiums or policy loans)

I) Overview (cont.)

I) **Private Placement Variable Annuities (“PPVA”) have similar benefits, but distributions are taxable**

J) **With PPLI, risk factor for “Owner Control” unless use of an Insurance Dedicated Fund (“IDF”)**

- Risk factor is greater where the policy acquires an asset from the client

K) **Ownership and beneficiary of a policy is often an ILIT**

L) **Opportunities to structure policy loans using entities, provided US and foreign tax laws are complied with and meticulously followed**

I) Overview (cont.)

M) PPLI policy may be acquired from a foreign life insurance company and, while outside the scope of this presentation, certain factors that may influence such a decision include:

- Premium payments to non-US insurance companies generally are not subject to US state premium taxes which can range from 1-3% of the premium
- US “DAC” tax may be lower
- Investment flexibility may be greater offshore
- Higher level of wealth preservation planning is available

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I) Overview (cont.)

M) PPLI policy may be acquired from a foreign life insurance company (cont.):

- Company may elect to be taxed as a US corporation so that owner does not have a 'foreign asset'
- But, IRS concern that some foreign insurance companies are promoting abusive strategies
  - *United States v. Swiss Life Holding AG*, and press release issued by the Department of Justice, U.S. Attorney's Office for the Southern District of New York, "Switzerland's Largest Insurance Company and Three Subsidiaries Admit to Conspiring with U.S. Taxpayers to Hide Assets and Income in Offshore Accounts" dated May 14, 2021
  - *Samuel Wegbreit v. Commissioner*, T.C. Memo 2019-82

II) Structural Issues to Consider with PPLI

A) Compliance with 7702(a)

B) MEC vs. Non-MEC

C) Diversification

- Legal Requirements:
  - IRC § 817
  - Treas. Reg. 1.817-5
- Consequences of breach
- Concept and consequence of ‘frozen’ or ‘zero’ cash surrender value policy as solution:
  - No IRC § 7702(g)(1) income inclusion (other than COI)
  - No IRC § 72(e) impact on borrowing if a MEC
  - No need to meet IRC § 817 diversification requirements

II) Structural Issues (cont.)

D) Ownership of PPLI

- If an IDF, trust is not needed for income tax purposes but beneficial for estate tax purposes
- Establish a non-grantor trust (an "ILIT")
- Perhaps contribute assets to a trust which is separate from the ILIT
- Grantor funds ILIT either by gift or loan regime split dollar (Treas. Reg. Section 1.7872-15)
- The grantor and the grantor's spouse should not be beneficiaries of the ILIT, unless an IDF
- The trustee of the ILIT should be a corporate fiduciary located in the jurisdiction where the ILIT is established
- A trust protector (who is "independent") may be appointed who can be granted various powers with respect to the ILIT

E) Owner Control

- Not a risk factor if valid IDF is used

III) Owner Control Doctrine

A) Owner Control: The Exception to the General Rule

1) Two prongs:
   - Retained beneficial enjoyment
   - Continued control of investments
2) What are the consequences of a violation?
3) Statutory and Regulatory Basis for Doctrine
4) Constructive Receipt
   - *Christofferson v. US*, 749 F.2d 513 (8th Cir. 1985)
   - Reg. Sec. 1.451-2(a)

III) Owner Control Doctrine (cont.)

A) Owner Control: The Exception to the General Rule (cont.)

5) Owner Equivalence
   - Upon finding of both prongs
   - *Helvering v. Clifford*, 309 U.S. 331 (1940) , cf, *Cushman v. Commissioner*, 153 F. 2d 510 (2d Cir. 1946)

6) Application to Life Insurance
   - *cf, Cohen v. Commissioner*, 39 T.C. 1055 (1963)

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III) Owner Control Doctrine (cont.)

