Life

Help Your Clients Reduce Taxes and Keep Wealth in the Right Hands

Legacy Max SM: A simple effective strategy using life insurance.
Producer Guide

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ING

Estate Planning

Help Your Clients Reduce Taxes and Keep Success in the Right Hands

ING's Legacy Max℠

is a sales concept that transfers annuity or IRA accumulations into a life insurance policy. By moving assets from those retirement vehicles into life insurance, you can help your clients potentially decrease their tax liability and provide more money to their heirs. Don't miss this opportunity to help your clients make the most of their hard-earned dollars.

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Show Clients How to Transfer Wealth to Their Heirs

Your clients worked long and hard, and saved diligently for their retirement. Many own annuities and traditional IRAs in addition to other workplace retirement plans, and they have accumulated substantial sums.

Fortunately, many of them are in a good position to enjoy the fruits of their labor in retirement. In fact, in some cases they may have more money than they need.

So, what happens to these assets once they die? They are transferred to their heirs/beneficiaries. But not before federal and state taxes can take a substantial cut, possibly as much as 70 percent of it.

The Three-Headed Tax Monster

A client's hard-earned retirement assets could be subject to multiple levels of taxation:

1. Estate taxes.

IRAs and annuities are among the least-efficient vehicles for passing wealth to the next generation. First, these assets may be subject to federal estate tax upon the death of the account owner.[a,b] State death taxes may also be assessed.

2. Income taxes.

Unlike other nonqualified assets, dollars accumulated in IRAs and annuities are considered income in respect of a decedent ("IRD") and are taxed as ordinary income when received by the beneficiary – at the beneficiary's highest tax rate.[a,b] State income taxes may also be due.

3. Generation-Skipping Transfer (GST) taxes.

If the beneficiary of the IRA or annuity assets is a grandchild or someone even further removed (by generation) from the owner, the IRA or annuity could be subject to this flat tax on top of any estate taxes. Essentially, the GST tax rate is a flat tax rate imposed at the maximum estate tax rate (47% in 2005 and 46% in 2006).[3a]

The intended beneficiaries of the IRA and annuity accumulations may be heirs; but, unfortunately, the taxation of retirement funds on the death of the account owner can mean that the government may receive more of the account than the client's loved ones.

[1,a,b] As part of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA, 2001) the top estate tax rate has been reduced from 47% in 2005 (maximum rate of 46% in year 2006) to 45% for deaths in year 2009 until repeal of the estate tax in 2010. Reintroduced in that year is "carryover" basis which for many estate assets may generate more inescapable taxes (albeit income tax vs. estate tax) upon sale or disposition of any particular asset of the decedent. The repeal of the estate tax will not apply after December 31, 2010. Technically, the change/repeal is only temporary and will expire after December 31, 2010 unless Congress reenacts the repeal legislation. If no Congressional action is taken to reenact repeal then the estate tax law as of 2001 before EGTRRA applies.

The full value of the IRA or entire deferred annuity may also be subject to State Estate and/or Inheritance tax. It is important to note that if the Federal Estate Tax is repealed and along with it the Federal State Death Tax Credit, then states that do have estate/inheritance taxes will be tempted to increase state "death tax costs" to compensate for the loss of revenues derived from the credit's use.

[2,a,b] As part of the EGTRRA, 2001, the four Federal income tax rates are reduced. Income tax changes will not apply after December 31, 2010. All of these new provisions are (technically) only temporary, and will expire after 12/31/10 unless Congress reenacts them.

The IRA or Deferred Annuity may be subject to State Income taxes as well, where applicable.

[3,a] Under EGTRRA, 2001 the Generation-Skipping Transfer tax exemption increases in the same way as the estate tax unified credit/applicable exclusion amount. The GST tax rate will decrease along with the top estate tax rate and the GST tax will end with the estate tax in 2010. Changes in the GST tax and its repeal will not apply after December 31, 2010. The EGTRRA 2001 tax rules/changes are (technically) only temporary and will expire after December 31, 2010 unless Congress re-enacts them. The pre-EGTRRA GST tax rate was 55%.

