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Life Settlements:
Why Clients Don't Have To Die Or Be Terminally Ill To Get Value From Their Life Insurance

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Tama Brooks Klosek

Tama's legal tax practice includes both the domestic and international aspects of estate planning and family wealth transfer and tax-exempt organizations. Tama began her legal career with Vinson & Elkins in the Probate, Trusts & Estates Group of the Tax Section. After ten years at Vinson & Elkins, Tama continued her legal practice with Klosek Howes LLP and formed Klosek & Associates PLLC in June 2013. Tama has developed extensive experience in income, nonprofit (including private foundations), estate, gift, trust and generation-skipping transfer taxation and marital property planning. Tama regularly uses life insurance strategies in her estate planning practice which focuses on advising high net worth and ultra-high net worth clients. Tama is a graduate of Harvard Law School and earned her undergraduate degree in Economics with honors from Columbia University. Tama is Board Certified in Estate Planning and Probate Law by the Texas Board of Legal Specialization and has been widely recognized in Houston and in the State of Texas by her peers and her clients, as an outstanding attorney in her field. Tama has received a Chambers Ranking for High Net Worth—Private Wealth Law in Texas. Tama has many local and regional professional affiliations and has presented seminars and continuing legal education on a range of topics related to her area of expertise to numerous groups in Houston, Texas and nationally. Tama joined Treyled Life Settlements in 2021 as a Managing Partner where she focuses on institutional client development and professional advisor education and outreach.

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Discussion Outline

The Life Cycle of Life Insurance

- Older Clients Have Life Insurance—Why?
- People are Living Longer
- When Insurance May No Longer Make Sense in the Estate Plan
- Strategies for Exiting a Life Insurance Contract
- Life Settlements
  - What is the Opportunity
  - What to Look For?
  - Enhanced Cash Surrender Value Case Studies
  - Client Case Study
  - How to Approach the Market
  - Life Settlement Process and Timeline
  - Regulation and Tax Treatment of Life Settlements
  - Trust Owned Life Insurance
  - Charitable Life Settlement
  - Additional Case Studies

Concluding Thoughts

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Older Clients Have Life Insurance—Why?

- 54% of all people in the US have some type of life insurance coverage (LIMRA 2020 Insurance Barometer Study)
  - Wealthy people are as likely to purchase insurance in all categories—HNW, UHNW and mass affluent
- Income Replacement and Additional Liquidity
- Legacy
  - Providing death benefit for one or more specific beneficiaries
- Asset Protection
  - Benefits vary by state
  - Texas offers protection for insured and beneficiary for entire cash value and death benefit (Tex. Ins. Code § 1108.051)
- Employee Benefit

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Older Clients Have Life Insurance—Why?

- Liquidity
  - Estate, Gift and GST Taxes—exemption is $12,920,000 (2023) but was $1,000,000 in 2002; legislation proposed to reduce this amount and will be reduced without further change
    - The maximum tax rate is 40% and legislation proposed to increase rate
  - Income Taxes
    - Gifts (under current law) receive carryover basis (IRC § 1014) and some clients have large IRD assets
  - Other Liquidity Needs
    - Key man insurance/fund buyout at death of key employee
- Retirement Planning, Diversification and Tax Efficient Investment

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Older Clients Have Life Insurance—Why?

- Types of Life Insurance Commonly Used in Estate Planning
  - Level Term—premiums paid to provide coverage for a term of years if the insured dies during the contract term; no cash value accumulates and premiums increase significantly at the end of the level term period
  - Permanent Insurance—combines death benefit with an investment element that is designed to appreciate and reduce the net risk in the policy and higher costs of insurance in later years

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