B) IRS Attack and IRS Limited Solution

1) Regulations: None

- But consider the preamble to proposed Regulations under Section 817 outlining diversification standards (51 F.R. 32633; 51 F.R. 32664 (Sept. 15, 1986))

2) Revenue Rulings

- Early rulings applied to variable annuities only (Rev. Rul. 77-85; Rev. Rul. 80-274; Rev. Rul. 81-225; Rev. Rul. 82-54; Rev. Rul. 82-55)
- Later expanded to include variable life insurance (Rev. Rul. 2003-91; Rev. Rul. 2003-92)

III) Owner Control Doctrine (cont.)

B) IRS Attack and IRS Limited Solution

2) Revenue Rulings (cont.)

- Rev. Rul. 2003-91
  - Safe harbor for IDF
  - The ruling includes the following in its analysis:
    - "Holder may not select or direct a particular investment to be made by either the Separate Account or the Sub-accounts. Holder may not sell, purchase, or exchange assets held in the Separate Account or the Sub-accounts. All investment decisions concerning the Separate Accounts and the Sub-accounts are made by IC or Advisor in their sole and absolute discretion."
- Rev. Rul. 2003-92
  - Availability of investment to general public

III) Owner Control Doctrine (cont.)

B) IRS Attack and IRS Limited Solution (cont.)

3) Private Letter Rulings. Some examples:
   - PLR 201323002
   - PLR 201417007
   - PLR 201705003
4) Chief Counsel Advice Memorandum 200840043
   - Where the policy directly invests in assets generally available to the public, the owner of the policy (and not the insurance company) will be taxed on the income

III) Owner Control Doctrine (cont.)

C) Two Modalities for the Investment of Assets

1) IDF: The Safe Harbor

- Criteria:
  - Not available to the public
  - No control over investment decisions, but holder can select among general investment strategies
  - Holder cannot recommend particular investments or investment strategies
- Rev. Rul. 81-225; Rev. Rul. 82-54; Rev. Rul. 2003-91
- Examples of PLRs: PLR 8820044; PLR 201705003

III) Owner Control Doctrine (cont.)

C) Two Modalities for the Investment of Assets (cont.)

2) Allocator: Wherein lies the Risk (see, *Webber v. Commissioner*, 144 T.C. No. 17 (Jun. 30, 2015))

- Found "Incidents of Ownership"
  - Direct income tax ownership through grantor trust
  - Grantor directed investments
  - Grantor had direct communication with allocator
  - Grantor sold assets to, and purchased assets from, policy
  - Ongoing pattern as opposed to a single initial transaction

III) Owner Control Doctrine (cont.)

C) Two Modalities for the Investment of Assets (cont.)

2) Allocator: Wherein lies the Risk (see, *Webber v. Commissioner*) (cont.)

- Found "Incidents of Ownership" (cont.)
  - Grantor retained, in effect, power to vote shares and exercise options on stock owned by policy
  - Policy purchased assets from grantor so he had access to cash notwithstanding policy provided he could not borrow in excess of premiums paid. Decision is silent on fact that all such purchases were at fair market value.
  - Grantor's family benefitted
- Why, notwithstanding decision, by and large Mr. Webber won the case and did not appeal

III) Owner Control Doctrine (cont.)

C) Two Modalities for the Investment of Assets (cont.)

2) Allocator: Wherein lies the Risk (see, *Webber v. Commissioner*) (cont.)

- Risk Factors in Allocator Model
  - Modest risk factor = contribution of cash/portfolio
  - Major risk factor = contribution or sale of assets

III) Owner Control Doctrine (cont.)

