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THE ROLE OF THE ADVANCED LIFE UNDERWRITER IN THE FIELD OF ESTATE PLANNING

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BOOKS and articles have been published on the highly complex subject of estate planning from various points of view in the past twenty years. The approach taken by the various authors is usually from the point of view of either the estate owner, the attorney, certified public accountant, trust officer, or life underwriter. Each author usually makes contributions to the group for whom the book or article is written, but fails to approach the subject from the standpoint of teamwork among the four most logical groups of specialized persons who could combine their efforts in a satisfactory solution to almost every problem confronting the owner of an estate.

Estate planning can properly be defined as good financial house-keeping. In practice, it is the arrangement of an estate to satisfy as far as possible the needs of those who are and will be dependent upon it, beginning with the estate owner himself. It usually involves human, economic, legal, and tax considerations.

In many cases the problems are attacked from reverse and accent is placed primarily on tax-saving features, disposition of property presently available being the only consideration. Such a process is not estate planning, but merely a form of forward-looking bookkeeping.

Estate planning is a continuing process, never completed, always subject to review and change to reflect altered personal, family, legal, or economic circumstances. The estate plan is fluid and affected by many factors, including the daily business and investment operations of the estate owner. Many kinds of specialized knowledge and experience must be utilized in its original formulation and brought to bear upon a periodic review.

The professional status of the lawyer, certified public accountant, and trust officer of a recognized bank has been established for many years. Each designation carries with it considerable prestige. In recent years another professional type has begun to make his appearance—an individual who, by the nature of the service he is equipped to render, likewise bids fair to achieve an important place in the affairs of men. He is known as a Chartered Life Underwriter, or C.L.U., and is as

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different from the old-time life insurance agent as a C.P.A. is from a bookkeeper. The reason he has not achieved greater prominence up to the present time is that the requirements for obtaining the C.L.U. designation are such that in twenty years since the American College of Life Underwriters was created only slightly more than three thousand individuals in the United States have qualified. It is reasonable to assume that after the C.L.U. has been in existence (as has the C.P.A.) for over fifty years, the public will be very much aware of his presence, and his independent advice will be widely sought in matters pertaining to his special field.

While the C.L.U. examinations screen quite conclusively the special skills of one qualified to pursue the field of estate planning, there are many advanced underwriters who are equally as capable of rendering the same high type of professional advice as the C.L.U., but by reason of their background, age, or other considerations have not pursued the achievement of this degree. The qualifications of such underwriters become apparent to the estate owner or others engaged in the field of estate planning after the underwriter is given an opportunity to prove himself.

We all would be highly critical of an interior decorator who designed the entire furnishings and color scheme of a home after merely looking in the front window of a house; yet, strangely enough, in a matter far more important than the decoration and furnishing of a home, individuals assisting the estate owner in planning his estate often merely scratch the surface, failing to take advantage of the multiple services offered by others engaged in this field and closely associated with the affairs of the client.

The approach to planning an estate for a client is often made either by the lawyer, accountant, trust officer, or life underwriter. It is not important who opens the problem, but it is the wise utilization of all four services available that affords the client the most complete analysis and solution.

Inasmuch as this approach is from the standpoint of the life underwriter, remarks are to be confined to the proper utilization of his services in the field of estate planning. The prerogative of the life underwriter to solicit business in a professional manner differs considerably from the attorney and the C.P.A. This right enables the alert life underwriter to uncover situations which, when called to the attention of the lawyer, C.P.A., or trust officer, enable the team, so to

speak, to do an adequate job for the client. The chief functions of the underwriter are to probe, to disturb, and then to motivate the client into action.

It is folly to lose sight of the fact that a salesman is valuable in the field of estate planning. The alert life underwriter will be more successful if he uses an indirect approach and avails himself of the services of the trust officer at the chief banking connection of the client, the client's attorney, and the client's C.P.A. If such services are not within the normal course of the client's operation, it is not amiss for the life underwriter to recommend qualified persons in each of these fields.