The Leak in Your Retirement Asset Bucket

Just take a look at what can happen. The following is an example of the significant leak in an unmarried client's IRA asset bucket in the event of death today or in 25 years.* Let's assume that the projected rate of return on the IRA is 8% and the growth rate on the remainder of the estate is 4%. The assumed IRD tax bracket – (the tax bracket of the heirs) is 35%.

	Current Value	Value in 25 years*
Gross Estate**	$2,500,000	$7,628,652
Probate and Expenses	$55,000	$180,867
Adjusted Gross Estate	$2,445,000	$7,447,785
Qualified Plan Value^	$1,000,000	$2,399,630
Tentative Tax Base	$2,445,000	$7,447,785
Federal Tax Before Credits	$985,500	$3,737,082
Applicable Credit	$204,700	$3,391,282
Total Net Taxes	$204,700	$3,391,282
IRD Income Tax	$278,355	$487,007
Net Estate to Heirs	$1,961,945	$3,569,496
% Reduction in value	22%	54%

* This example is shown for illustrative purposes only and does not represent any specific product or investment.

** Estate Value assumes growth at annual rate of 4%.

^ The assumed future value of the IRA is calculated using an annual hypothetical rate of return of 8%. This value assumes minimum distributions required at age 70 ½ are deducted.

The estate tax calculations shown in this illustration are based upon the estimated size of the estate and the estate tax rates found in IRC Section 2001. All rates illustrated are subject to change. Calculations reflect the Economic Growth and Tax Relief Reconciliation Act ("Act") of 2001 resulting in reduced estate taxes in 2002 through 2009 and elimination of the estate tax in 2010. In year 2011 and beyond, the calculations assume the estate tax law in place prior to the Act. Unless new legislation is passed, the Act will be repealed in 2011 and the estate tax in effect prior to the Act will be reinstated.

A client with a non-qualified annuity could find him/herself in a similar situation. Suppose a client purchased the annuity for retirement income and it has grown significantly in value. However, the client's other assets have grown in value and he has sufficient assets for a comfortable retirement without ever using the annuity. As a result, his objective for the annuity has changed. He would like to pass all the annuity funds on to his children. Unfortunately, the potential income and estate taxes could prevent much of the annuity's value from reaching his children. How can you help him and other clients in similar situations keep these funds from being lost to taxes? The Legacy Max strategy may help preserve the annuity funds for the client's children.

Legacy Max: Helping Clients Protect Their Wealth

Many of your clients may not realize the impact income and transfer taxes can have on the traditional IRA, qualified plan and annuity assets they leave to younger family members when they die.

Legacy Max is a planning strategy that repositions IRA and non-qualified annuity accumulations so they can be used to help create wealth that has the potential to pass tax free to younger generations. It helps protect the value of these hard-earned assets for the client's loved ones.

In Legacy Max, the IRA, qualified plan and annuity funds are distributed to the client while he/she is alive. The client pays the income taxes due on these distributions and uses the remaining funds to purchase a life insurance policy. Life insurance death benefits are income tax free to the client's beneficiaries, and if properly structured, may also pass entirely free of estate and generation skipping transfer taxes. Repositioning an IRA or annuity by using distributions to purchase life insurance can be an effective estate planning strategy in the right circumstances. The Legacy Max strategy is not effective when assets are repositioned before the owner's death but remain in the estate.

With Legacy Max, you can help your client convert an asset potentially subject to large estate and income taxes and which is not needed to maintain the client's standard of living into a larger legacy for their children and grandchildren. Legacy Max has four steps:

1. Create a payment stream
2. Pay income taxes on the amounts received
3. Establish an irrevocable life insurance trust (ILIT)
4. Have the trustee purchase the life insurance policy with after-tax payments gifted to the trust.