D) Minimizing Risk of Doctrine Under Allocator Modality (No Safe Harbor)

1) Non-Grantor Irrevocable Trust: structuring role of grantor / owner / investor
   - Transferor of asset is not a beneficiary of trust nor can he/she ever become a beneficiary
   - Trustee of the trust is an independent corporate trust company
   - After initial transfer/sale/selection of investments, owner/investor and all those who are subordinate to him sell nothing further to policy
   - Minimize access to policy assets; reduce or eliminate power of holder to borrow
   - No direct or indirect communication with allocator; after initial establishment, no direction of investments. All communication done by owner and investor is with insurer only
   - Full disclosure on applicable income and gift tax returns
   - Notwithstanding Tax Court and IRS, family remains beneficiaries of the policy
   - Effect of transferor being an actual manager or officer in the entity transferred to the policy

III) Owner Control Doctrine (cont.)

D) Minimizing Risk of Doctrine Under Allocator Modality (cont.)

2) Functioning of Allocator

- Independent
- Qualified to be an Investment Advisor
- Purchasing Asset from grantor / investor
  - First year only; avoid continuing pattern
  - Due diligence on fair market value and propriety for investment in the policy
  - Contemplate ability of allocator to testify in Tax Court and have documentary back-up

III) Owner Control Doctrine (cont.)

D) Minimizing Risk of Doctrine Under Allocator Modality (cont.)

2) Functioning of Allocator

- Communication with owner / investor
  - No communication on acquisition or disposition of particular investments
  - Communication only on past performance
  - Best practice to have third party on phone as witness as to what was discussed

III) Owner Control Doctrine (cont.)

D) Minimizing Risk of Doctrine Under Allocator Modality (cont.)

3) Best Practices

- DO: Comply with recommendations in (D)(1) on slide 21 above
- DO: Sale/contribution of interest in passive investment to policy
- DO: Sale/contribution of interest in operating company: transferor should not have fiduciary duty to the company (e.g., Manager or Director/Officer)
- DO: Consider use of derivative in lieu of sale, especially where acquisition of asset would generate unacceptable degree of risk of owner control
- DO: Avoid use of family's personal wealth advisor as the Allocator
- DO: Have policy own assets in an LLC with IDF language
- DO: Ensure policy has the right to vote and power to sell/dispose interests held and the power to reinvest the proceeds from such sale/disposition

III) Owner Control Doctrine (cont.)

D) Minimizing Risk of Doctrine Under Allocator Modality (cont.)

3) Best Practices

- DON'T: Sale/contribution of assets where transferor is involved in management (director / officer / employee) of the company
- DON'T: Sale/contribution of assets where transferor remains majority owner

III) Owner Control Doctrine (cont.)

D) Minimizing Risk of Doctrine Under Allocator Modality (cont.)

4) Articles

- Jonathan G. Blattmachr and William E. Keenen, "***Webber* and the Investor Control Doctrine**," Taxnotes, Vol. 152, No. 5 (August 1, 2016)
- William D. Lipkind, "**Tax Planning With Self-Settled Non-Grantor Trusts**," *Trusts & Estates* (June 2016)
- William D. Lipkind and Jonathan G. Blattmachr, "**Income Tax Aspects of Variable Life Insurance Policies**," 122 J. Tax'n 52 (Feb. 2015)
- Jonathan G. Blattmachr and William D. Lipkind, "**Fundamentals of DING Type Trusts: No Gift Not a Grantor Trust**", Probate Practice Reporter (April 2014)

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IV) Potential Legislative Attacks

A) Billionaire's Income Tax

1) Introduced Nov. 29, 2023, by Sen. Wyden
2) Applicable Taxpayers (Sec. 495)
    a) Individuals / Grantor Trusts
        - income test: $100,000,000
        - asset test: $1,000,000,000
    b) Non-Grantor Trusts
        - income test: $10,000,000
        - asset test: $100,000,000

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IV) Potential Legislative Attacks (cont.)

A) Billionaire’s Income Tax (cont.)

3) Application to Life Insurance (Sec. 492)

a) Tax on amounts received from PPLI policies

- No tax-free loans
- No tax-free death benefit

b) Ambiguity on all ILIT Trusts

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IV) Potential Legislative Attacks (cont.)

