BOCA RATON ESTATE PLANNING COUNCIL

Insurance Planning

Presented by

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Today's Agenda

01 — **The Math Ain't Mathing** — 15 min

Mistakes already inside your clients' trusts — and how to identify them before they become crises

02 — **Buy-Sell After Connelly** — 20 min

What the Supreme Court changed on June 6, 2024 — and the planning strategies that respond to it

03 — **PPLI: A Better Architecture** — 15 min

How private placement life insurance works as a tax-planning wrapper for UHNW clients

PART ONE

The Math Ain't Mathing

Insurance Planning Mistakes — And How to Spot Them

"The money won't be there."

I know what you think you bought.
I know it says guaranteed in the name of the product.

We ran the in-force illustration at 0% with no further premiums paid — the policy lapses.
At some point a premium was paid off-schedule and the guarantee lapsed silently.
The policy has been surviving on cash value, which is dwindling.

ILLUSTRATIVE CASE STUDY · 2001 – 2025

Twenty-Five Years of "No Premium Due."

2001

Two UL policies placed in trust. $8.7M death benefit. Taxable estate. Moved to fixed account after dot-com crash — a reasonable decision at the time.

2025

Insureds are in their late 80s. Agent retired. Trustee saw cash value and "No Premium Due" on every annual statement for 25 years.

TODAY

Policy needs $500,000/year in additional premium to survive. Family has the wealth but not the appetite. Estate is no longer taxable.

Surrender Value

$447,000

What the trustee would have closed the policy for.

Life Settlement

$2,400,000

Potentially a $1,953,000 difference. Same policy. Same day.

The Statement Told the Truth...
Just Not the Whole Truth.

WHAT THE ANNUAL STATEMENT SHOWED	
Policy Cash Value	$447,000
Annual Premium Due	$0
Death Benefit	$8,700,000
Policy Status	In Force
In-Force Illustration Ordered	Never

✓ *No premium due. Policy is fine.*

WHAT THE IN-FORCE ILLUSTRATION SHOWED	
Projected Cash Value at Age 89	$0
Projected Policy Lapse Age	87
Annual Premium to Sustain	$503,500
Years Since Last Review	25
In-Force Illustration Ordered	Never

The trustee never ordered it. The carrier never sent it.

THE SNIFF TEST

You Don't Need to Be an Insurance Professional. You Need to Ask Three Questions:

01

When was the last in-force illustration ordered?

If the answer is never — or more than two years ago — order one today. One email to the carrier. It is the only document that shows whether the policy is healthy or quietly dying.

02

How is the policy owned?

A life insurance death benefit is income-tax free (§ 101(a)) — but not estate-tax free (§ 2042). Ownership inside the taxable estate is the most commonly overlooked problem.

03

Before surrendering or transferring — has anyone obtained a life settlement bid?

The ITR used for gift tax purposes and what the secondary market will pay are two different numbers serving two different purposes. Conflating them is where the liability lives.

The Page We All Flip To vs. the Pages We All Flip Past

WHAT GETS ILLUSTRATED

11.325%

Illustrated crediting rate using "current" non-guaranteed assumptions on exotic uncapped indexes with 215–320% participation rates

- → Large projections on "page 28"
- → "Premiums paid only through age 62"
- → $30M+ death benefit at age 88
- → Guaranteed column: rarely discussed

WHAT ACTUALLY MATTERS

6%

The guaranteed floor — and what the policy looks like under realistic stress scenarios that no one is asked to review

- → Premium allocation: 100% to one exotic index
- → Net Amount at Risk (NAR) drives cost acceleration
- → Guaranteed column: policy lapses in retirement
- → AG 49-B constrained but didn't eliminate this

NET AMOUNT AT RISK DRIVES YOUR POLICY COSTS

The Same Insured. The Same Carrier. Two Very Different Outcomes.

DESIGN A — Policy Lapses at 90

$3M cash value at age 75

NAR = $10M DB – $3M CV = $7M

COI charges on $7M NAR compound as the insured ages. Cash value cannot keep pace. The policy implodes at age 90 — exactly when the death benefit was needed.

$0

Death benefit at lapse

DESIGN B — Policy Sustains to 120

$4.5M cash value at age 75

NAR = $10M DB – $4.5M CV = $5.5M

Lower NAR = lower COI charges. Cash value grows faster than costs. Policy self-sustains. The death benefit is there for the family at every age.

$10.8M

Death benefit at age 88

WHAT THIS MEANS FOR YOUR PRACTICE

Practical Takeaways — No Insurance Expertise Required

Attorneys & Trustees

A trustee who holds life insurance in an irrevocable trust has a fiduciary duty to monitor it. "No premium due" is not a review. An in-force illustration must be ordered — not once, but every two years. The duty runs with the fiduciary, not the agent who retired fifteen years ago.

CPAs

Before any client surrenders a life insurance policy, ask whether a life settlement bid has been obtained. Surrender = CSV. Life settlement = secondary market value. These can differ by millions, and the tax consequences are different too.

All Advisors

An annual statement is not a policy review. The carrier sends what it's legally required to send — nothing more. The in-force illustration must be requested. If no one is doing it, no one knows whether the policy is healthy or heading toward a cash call.