1 Step One: Create A Payment Stream.

A client can use his/her IRA or non-qualified annuity to create a stream of money that can be used to pay life insurance premiums. This can be done in either of two ways:

1. take distributions from the IRA or annuity each year as needed, leaving the balance of the account to accumulate for future use, or
2. convert the entire account into a payment stream.

If the client is older than 59 ½, any of the following methods can be used to convert the account into funds that can be used to pay life insurance premiums:

IRA

- Lump sum distribution
- Lump sum distribution and purchase a single premium immediate annuity (SPIA)
- Elect "annuitization" option for all future distributions

Annuity

- Surrender the annuity
- Surrender the annuity and purchase a single premium immediate annuity (SPIA)
- Take advantage of an annuity distribution option which may permit an annual distribution of up to 10% of the balance with no surrender costs or charges
- Elect to annuitize the account balance
- Exchange the deferred annuity for an immediate annuity under IRC Section 1035

If the client is younger than 59 ½, a distribution or surrender may trigger a 10% federal tax penalty as an "early distribution." This tax penalty is in addition to any federal and state income taxes that may be due. This penalty may be avoided if the client structures the distributions as "substantially equal periodic payments "(SEPP) in compliance with IRC section 72(t) for early IRA distributions or IRC section 72(q) for early annuity distributions. To satisfy the SEPP exception, the selected distribution option must, at a minimum, continue for the longer of (a) five years, or (b) until the owner reaches age 59 ½.

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2 Step 2: Pay Income Taxes on the Distributions.

Each distribution from either an IRA or from a non-qualified annuity has the potential to trigger federal income taxes and possibly state income taxes as well. The client will need to determine what impact these taxable distributions will have on his overall income tax liability. If the total tax bill increases, he/she must pay the additional taxes. The two most obvious ways to pay these extra taxes are: (a) set aside part of the distribution to pay the taxes, or (b) use other assets to pay the taxes. Distributions are normally taxed as follows:

- **IRA distributions**
  These distributions are generally subject to full taxation at ordinary income rates.
- **Annuity distributions**
  If an annuity's value has grown to exceed the owner's cost basis, distributions from the annuity may be divided into two parts. One part is taxable and the other is not. The taxable part is attributed to the growth in the annuity's value and it is taxed as ordinary income. The non-taxable part is considered a return of the owner's original investment. Distributions from the annuity continue to be divided into taxable and non-taxable portions until the owner is deemed to have recovered his entire original investment. Thereafter, all distributions are fully taxable. Distributions to an owner who is younger than 59 ½ may be subject to a 10% penalty tax as described in Step One. If the annuity's value does not exceed the investments made to it, there is no growth to tax.

3 Step 3: Set up and fund an Irrevocable Life Insurance Trust (ILIT).

The Legacy Max strategy is most suitable for clients who are confident they will not need the funds in one of their IRAs, qualified retirement plans or non-qualified annuities. It is designed to use life insurance to pass along the current account value of the unneeded assets to children or grandchildren free of income, estate and generation skipping transfer taxes. For Legacy Max to work, the life insurance death benefits must avoid these three taxes. Income taxes usually aren't much of a worry because life insurance death benefits are generally income tax free under IRC section 101. Estate and generation skipping transfer taxes, however, are not automatically avoided. In fact, if the insured has an incident of ownership in the policy (or transfers an incident of ownership within three years of death), the entire death benefit will be included in his taxable estate. IRC section 2042 lists as incidents of ownership the rights: (1) to pledge the policy, (2) to borrow against the policy, (3) to assign the policy, (4) to revoke an assignment, (5) to change the beneficiary, and (6) to surrender or cancel the policy.

Clients who do not need the funds in their IRAs or annuities should be financially secure. They may be wealthy enough to be subject to the federal estate tax. If they are not, the inclusion of life insurance death benefits in their estates might be enough to create an estate tax problem where none existed before. To make sure the life insurance death benefits do not create or add to an existing estate tax problem for clients, it is usually advisable for the life insurance policy to be owned by an irrevocable life insurance trust (ILIT). The ILIT is a well-known estate planning tool that is designed to insulate life insurance death benefits from estate taxes. It is a trust the client can create to own the policy.