B) Biden's Budget Proposal

1) "Covered Contract"
   a) Not registered with SEC
   b) Only available to accredited investors
   c) Any contract where premiums paid in-kind or assets purchased from policyholder or affiliate

2) Render earnings taxable

3) Additional reporting requirements

IV) Potential Legislative Attacks (cont.)

C) Senate Finance Committee Report on Private Placement Life Insurance

1) Released Feb. 21, 2024
2) Investigation into the use (and abuse) of PPLI by wealthy Americans as a tax shelter
3) Highlighted lack of reporting requirements and oversight

D) Possibility of enhanced IRS scrutiny

V) Compliance

A) As a preliminary matter, it is important to have a qualified accountant who specializes in US and foreign tax laws that is actively involved in all aspects of the client’s PPLI planning to ensure compliance with tax laws

B) Foreign Account Tax Compliance Act (“FATCA”)

- US federal law enacted in 2010 that requires foreign banks and other entities to disclose US account holders and related financial information to the US (IRC Sections 1471-1474)
- Penalty for not complying is a 30% withholding tax on payments made to the foreign entity
- All foreign entities are classified as foreign financial institutions (“FFI”) or non-financial foreign entities (“NFFE”) with different rules applying depending on classification

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V) Compliance (cont.)

C) Common Reporting Standard (“CRS”)

- Initiative developed by the Organization for Economic Cooperation and Development (the “OECD”) in 2014
- CRS provides for jurisdictions to obtain information from their financial institutions and automatically exchange that information with other jurisdictions on an annual basis
- Similar to FATCA, CRS provides rules for what type of information must be exchanged, which institutions are required to report, the different types of accounts and taxpayers covered, as well as common due diligence procedures to be followed by institutions
- 101 countries have already agreed to participate in CRS to some degree
- Currently, the US is not a party to CRS, nor is any US territory or possession

V) Compliance (cont.)

D) Planning for ownership of PPLI through a trust or entity may result in the need for various filings

- Form 709, Federal Gift Tax Return
- Form 1041, US Income Tax Return for Trusts
- Checklist of recommended annual disclosures (See attached Exhibit A)
- Form 3520, Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts
  - Used to report the information required under IRC Section 6048
  - A US person who establishes a foreign trust or transfers assets to a foreign trust must report these transactions on Form 3520
  - Form 3520 must also be filed on an annual basis by the grantor of a foreign trust

V) Compliance (cont.)

D) Planning for ownership of PPLI through a trust or entity may result in the need for various filings

- Form 3520-A, Annual Information Return of Foreign Trust
  - Used to report the information required under IRC Section 6048(b)
  - A US person who is the grantor of a foreign trust is responsible for ensuring the trustee files Form 3520-A annually
  - A US beneficiary of a foreign trust must provide information regarding the proper tax treatment of any distributions received from the trust

VI) Conclusion

Should be able to achieve desired opportunity with minimal or no tax risk utilizing recommended structure with a non-grantor trust as owner of the policy

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Exhibit A
Tax Disclosures

This memo sets forth both required disclosures and disclosures which should be considered to mitigate risks where owner control is an issue.

1) First year of policy
   - File a gift tax return, Form 709, to report (i) the contribution of cash to the trust and (ii) the sale of any assets to the Policy. The Form 709 should provide a description of the Policy transaction to establish there was no gift indirectly being made.
   - Provide a written disclosure on your income tax return, Form 1040, of the transaction specifically referring to the sale to the Policy, and add a disclosure statement, Form 8275, to your return. The purpose of Form 8275 is to disclose items or positions taken on a federal income tax return that are not otherwise adequately disclosed to avoid the imposition of certain penalties.
   - Have an opinion of counsel prepared so as to create a defense against imposition of penalties should there be an IRS audit and proposed income tax changes.