The informed life underwriter must first seek a potential client who will lend an ear to a discussion of current problems confronting the owner of property. It is necessary that the underwriter establish prestige for himself in the eyes of the client and that he has the ability to sell himself as one who is qualified to supervise and correlate the affairs of the client. After obtaining the complete confidence of the client, the underwriter must then obtain adequate and detailed information. The gathering of information probably will involve obtaining the permission of the client to consult with his attorney and accountant. It is essential that the underwriter be equipped with a standardized procedure or systematic questionnaire for obtaining the facts and information necessary if he is to do an intelligent job. This questionnaire should attempt to obtain complete information relative to the domestic situation, over-all property holdings, mortgages, bank accounts, outstanding liabilities, life insurance holdings, business contracts and agreements, types of business operations, restrictive agreements, trust agreements, last will and any codicils, financial statements, income tax returns, or confidential information relative to net worth and annual earnings, potential inheritances, and knowledge of any gifts made to date. There are many ramifications of all of the above which should be probed carefully in order not to miss valuable points which, if not taken into consideration, will minimize the value of the service to be performed. After the underwriter has satisfied himself as to the complete details of the situation he should request permission to consult further with the client's attorney, banker, and accountant for suggestions and advice.

All of the above information has been outlined without regard for the size of the estate under consideration. Inasmuch as the bulk of the estates are not large, the underwriter often sees a need for further life

insurance protection, makes a presentation, motivates the client into action, and decides with the client on the additional services needed. In all cases the underwriter should advise the client to see his attorney at the first opportunity and have a proper will drawn based on present conditions. If the client does not have an attorney of his own, then the underwriter should feel free to recommend an attorney

In estates which involve over \$100,000.00 and the continuation or liquidation of a business interest, the underwriter should consult with a trust officer of the client's major banking connection for advice and information. The trust officer renders valuable preliminary service to the client without cost and usually is able to instill confidence in the client due to his vast experience in the field of estate planning. Inasmuch as the help and cooperation rendered by the trust officer of the bank is an advisory service, the client should avail himself of the opportunity to benefit from the wide experience and knowledge that the trust officer possesses in such matters. Underwriters should first obtain permission to inform the trust officer of all the knowledge he has obtained from the client and should urge the client to make a definite appointment for an interview with the trust officer to obtain an opinion as to the merits and demerits of certain courses of action in planning his estate. After giving considerable time and consideration to the affairs of the client, the trust officer is in position to make some written recommendations to the client.

Life underwriters can be a source of valuable business getting centers of influence for trust departments and attorneys if cooperation is received by the underwriter in considering fairly and equitably the services he has to offer, and the selling job he has performed in getting the client to avail himself of the teamwork service. There will undoubtedly be an overlapping of service at some time or other, but a sympathetic understanding of the problems that can arise will be helpful to all concerned and almost all disagreements can be properly settled, with the client's interest as the major concern of all parties.

Probably less than 10 per cent of the people of this country ever accumulate substantial enough estates to warrant the multiple services of the four groups offering assistance in this field. The life underwriter has a tremendous market in the creation of estates, as life insurance provides the vehicle for providing the largest estate possible for the least amount of money. Life insurance eliminates the time and risk element from the immediate creation of an estate. For example, a man

age thirty-five who can invest \$2700 annually in an ordinary life policy can create a \$100,000 estate for his family. While few \$100,000 policies are sold, the same principle holds true regardless of the amount involved. Years of accumulation, satisfactory investment return, and a very high annual income are necessary today for a man to accumulate an estate of any appreciable amount, due to high income taxes and low investment yields.

Therefore, the first duty of the life underwriter is to sell the prospective client on the value of life insurance in creating an estate. It may be years before the client will be able to accumulate sizable property holdings in addition to his life insurance. It is also necessary for the life underwriter to outline the needs of the client in order to satisfy the requirements of his family. The professional underwriter recognizes the limitations of the settlement options in the regular life insurance policies and realizes that flexibility is very necessary in estate planning. Flexibility can be obtained more satisfactorily in certain situations by the use of life insurance trusts in preference to the settlement options. The merits of both methods should be clearly pointed out to the client. If a life insurance trust is preferable, the client should be referred to the trust officer of his bank for advice. If a life insurance trust is desirable, the trust officer will recommend that the client see his attorney for drafting the instrument. In any event the underwriter will direct the client to see his own attorney to complete the estate planning and drafting of the necessary will.