If the client does not want to create an ILIT, he/she can explore other types of third party ownership, including having their children own the policy.

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4 Step 4: The ILIT trustee purchases the life insurance policy.

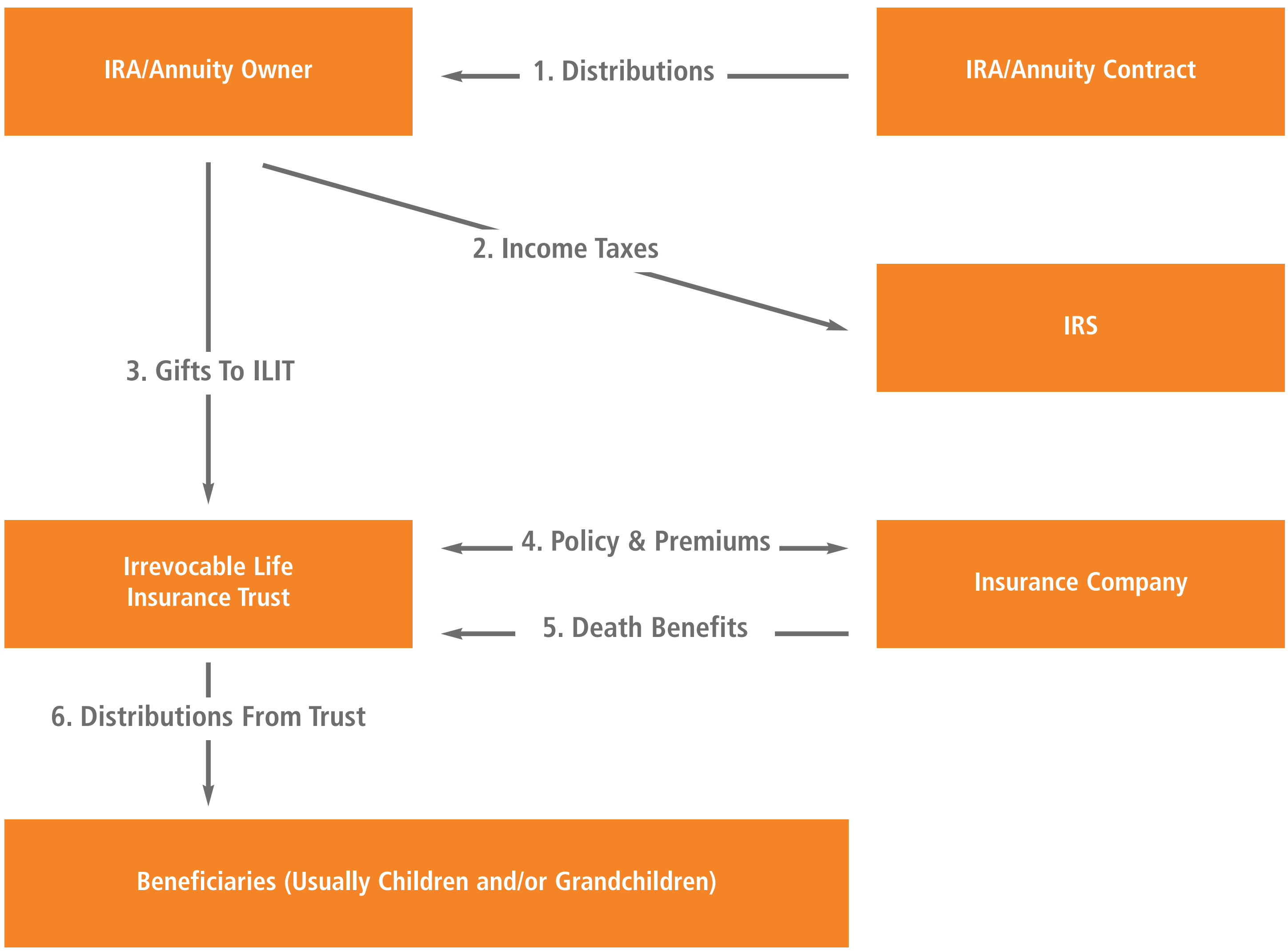
Once the ILIT has been created, the trustee has the ability to apply for and purchase the life insurance policy. When the policy is issued, the ILIT trustee will pay the annual premiums. The ILIT will be the policy owner and beneficiary.