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Exhibit A
Tax Disclosures

2) Subsequent contributions of cash premiums
   - No disclosure needed, unless if cash was gifted to the trust in which case a gift tax return, Form 709, must be filed
   - In each year a premium is paid (including the first year premium), confirm with insurance company DAC tax has been paid and any filing requirements related thereto have been satisfied. In the case of a premium paid to a foreign insurance company, <u>other</u> than a foreign insurance company which has elected to be taxed as a U.S. corporation, Form 720 must be filed.

3) Any subsequent calendar year in which the Policy earns income
   - Include a disclosure statement, Form 8275, with your income tax return. We make this recommendation so the statute of limitations runs for each year in which the Policy earns income and not just the first year

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Exhibit A
Tax Disclosures

4) If relevant, additional filings to satisfy foreign disclosure requirements

- Form 3520 and Form 3520-A is only required if Policy is owned by a foreign trust
- Form 8938 must be filed if the Policy is issued by a foreign insurance company to report the ownership of a specified foreign asset; this form is only required if the Policy is owned by an individual or a grantor trust, but is not required if the Policy is owned by a non-grantor trust.
- FBAR report must be filed by the owner of the Policy if the Policy is issued by a foreign insurance company. If the Policy is owned by a non-grantor trust, only trustee must file the FBAR. The Trustee should confirm the FBAR has been filed each year.

Practical Factors for Administration

- **Jurisdiction**
  - State Premium Tax
  - Trust Statutes
  - LLC Statutes
- **Entity Ownership**
  - Trust
  - LLC

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State Premium Tax Rates

Ways to take advantage of a state's low premium tax

1. Establish Alaska, Delaware, South Dakota or Wyoming **trust with trustee in jurisdiction** – Purchase policy

[or]

2. Establish an Alaska, South Dakota or Wyoming **LLC with LLC Manager in jurisdiction** – Purchase policy

Alaska	8 bpts (Trusts and LLCs)
Arizona	200 bpts
California	235 bpts
Connecticut	175 bpts
Delaware	200 bpts (LLCs), 0 bpts (Trusts)
Florida	175 bpts
Georgia	225 bpts
Hawaii	275 bpts
Illinois	50 bpts
Massachusetts	200 bpts
Minnesota	200 bpts

Nevada	350 bpts
New Hampshire	125 bpts
New Jersey	210 bpts
New York	200 bpts
North Dakota	200 bpts.
Ohio	140 bpts
Pennsylvania	200 bpts
South Dakota	8 bpts (Trusts and LLCs)
Washington	200 bpts
Wyoming	7.5 bpts

Chart of Sample Insurance Premiums & State Premium Tax Burdens

	0.08% Alaska*	2% (DE**, NY, etc.)	3.5% Nevada	0.50% Illinois	1.75% FL and CT	0.08% South Dakota***	0.08% Wyoming****
Insurance Premium	**Premium Tax**	**Premium Tax**	**Premium Tax**	**Premium Tax**	**Premium Tax**	**Premium Tax**	**Premium Tax**
$100,000	$2,700	$2,000	$3,500	$500	$1,750	$2,500	$750
$200,000	$2,780	$4,000	$7,000	$1,000	$3,500	$2,580	$825
$300,000	$2,860	$6,000	$10,500	$1,500	$5,250	$2,660	$900
$400,000	$2,940	$8,000	$14,000	$2,000	$7,000	$2,740	$975
$500,000	$3,020	$10,000	$17,500	$2,500	$8,750	$2,820	$1,050
$600,000	$3,100	$12,000	$21,000	$3,000	$10,500	$2,900	$1,125
$700,000	$3,180	$14,000	$24,500	$3,500	$12,250	$2,980	$1,200
$800,000	$3,260	$16,000	$28,000	$4,000	$14,000	$3,060	$1,275
$900,000	$3,340	$18,000	$31,500	$4,500	$15,750	$3,140	$1,350
$1,000,000	$3,420	$20,000	$35,000	$5,000	$17,500	$3,220	$1,425
$5,000,000	$6,620	$100,000	$175,000	$25,000	$87,500	$6,420	$4,425
$10,000,000	$10,620	$200,000	$350,000	$50,000	$175,000	$10,420	$8,425

*2.7% on the first $100,000 of the premium. 0.08% on premium amounts above $100,000.