It is in the larger estates which involve life insurance, other property, both real and personal, business interests, etc. where the most good can come to the estate owner by the use of the multiple services of the team. The life underwriter occupies a very important position, since he can awaken the client to the serious problems demanding his attention. He should prod the client by pointing out vivid illustrations of the confiscatory factors that come into play upon death, and give actual illustrations of the potential shrinkage in estates through taxes and forced liquidation of valuable assets. The examples used should serve to motivate the client from inertia to action.

In cases where substantial estates exist, the accountant is usually familiar with the client's intimate business. He should be called upon at this point to make an inventory of assets, appraise values of client's property for estate and inheritance taxes, and to substantiate the situation that actually exists insofar as future problems are concerned. The

accountant should not only be concerned with the death phases of estate planning, but often can render valuable advice for future accumulation and present distribution of estate assets for the benefit of the client and his family

In the final analysis, however, the client must turn to his attorney for coordinating his affairs. After the ideas and problems have been presented to the client, the solution of the proper plan, legal analysis, and legal instruments must emanate from the attorney. He will find it very practical to work closely with the life underwriter, trust officer, and accountant in getting the plan into its final form.

It should be clearly understood that the client's interest is best served by getting his estate plan in order. It is not so important who arouses the client into action, but rather that the final solution, through the efforts of the team, eliminates the consequences suffered by those men unwilling to take action on the conservation of their estates which they work a lifetime to accumulate. While the life underwriter should be familiar with the various phases of estate planning, his actual role in the total picture can be confined to certain general classifications:

1. *Audit of Existing Insurance*

(a) *Analysis of Types of Policies.* No one but a qualified life underwriter could undertake to analyze the various forms of policies issued by any one of five hundred existing life insurance companies. There are unusual contractual provisions which require considerable knowledge of the life insurance business in order to determine the benefits extended by contracts.

(b) *Present Beneficiary Designations and Option Settlements.* Insurance policies issued by life insurance companies are not in any way standardized. Each law department of the many insurance companies has its own method of writing beneficiary designations. Optional forms of settlement are not uniform or named alike, but insurance companies have similar types of option settlements and determining the proper options to use in the right place is a skill which the life underwriter is equipped to perform.

(c) *Interest Assumptions in Settlement Options and Guaranteed Rate of Interest.* The guaranteed rate of interest used by life insurance companies in the past has been as high as 4 per cent and currently is averaging about 2 per cent. The settlement options contained in older life insurance policies are far more attractive than in the newer con-

tracts. The reason for these differences in benefits is due to the improvement in the mortality tables and the lower interest assumption used in current policies because of lower interest earnings. Many errors have been made by those unfamiliar in handling settlement options in advising clients to take action concerning their older policies that should have been confined to the newer contracts. For example:

With an interest guarantee of $3\frac{1}{2}$ per cent on policy proceeds and a similar assumption in connection with the life income options, it would be far more advantageous to utilize this type of life insurance to provide life income to a widow, rather than to furnish cash for liquidity purposes on death. A general rule to follow is to use the newer contracts for the liquidity requirements in estate planning and reserve the older contracts with the higher interest assumptions for providing life income or guaranteed interest income on principal to the beneficiaries. To illustrate, one typical life insurance company, in its policies issued between the years 1908 and 1935 based on \$10,000, would guarantee a widow, age sixty-five, a life income of \$70.90 per month. The same woman would receive only \$54.80 monthly for life on the current optional mode of settlement. The same relative proportion exists in almost all settlement options, and the changes have been uniformly consistent by most of the life insurance companies.

Another vivid example is that under one of the older life insurance policies, it was possible for \$10,000 of proceeds to provide \$350 guaranteed interest per year to a beneficiary without using any of the principal. On today's contracts the same \$10,000 would provide an interest guarantee of only \$200 per year. This points out the necessity for those doing estate planning work to carefully analyze the particular life insurance contracts in question. In order to save a tremendous amount of time, a life underwriter should be consulted.