In order for the trustee to purchase the policy, he/she/it will need cash to pay the policy premiums. This cash is almost always supplied by the client who creates the ILIT. In most cases the client puts money into the trust by making annual gifts. Money for the gifts may come from the after tax stream of income from Steps #1 and #2.

These gifts, if properly structured, can either qualify for the gift tax annual exclusion or can be part of the client's $1,000,000 lifetime gift tax exclusion amount. As an alternative to making gifts, a client may enter into a loan arrangement with the ILIT trustee. If a client uses this funding approach, any loans outstanding at the time of the client's death will be included in the client's taxable estate.

If one or more beneficiaries of the trust are grandchildren, great grandchildren or even younger family members, there is a potential generation skipping transfer tax problem. The portion of the trust distributions (including life insurance death benefits) that are ultimately paid to younger family members may be subject to the generation skipping transfer (GST) tax. A possible way to avoid GST tax problems is for the client to allocate part of his GST tax exemption to each gift he/she makes to the ILIT.

Legacy Max is a wealth transfer strategy designed to allow the value of a client's un-needed IRA or non-qualified annuity to pass to selected younger family members income, estate and generation skipping transfer tax free. This diagram visually shows the steps in the Legacy Max strategy:



Who Are Prospects For Legacy Max?

Legacy Max concept can help you target an affluent and growing market. Among the key prospects are:

- **People at or close to retirement age with significant IRA or annuity balances and estate tax exposure.**

  This is the primary market for Legacy Max. In many cases, these prospects discover that they won't need to tap their IRA or annuity assets for retirement expenses. Because the growth in these accounts is tax-deferred, they intend to leave them alone for as long as possible (IRA required minimum distributions begin in the year after the owner reaches age 70 ½) so they can grow.

  Many clients purchased non-qualified annuities or contributed to their qualified plans and IRAs because of the potential for income tax deferred investment growth. Many clients, not just those who are millionaires, have experienced growth in the value of their real estate, stocks, and other non-qualified assets. They do not intend to use these assets to provide their retirement income. They recognize their IRAs and annuities are extra funds and they may be willing to pass them along to younger generations.

- **People looking to supplement current income while leaving a legacy to younger family members.**

  Some people with large IRA or annuity balances want to use some of the income from their IRAs and annuities to increase their retirement income, but they recognize they won't need it all. The Legacy Max strategy gives them the ability to use the part of the net after tax income from these assets that they don't need to potentially increase the legacy they leave to their children and grandchildren.

- **People who think they have enough money for retirement, but aren't sure.**

  Some people think they have enough money for retirement without using their IRA or annuity, but they're not certain. They're cautious. They want to make sure they won't run out of money. A good strategy for them could be to divide their IRA in half. Keep one half in reserve for potential future needs. And, use the Legacy Max strategy with the other half. Convert the other half into a payment stream that can be used to help pay premiums on a life insurance policy.

What Type of Life Insurance Should Be Used With Legacy Max?

Legacy Max is a death benefit sale. Cash value growth in the policy should not be particularly important. The objective should be to turn the premiums into the largest amount of life insurance death benefit that can be safely delivered at the insured's death. A good strategy for them could be to divide their IRA in proportion to their needs. For example, one half in reserve for potential future needs and use the Legacy Max strategy to convert the other half into a payment stream that can be used to help pay premiums on a life insurance policy. Variable life insurance may be problematic because of the potential volatility of the cash values and the potential for loss of cash values. Second to die life insurance may also be appropriate. It generally provides more death benefit per dollar of premium, but those death benefits are delivered later after the second insured passes away. It is useful when delivery of death benefits at the second death is desirable.