**2% on the first $100,000 of the premium. Premium amounts above $100,000 are tax free if owned by the trust. If held within an LLC, owned by the trust, the policy is subject to a 2% tax.

***2.5% on the first $100,000 of the premium. 0.08% on premium amounts above $100,000.

****0.75% on the first $100,000 of the premium. 0.075% on premium amounts above $100,000.

Peak Trust Company

Ownership Structures for Life Insurance – Include in Estate

Trusts and other ownership structures that work when **insured requires access to cash value** as well as **possible premium tax savings**, but **estate tax inclusion** is **not important**:

- **LLC**
- **Revocable trust** with **separate tax ID**
- **Self-settled irrevocable trust** (i.e. Domestic Asset Protection Trust, ILIT, Dynasty ILIT, etc.)- also have ability to be excluded from the estate

PEAK TRUST COMPANY

Ownership Structures for Life Insurance – Exclude From Estate

Trusts and other ownership structures that work when the **insured does not desire access to cash value** but **desires** that the **policy be excluded from the estate** as well as **possible premium tax savings** and **asset protection:**

- **ILIT**
  - Be careful of qualified purchases issues
- **Dynasty trust**
  - Be careful of qualified purchases issues
- **LLC** or **LP** with units allocated to an irrevocable trust in another state
  - If there are **trusts in another state and someone wants to take advantage of the lower Alaska, South Dakota or Wyoming premium tax**, generally, an Alaska, South Dakota or Wyoming LLC is established with an Alaska, South Dakota or Wyoming trust company as co-managing member to purchase insurance within the Alaska, South Dakota or Wyoming LLC and allocate the units to the non-Alaska, non-South Dakota or non-Wyoming trust.

Alaska LLC-Owned Policy – Peak Trust Company as Manager

- AK **<u>Low LLC Premium Tax</u>** – 8 basis points
- **<u>Qualified Purchaser Rule</u>** – Look to LLC member (owner)
- **<u>Directed LLC:</u>**
    - Co-Manager or Investment Advisor (Directed)
- **<u>LLC</u>** – Charging Order Protection – Sole Remedy
    - Cannot force a distribution

Alaska Trust-Owned Policy

- AK **<u>Low LLC Premium Tax</u>** – 8 basis points
- Variety of trust structures
  - ILIT
  - Dynasty
  - Revocable
  - Sole trustee with investment advisor
  - Bifurcated trustee duties
- Potential tax and/or estate planning advantages

PEAK TRUST COMPANY

Alaska LLC – Held by Trust

- **<u>Trust</u>** – Utilize Alaska LLC to purchase life insurance with funds from an existing trust in a high premium tax state.

- Peak is co-manager or investment advisor directed Alaska LLC
- Peak purchases insurance and signs paperwork in Alaska
- Trust can be in preferential or other jurisdiction

Peak's Responsibilities as LLC Manager

- To provide a non-discretionary agency relationship account for LLC.
- To maintain custody of tangible and intangible property.
- Receive income and contributions and make expenditures and distributions on behalf of the Principal.
- Facilitation of money transfers.
- Pay bills on behalf of the entity, as appropriate.
- Maintain records and corporate compliance filings.
- Originate, facilitate and review statements, reports and other communications with the Principal and any other authorized third parties.
- Respond to inquiries concerning any account created hereunder from the Principal and any other authorized third parties.
- Execute documents with respect to account transactions.
- Retain accountants, attorneys, investment counsel, agents and other advisers in connection with the performance of duties.

PEAK TRUST COMPANY

Questions?

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