(d) *Assignments.* The method used by life insurance companies differs as to the assignments of policy proceeds. Assignments are usually divided into absolute and collateral forms. Because of the income tax problems in connection with the assignments of life insurance policies, it is essential that the underwriter trace the history of life insurance policies from their inception to their present status for assignments. There are income tax, estate tax, inheritance tax, and gift tax complications that can arise if assignments are improperly used in connection with life insurance proceeds. An example of this is as follows:

Jones takes out an annual premium, twenty-year endowment policy having a maturity value of \$20,000. After payment of premiums totaling \$5,500, the policy is assigned for \$4,000 to Green Corporation, which holds the policy and pays premiums as they come due. Jones dies one year later. The \$20,000 received by Green Corporation on maturity of the policy would be includible in its income to the extent it exceeded the \$4,000 consideration and the premiums paid by it after the assignment. This particular problem arises whenever a life insurance policy or endowment is assigned for cash or other valuable consideration, and only the actual value of such consideration and the amount of premiums and other sums subsequently paid by the assignee are exempt from income tax when the proceeds are received.

(e) *Analysis of Existing Business Insurance Agreements and Coordination with Existing Life Insurance.* Inasmuch as many business insurance agreements are made when a business is in its infancy, it is not unusual to find a case where the business insurance agreement does not satisfy the present requirements of the business, and where the life insurance coverage is most inadequate. It is also common to find that the applications for the policies have been improperly made and that the proceeds, when payable, will not accomplish what was originally contemplated. There have been many cases where the insurance was unsuitable and the beneficiaries were subjected to unnecessary taxation. A very common example of this in business agreements is where a partner purchases insurance on his own life, naming his associate as beneficiary, but continues to pay premiums on his own policies. This subjects the proceeds of the policy to taxation in the estate of the partner first to die, causing unnecessary tax penalties.

(f) *Determining Cash Surrender Value of Present Insurance for Benefit of Client and also to Determine Value of Insurance for Estate and Inheritance Tax Purposes in the Event Spouse Predeceases Insured.* This phase of auditing insurance is certainly self-explanatory and yet there is no one as well qualified to do the job as an experienced life underwriter. Lawyers and accountants often spend innumerable hours trying to accomplish such a job, which could be far more thoroughly and accurately analyzed by an experienced underwriter.

2. *Recommendations to Client Relative to Proper Use of Life Insurance in Estate Planning*

(a) *Insurance to Provide Minimum Needs for Wife and Family in the Event of Death.* Cash for Final Expenses: This is the money neces-

sary to pay the debts of the decedent, funeral costs, expenses of last illness, remaining installments on income tax, hospital and doctor bills. In addition to this, cash should be provided for the payment of estate and inheritance taxes, the amount necessary depending on the final appraisal of the estate. There is no more satisfactory means of making cash available than through life insurance, inasmuch as there is no delay in payment and the funds are available upon the death of the insured.

Readjustment Income during Growing-up Period of Children. Many men who can afford adequate life insurance are anxious to leave a minimum monthly income payable to their wives from life insurance proceeds, which will be paid on the first day of each month until the children reach maturity. This is certainly good judgment in most cases, for although it is impossible to predict the future income of a business or a piece of property, it is possible to be sure of the beneficiary receiving a certain monthly income if guaranteed by a life insurance company.

Educational Funds for Children. It is possible to guarantee college educational funds through the purchase of life insurance by the father. The life insurance can be made payable to the children in monthly installments when they are ready for college upon presentation of a certificate of matriculation to an accredited school. Certain life insurance companies allow considerable flexibility relative to college educational funds, and it is one method of guaranteeing such an education without any "guesses" as to the future, in case the father is not alive to see the children through college.

Life Income to Widow. Ownership of property is never any guarantee of income. It is possible through the medium of life insurance to guarantee a minimum life income to a widow in order that she might never be forced to enter an old age home or become a burden to her children.