Legacy Max at Work (IRA)

Here is a hypothetical example of Legacy Max put into action with a traditional IRA ("IRA").

Ron Lawrence is 65 years old, single and has three children. Ron has managed to accumulate significant assets through the years, including $500,000 in an IRA and a total net worth of $3 million. Ron feels he can live comfortably and be able to meet all his expenses without accessing the IRA funds. Ron would like to pass the IRA value at death to his three children. Assuming Ron lives to age 85 and his total net worth at that time is $6 million of which $1 million is the IRA value, here are two of Ron's options: (1) leave the IRA intact, taking only the required minimum distributions, with the intent that his three children will receive the IRA value at his death; or (2) adopt the Legacy Max concept with the goal of passing more value to his three children.

Option 1:

Ron lives to age 85 and does not use the Legacy Max concept. (This example is shown for illustrative purposes only and is not guaranteed.)

Estate Taxes:	
Value of estate	
IRA	$1,000,000
Other	5,000,000
Total value of estate at death	6,000,000
Federal estate tax owed[1]	3,000,000
Total available for heirs[2]	3,000,000
Income Taxes on IRA Distributions (beneficiary):	
IRA value	1,000,000
Beneficiaries' income tax on IRA distributions (assume 35%)	350,000
IRD deduction[3]	175,000
Net IRA value after IRD and deduction	825,000
Trust owned life insurance:	
Life insurance owned by irrevocable trust	0
Total received by heirs:	
Total available for heirs (excluding IRA)	2,000,000
Net IRA	825,000
Life insurance in trust	0
Total received by heirs (net of estate and income tax)	**$2,825,000**

[1] Flat rate of 50% assumed.

[2] State death taxes not included in above calculations. Amounts due vary by state.

[3] If the income would have been ordinary income in the hands of the decendent, the deduction would be an itemized deduction. Calculation as an itemized deduction is not assumed.

Option 2:

Ron annuitizes the $500,000 IRA under the "life only" option. He pays income taxes on each payment and gifts the "net distribution" to a properly structured irrevocable life insurance trust (ILIT) for the benefit of his three children. The ILIT trustee purchases and owns a life insurance policy on Ron designed to maximize the IRA's value to his children.

Ron's income tax on IRA distributions:	
Life only distribution **(annual)**	$37,779
Income tax on distribution (assume 35%)	13,223
Net distribution (available for gifting to ILIT)	24,556
ILIT trustee purchases and owns a life insurance policy on Ron:	
Annual premium payment	24,556
Death benefit	1,000,000
Estate Taxes:	
Value of estate	
IRA	$ 0
Other	5,000,000
Total value of estate	5,000,000
Federal estate tax owed	2,500,000
Total available for heirs	2,500,000
Income Taxes on IRA Distributions (beneficiary):	
IRA value	0
Trust owned life insurance:	
Life insurance policy owned by irrevocable trust	1,000,000
Total received by heirs:	
Total available for heirs (excluding IRA)	2,500,000
Net IRA	0
Life insurance in trust	1,000,000
Total received by heirs (net of estate and income tax)	**$3,500,000**
Potential increase to heirs/beneficiaries by using Legacy Max	**$675,000**

This example is shown for illustrative purposes only and does not represent any specific product or investment.

Producer Benefits

The Legacy Max strategy is not only a good way to help clients achieve a variety of financial goals, it can also be used to help grow your business.

- You can add another tool to your financial planning line-up and provide real value for clients who are in jeopardy of seeing their IRA or deferred annuity become a victim of the IRS.
- Legacy Max is an asset and client retention tool. You can increase client satisfaction by helping them reduce their taxes while providing for their heirs. In addition, assets that may have been spent or "gifted" remain actively managed.
- By promoting the Legacy Max concept, you may be able to convert non-actively managed and "hidden" assets into your book of business.
- You can generate a host of multi-generational and cross-selling opportunities. By establishing a Legacy Max strategy, you'll gain valuable insight into the financial planning needs of your client's heirs. These individuals may also require your assistance for their insurance needs.
- Friends and peers of your Legacy Max clients may also have the same tax and legacy planning challenges. As such, client referrals can yield many qualified prospects.

