ILIT Trustee: Personal or Corporate?

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Life insurance is an essential tool in the estate planning process for high-net-worth clients because it provides liquidity (cash) for the estate exactly when it is needed most. Estate planning attorneys commonly recommend policies intended for this purpose be owned by an irrevocable life insurance trust (ILIT).

Each year, the grantor makes gifts into the ILIT, and the trustee uses those gifts to pay the life insurance premium. The gifts are leveraged into a large, liquid sum provided by the death benefit. Because of the ILIT ownership, the death benefit is sheltered from being included in the gross estate in the calculation of the federal and/or state estate tax, and because it is life insurance, the death benefit is generally received income tax free.

One factor that can be overlooked in the planning process is the decision on who to appoint as the ILIT trustee. This decision can have a major impact on the estate plan and should be carefully considered. The duty of the trustee is impactful and can be onerous. Some of those duties include:

- Receiving and Depositing Gifts
    - Confirming the donor has made the contribution needed to pay the premium, deposit the gift into the ILIT bank account and document the transaction.
- Sending Crummey Notices
    - The Crummey notice is an important part of the process and documentation is needed for evidence of a completed gift. The letter must be drafted, mailed, delivery tracked, and then observe the waiting period before paying premium. This all must be recorded.
- Paying Life Insurance Premiums
    - The trustee must ensure the timely payment of the stipulated premium. Premiums paid too early or too late can impact the policy guarantees, so timing is very important. The trustee should maintain records that the premiums were paid and record all carrier communication.
- Monitoring Policy Performance
    - Possibly the most difficult task of an ILIT trustee is to obtain in-force illustrations, review annual statements, and confirm guarantees, cash values, COI charges, loan balances, crediting rates, etc. are all in line with original expectations. This review should be documented.
- Maintaining Records
    - The trustee must maintain books showing all contributions, expenses, payments, Crummey notices, etc.
- Filing Taxes
    - When applicable, the trustee is responsible for determining whether tax returns need to be filed.
- Communicating with Beneficiaries
    - It is the duty of the trustee to update beneficiaries on trust assets if required by law or by the terms of the trust. These communications should also be documented.
- Reviewing Trust Terms and Compliance
    - This is the miscellaneous category of making sure that everything is appropriate and legally executed, whether it's related to making sure trust assets are using the correct EIN, that the trust situs is in the correct state, maintaining bank account records, etc.

Ultimately, the decision to select the trustee comes down to two general options: a Personal Trustee or a Corporate Trustee. Here are a few thoughts to consider:

Personal Trustee:

A personal trustee is often selected because it's the simplest and most cost-efficient option. The trustee is often chosen because he/she is perceived to be a trustworthy person, who may have knowledge of the family dynamics and a personal relationship with the trust beneficiaries. The grantor will commonly make the request to serve as trustee as a favor, and as a result, there is generally very little, if any, expense. For these reasons, the alure is attractive.

However, there are drawbacks that should be considered. The most significant being that the trustee often doesn't realize the liability that comes with fiduciary duty, nor do they understand the complexities that exist with permanent life insurance. If a policy lapses before the insured person's death, the trustee may be held responsible for not properly reviewing and managing the policies[1]. Regardless of how strong family dynamics might be, if the trust beneficiaries perceive the trust asset (the life insurance) was poorly managed resulting in a death benefit not being paid, discontentment and/or litigation can quickly ensue. The personal trustee who believed he/she was providing a small favor, may quickly realize that it was no small favor at all. Personal assets may be at risk for the loss of the anticipated death benefit. If the trustee is an attorney, registered rep, etc. the liability could be heightened.

Because many personal trustees lack experience in such administration, there is also higher risk of mistakes for non-compliance (e.g. failing to send Crummey notices, paying premiums too early or too late impacting the policy performance and guarantees, or even creating unintended gift tax consequences).

Corporate Trustee:

As liability has increased with ILIT stewardship, so too has the cost to administer the trusts. Banks with associated trust companies who would (at one time) administer an ILIT as a courtesy to good banking clients, have largely exited the business altogether and those who have stayed have dramatically increased the annual fees. In some cases, "a $2,000 minimum annual fee applies for administration of an Irrevocable Life Insurance Trust (ILIT). If multiple policies administered within the same ILIT, then $100 additional annual fee for each policy."[2] For larger face amounts (and therefore greater liability), the fees can be greater.

While the cost is certainly a factor, it's usually a very small percentage of the premium being paid and provides valuable benefits. The most significant, of which, may be removing the liability from a close friend or family member and placing it on the shoulders of professionals, who have expertise in trust administration, tax law, legal compliance, and recordkeeping.

A corporate trustee also removes the concern over continuity that might occur at the death or retirement of a personal trustee. They will have systems and processes in place to make sure that Crummey notices are sent each year, timely payments are made of the stipulated premiums, and they are better equipped

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[1] "Fiduciary Risk: Trust-Owned Life Insurance." *CAPTRUST*, 4 Feb. 2025, www.captrust.com. Accessed 4 Nov. 2025.
[2] Wealth Counselors. *Trustee Fee Schedule*. 1 Jan. 2021, www.wealth-counselors.com/wp-content/uploads/2022/09/trustee-fee-schedule-current.pdf

to handle audits or legal challenges. Maybe most importantly, they are best equipped to make sure the permanent life insurance policies are adequately funded and best positioned to pay a death benefit.

Conclusion:

Life insurance policies owned by irrevocable life insurance trusts are significant and complex assets that require regular care and careful administration. Given that relatively few individuals are educated and experienced in life insurance and estate planning, the benefit of cost savings by appointing a personal trustee may be overshadowed by the associated risks. The annual fee for a corporate trustee may be well worth the money by creating greater certainty that the life insurance policy will perform as expected, legal complexities are proactively addressed, and that the family will maintain harmony.

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