Retirement Income for Client: In these days of low interest yields and high taxes it becomes almost impossible for a salaried or professional man to live on the income from his investments alone. Life insurance companies provide a method whereby, for the savings of one-third of the amount of money necessary to live off capital, it is possible to provide income for life at retirement age. In other words, a man, age thirty-five, who desires a life income of \$500 a month upon retirement must accumulate \$80,000 by the time he reaches sixty-five to guarantee

such an income, which involves the use of both interest and principal. A man, age thirty-five, who desires to live on income from a conservative capital investment would have to accumulate \$200,000 and have it safely invested at 3 per cent interest, in order to live on the income from the capital alone. Thus in many cases the annuity method of providing life income is the only practical approach to the retirement problem.

Income for Disability: Life insurance is the only means of lifetime health and accident coverage. Economic death can often be created through total and permanent disability, but life insurance companies can provide disability income for those who desire it.

(b) *Use of Life Insurance in Business.* Key-Man Insurance: Most business concerns have one or more individuals in a highly technical or specialized field. Such a person may be an engineer or inventor, a financial leader, or an inspirational sales manager. It is difficult to replace him. He is worth much to a business. When life insurance is written on such a man to offset the loss of his services, it is called "key-man" insurance. Key-man insurance is also used to reimburse a creditor for a loan. In other words, loans are often made on the character and ability of the owner of a business and the creditor usually insists that the debtor insure his life in favor of the creditor in order that the loan will be paid back in the event of his death.

Buy and Sell Agreements for Partners or Stockholders: These agreements are usually used in order to establish a fixed price for the purchase and sale of a business interest at an agreed price on the death of one of the participants. The proper application of this type of insurance is for *A* to apply for insurance on the life of *B*, to have all the incidents of ownership in the policy and to pay the premiums on such policy. In other words, he should be the beneficiary and absolute owner of the contract. The same should be the case in the event of *B* owning a policy on the life of *A*. The policies are taken into consideration in the setting up of the business insurance agreement and the insurance proceeds are either used as full or part payment of the established purchase price agreed upon by the partners or stockholders prior to death. The insurance makes available the necessary cash with which the surviving partner can purchase the interest of the deceased partner or stockholder. This type of an agreement will usually satisfy the federal government and other interested parties as to the valuation of a business interest for estate and inheritance tax purposes. It is also

the only guaranteed method of arriving at a satisfactory purchase price for the interest of a deceased associate in a business, and guarantees complete ownership to the surviving partner or stockholder so that he can operate his business without inactive partners or stockholders making a drain on the business, hampering progress or actively participating in the management.

Stock Purchase Agreements—by the Corporation. It is possible in states which allow corporations to purchase their own stock to insure the key stockholders in the business in favor of the corporation. For example, *A*, *B*, and *C* are stockholders in a closed corporation. The corporation applies for policies on the life of each in the amount of \$50,000. Assuming that the value of the corporation is \$150,000, the insurance covers the value of each stockholder's interest. In the event of the death of any one of the three stockholders, the corporation receives \$50,000. This money is used to purchase the stock of the deceased stockholder from the executor of the estate. The stock is retired by the corporation as treasury stock and control of the corporation remains in the hands of the surviving stockholders. The insurance is merely the method of funding the stock purchase agreement, which is a separate legal document and must be drafted by counsel. The insurance provides the money with which to purchase the stock, thus avoiding an unnecessary drain on the corporation surplus.

(c) *Use of Life Insurance for Payment of Transfer Costs.* Insurance on Life of Estate Owner to Provide Liquidity for Estate due to the High Cost of Dying. It is necessary for every estate owner to have enough liquid assets to pay the transfer costs on his estate. The amount of insurance that is necessary depends on the over-all analysis of the estate. It is necessary that proper application be made for the insurance so that it will be payable in cash without any complicating factors attached therewith. The proper method of application for insurance for estate and inheritance tax purposes is for the husband to apply for the insurance and make it payable to his wife, as beneficiary, otherwise to his executors or administrators. This precludes any possibility of the insurance becoming involved in the estates of minors in the event of common disaster, which is not a common occurrence, but occasionally happens.