Promoting Legacy Max

Before promoting the Legacy Max concept, it's important to understand the audiences that may be the most appropriate. The typical prospect will have significant IRA and/or annuity assets that they won't need during retirement. In addition, these people are in need of a more tax-efficient way to leave a legacy for their loved ones. There are a number of ways you can identify these individuals.

- **Start with Your Existing Clients.**
  It's likely that you already have a list of potential Legacy Max clients contained in your existing book of business. Focus on clients who you know could immediately benefit from a Legacy Max strategy. Also speak with younger adults who may have parents with the needs and goals that could potentially be met with Legacy Max.
- **Proactively Seek Referrals.**
  The "built-in" credibility associated with referrals is invaluable, especially when promoting Legacy Max. Current high net worth clients can direct you to others in their social and professional circles that you might otherwise not have an opportunity to speak with.
- **Use Seminars to Expand Your Reach.**
  Present the Legacy Max story to a large group of prospects through seminars. Focus on the potential tax issues associated with estate planning, and then present the potential solution available through Legacy Max.
- **Identify Prospects with Targeted Direct Mail.**
  Conduct a direct mail campaign and pique the interest of the reader by explaining how taxes could damage their wealth transfer plans.

Converting a Prospect to a Client

Once you've identified a qualified Legacy Max prospect you'll want to make the most of the opportunity. Regardless of whether the person is an existing client or new contact, you can use the following approach to help close a sale:

- Carefully review the person's specific financial and wealth transfer goals. Be sure to identify any special circumstances that could affect the sale. For example, does the client have any existing trusts, or does a beneficiary have any special financial issues?
- Describe the Legacy Max concept in detail and provide the client with a personalized hypothetical report using the ING Presents ING's illustration system. The illustration summarizes the potential benefits of using Legacy Max and compares the bottom-line results of using several different legacy planning approaches.
- Once the client is sold on the potential benefits of Legacy Max, you need to put the plan into motion. Help the client complete the steps outlined on page three: establish a payment plan, pay the income taxes, purchase life insurance or set up an irrevocable life insurance trust (ILIT). And, if a trust is established, purchase a life insurance policy through the ILIT. The type of insurance policy you recommend depends on the needs of the client, and it may be tailored given the client's unique circumstances.

ING Marketing Support

You're not alone when it comes to using the Legacy Max concept to help your clients accomplish their financial objectives. ING offers a comprehensive array of sales and marketing tools to help you:

- **Producer Brainshark**
  A top-notch training web-cast that illustrates a step-by-step approach to the Legacy Max strategy using real-life examples.
- **ING Presents Illustration Software**
  Use this software to develop a personalized Legacy Max illustration for your clients. It is an invaluable way to clearly present the potential benefits associated with Legacy Max. To create an illustration, go to the Product Illustrations module of ING Presents and select the Legacy Max Illustration Type. To easily create an illustration, click on the wizard icon that becomes enabled after you've selected Legacy Max.

  To learn more about how to create a Legacy Max illustration and understand the presentation pages available from the software, go to the Client Presentations from the ING Presents Main Menu and select the Legacy Max concept illustration.
- **Consumer Brochure**
  A brochure that explains the many potential benefits of using the Legacy Max concept to help maximize the assets distributed to their heirs.
- **Consumer Flyer**
  A point-of-sale flyer that illustrates the Legacy Max strategy in an easy to understand fashion. This flyer offers your client a visual planning solution for their life and estate planning needs.

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When you work with ING, you align yourself with one of the world's largest integrated financial service organizations, with over 113,000 employees globally and $626.7 billion in assets under management in the United States as of 6/31/05. ING offers impressive financial strength, as evidenced by the consistent high grades it receives from independent ratings agencies. Obligations are the sole responsibility of the issuing company.

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