PART TWO

Buy-Sell Planning After Connelly

Connelly v. United States · 602 U.S. ___ (2024) · Decided June 6, 2024 · Unanimous

THE CONNELLY DECISION

Connelly v. United States · 602 U.S. __ (2024)

FACTS

1. Two brothers co-own a closely-held corporation.

2. The corporation holds a $3.5M life insurance policy on Brother A's life to fund a redemption buy-sell agreement.

3. The agreement requires the corporation to use the proceeds to redeem the decedent's shares at fair market value.

4. The estate valued the shares by netting the insurance proceeds against the redemption obligation.

5. IRS: life insurance proceeds must be included in the corporation's FMV — no offset for the redemption obligation.

6. 8th Circuit agrees with IRS.
Supreme Court unanimously affirms.

THE HOLDING

Life insurance proceeds held by a corporation to fund a share redemption MUST be included in the fair market value of the corporation's shares for federal estate tax purposes.

The redemption obligation does NOT reduce FMV.

Reverses Estate of Blount v. Comm'r (11th Cir. 2005).

June 6, 2024 · Unanimous · Justice Thomas

How the Numbers Change

Illustrative · Two equal shareholders · Business operating value $3M · $3M life insurance in the entity

BEFORE CONNELLY

Business operating value	$3,000,000
Life insurance proceeds	$3,000,000
Redemption obligation offset	($3,000,000)
Corporation FMV	$3,000,000
Decedent's 50% interest	$1,500,000
Estate tax (~40% of taxable excess)	**~$600,000**

AFTER CONNELLY

Business operating value	$3,000,000
Life insurance proceeds	$3,000,000
Redemption obligation offset	$0 — NOT ALLOWED
Corporation FMV	$6,000,000
Decedent's 50% interest	$3,000,000
Estate tax (~40% of taxable excess)	**~$1,200,000**

+$600,000 additional estate tax · Same business · Same policy · Same day

CROSS-PURCHASE: THE CLASSIC FIX — AND ITS COMPLICATIONS

Why It Avoids Connelly — Why It Creates New Complexity

WHY IT WORKS

✓ No Connelly Problem
Individuals own the policies — not the entity. Insurance proceeds are never on the corporate balance sheet. FMV is calculated without them.

✓ Basis Step-Up
The surviving owner's basis in purchased shares equals the insurance proceeds paid. Under entity redemption, survivors' basis stays at the original low cost.

✓ § 1014 Coordination
For taxable estates, this basis difference is significant. Cross-purchase survivors hold shares at stepped-up cost, reducing future capital gains.

✓ Cleaner Valuation
No insurance on the balance sheet. FMV appraisal reflects the operating business only, without the Connelly complication.

COMPLICATIONS AT SCALE

⚠ Policy Count: n(n−1)
3 owners = 6 policies. 4 owners = 12 policies. Premium disparity between older and younger owners is pronounced and compounds.

⚠ Transfer-for-Value Risk
Transferring an existing corporate-held policy to a shareholder can make the death benefit taxable as ordinary income. § 101(a)(2) exceptions are specific — confirm before any distribution.

⚠ Premium Funding
Each owner pays premiums with after-tax dollars. No deduction available. At scale, the cash flow demand is material and unequal by age.

⚠ Ownership Transitions
When an owner departs, the policies for remaining owners must be redirected. Administratively complex; potentially triggers recognition events.

THREE STRUCTURAL SOLUTIONS

Beyond Plain Cross-Purchase: Structures That Work at Scale

01

LLC / Partnership Cross-Purchase

A special-purpose LLC holds all policies. Each owner holds an LLC interest proportional to their policies. On death, the LLC collects proceeds and distributes to surviving owners. Eliminates the policy-count problem. No transfer-for-value risk on new placements. Business purpose must be documented.

BEST FOR:
3+ owners,
age disparity

02

ILIT-Funded Cross-Purchase

An irrevocable life insurance trust holds the cross-purchase policies. On death, trust collects proceeds and loans or distributes to surviving owners. Provides § 2042 estate tax removal, removes policies from personal ownership, and integrates with broader estate planning.

BEST FOR:
Taxable estates,
estate plan integration

03

Wait-and-See with a Connelly-Aware Appraisal

Retain entity redemption but commission a contemporaneous, defensible appraisal at death that fully applies Connelly — no netting of proceeds against the redemption obligation. Add a contingent cross-purchase right for cases where the Connelly problem materializes. Buy time for a legislative fix.

BEST FOR:
Existing agreements;
conversion is complex

THE HARD PART: EXISTING ENTITY-HELD POLICIES

What to Do with Policies Already Inside the Entity

Cannot § 1035 from Corporate to Individual

§ 1035 exchanges require the owner to be identical before and after. A corporation and an individual are different legal persons. Any restructuring requires a distribution or sale — both taxable events.

Policy Distribution Creates a Taxable Event

C corp distributes policy: taxable as dividend to extent of E&P, then return of basis, then capital gain — computed on the policy's FMV. S corp: gain passes through proportionally. Material for appreciated cash value policies.