Wife Insurance: It becomes increasingly important, particularly in community property states, to have insurance on the life of the wife, in order to pay the necessary transfer costs of one-half of the estate

in the event the wife predeceases the husband. It is often very difficult for a husband to raise the necessary amount of cash required to pay the transfer cost if insurance is not carried for this purpose. The same method of application is usually advisable.

Second Party Insurance Purchased with Separate Funds, in Order to Avoid Inclusion of the Proceeds of Insurance in the Estate of the Deceased: This method of applying for life insurance is only possible where the second party has income of his own not received directly or indirectly from the proposed insured. For example, a father and son organize a business with their own separate capital. The son insures the life of his father for a fixed amount and pays all the premiums out of his separate income and has complete incidents of ownership of the policy. In the event of the death of the father, the proceeds will not be includible in the father's estate. The same rule applies where a wife has separate funds acquired from some one other than her husband. She may make application for a policy on the life of her husband, pay all the premiums, and have complete incidents of ownership of such policy. In the event of the death of her husband, the proceeds will not be included in his estate.

3. *Execution and Follow-up for Proper Estate Planning*

The following use can be made of the qualified life underwriter to complete the details of an organized estate plan.

(a) The underwriter can advise the estate owner on the proper method of applying for the necessary life insurance coverage.

(b) The underwriter can obtain with the least amount of trouble the correct beneficiary designations and optional settlements on all life insurance policies. This would include the necessary endorsements for common disaster clauses, spendthrift clauses, and automatic premium loan agreements.

(c) The underwriter can cooperate with the trustee in setting up life insurance trusts or completing the details of trustee business insurance agreements.

(d) The underwriter can periodically review the insurance situation in light of changing circumstances of an estate owner or changes in tax laws which might affect present estate plans. It is not uncommon for changes to arise over a period of years from the inception of a properly coordinated estate plan. The underwriter should be prepared to make such a review and analysis of the insurance at no less frequent intervals

than three to five years. More frequent reviews might be necessitated by changes in tax laws and the underwriter should be prepared to assist the attorney, accountant and trust officer in presenting any changes in the estate owner's situation which would necessitate a revision of the plan.

The informed life underwriter is in a position to take the most active interest in the field of estate planning. His daily routine in selling requires continual motivation in awakening the prospective estate owner to the serious problems confronting the man who fails to take action in placing his affairs in order. The problems differ with each type of man, and yet the fundamental issue is the same—to provide more effective and desirable methods of distributing the estate to beneficiaries and heirs with emphasis upon reduction in taxes, minimizing unnecessary costs of death and reducing or eliminating common forms of estate shrinkage.

It is vitally important that life underwriters and trust men continue to have active and cooperative relations with each other as they are working with different aspects of the estates of their clients. The life underwriter is primarily concerned with the life insurance needs of the estate, while the trust man is more concerned with the need for trusts in the general estate. Both groups will encounter problems necessitating cooperation for the proper solution. In order for the life underwriter to do the most effective job in recommending the proper use of settlement options for life insurance contracts, he should obtain complete knowledge of the proposed method of distribution of the client's other property. Collaboration between the trust man and life underwriter is essential to arrive at the most effective distribution of the total estate. In connection with life insurance trusts, cooperation is certainly important as this phase of estate planning directly involves the services of both life underwriters and trust men.

It is very important that life underwriters be familiar with the basic principles of trusts and that trust men be informed on the basic principles of life insurance. Neither group should try to give technical information or advice on the field of the other, but should call each other into conference with the client whose estate is being planned. The choice of life underwriter or trustman should be made by the client.

The final execution of any estate plan is a task only the attorney can perform. The life underwriter, trust man, and accountant should

render assistance wherever possible. Full cooperation among the four specialists is the acme of perfection in estate planning and the goal for which all four parties should strive in order to best serve the client. It is only recently that the advanced life underwriter has been accorded recognition as a member of this group of estate planning advisers. He will continue to deserve this consideration only as he maintains the confidence of the client and places the interest of the client above any selfish interest of his own. This same principle applies to all four groups, and in joint cooperation with each other, the planning can most effectively be done to solve any estate planning problem.