Transfer-for-Value Trap on Redistribution

If the corporation transfers a policy to a shareholder at a price, § 101(a)(2) may make the death benefit taxable income. The § 101(a)(2)(B) exceptions must be confirmed before any transfer.

Practical Options for Existing Policies

(1) Keep entity redemption with Connelly-aware appraisal. (2) Surrender — get a life settlement bid first. (3) Distribute to shareholders; analyze E&P and basis. (4) Replace with new trust-owned policies if health permits. (5) Let existing run off; write new cross-purchase going forward.

*If keeping Existing Corporate Policies, consider using a Wait & See Split Dollar Arrangement. Endorsement Split-Dollar. Shareholder portion of DB used for Cross Purchase to obtain a basis step-up. Balance of key person proceeds used to redeem shares.

A DECISION FRAMEWORK

Evaluating Every Existing Buy-Sell After Connelly

QUESTION	ENTITY REDEMPTION	DIRECT CROSS-PURCHASE	LLC / ILIT CROSS-PURCHASE
Is estate currently taxable?	High urgency — Connelly raises estate tax directly	Cross-purchase already avoids the problem	LLC still appropriate; ILIT preferred
How many shareholders?	2–3 manageable; 4+ complex	4+: too many policies (n(n−1) formula)	LLC solves the policy-count problem
Existing entity-held policies?	Keep document appraisal approach	Distribution/ transfer-for-value analysis	Start fresh; let existing run off
Significant age disparity?	Entity pays premiums: neutral	Younger owners pay materially more	LLC equalizes via proportional interests
Are all owners insurable today?	Entity continues; health irrelevant	Must qualify medically for new policies	Must qualify; staging across time helps

PART THREE

PPLI:
A Better Architecture

Private Placement Life Insurance for UHNW Clients and Family Offices

"PPLI is not better insurance. It is a better architecture."

LAYER 1

▼

The Death Benefit

Required by § 7702 — the legal structure that enables the tax treatment. The death benefit is the price of admission to the wrapper, not the goal. Income-tax free at death (§ 101(a)); outside the estate when owned by a properly structured irrevocable trust (§ 2042).

LAYER 2

▼

The Separate Account

The container — assets held in a segregated account, separate from the carrier's general account. Subject to § 817(h) diversification requirements. Your assets. Your risk. Your return. The carrier is not touching the investment.

LAYER 3

▼

The Investment Strategy

The alpha — the family retains its existing manager, mandate, and allocation logic. Hedge fund exposure, private credit, custom mandates. Nothing about the investment changes. What changes is the tax treatment of its returns inside the wrapper.

THE TAX MATH

"Tax is not just a cost. Tax is a drag on time."

$10M invested · Same manager · Same Investment· 30 years · Illustrative assumptions only

TAXABLE ACCOUNT

$39,700,000

30-Year After-Tax Value
After Fee, After Tax Annual Return 4.74%
Ordinary Income Tax 40.8%

- Annual tax drag reduces effective compounding ~$24M
- Short-term gains taxed as ordinary income
- Tax bill compounds — each year's drag is permanent
- Manager changes and rebalancing trigger gain recognition

PPLI WRAPPER

$80,800,000

30-Year After-Tax Value
After Fee, After Tax Annual Return 7.22%

- Internal growth compounds without current taxation
- Tax-efficient access via properly structured loans
- Manager changes have no immediate tax consequence
- Death benefit transfers income-tax free at death

+$41,100,000 difference over 30 years · Same investment · Same manager

Four Code Sections That Keep the Wrapper Intact

§ 7702

Definition of Life Insurance

Policy must qualify under CVAT or GLP / Cash Value Corridor Test. Failure = all inside buildup is currently taxable. The wrapper collapses.

§ 7702A

MEC Rules

Overfunding within 7 years triggers MEC status. Withdrawals/loans taxable as ordinary income (LIFO), plus 10% penalty before 59½. Stay inside the 7-pay limit.

§ 817(h)

Diversification Requirement

Separate account: 5+ securities, no more than 55% in one, 70% in two, 80% in three, 90% in four. Tested quarterly. Failure = § 101(a) exclusion lost.

Investor Control

The Critical Conduct Rule

Policyholder cannot direct investments or hold any investment available to the public. The investment manager must hold full discretion.
Webber v. Comm'r, 144 T.C. No. 17 (2015).

FOUR USE CASES

Where PPLI Belongs in the Estate Plan

1 Tax-Inefficient Strategies

High-turnover alternatives, private credit, hedge fund strategies generating ordinary income are natural PPLI inhabitants. The wrapper removes the annual tax drag without touching the investment logic.

2 Multigenerational Planning

Combine with dynasty trust structures. Income and gains compound tax-deferred. The tax-free death benefit recapitalizes the trust at each mortality event. Self-replenishing across generations.

3 Liquidity Engineering

Complex estates with illiquid holdings, concentrated positions, or closely held businesses need contractual liquidity at death. PPLI provides it without forcing a sale at the worst moment.

4 Cross-Border/Foreign Nationals

NRA clients: $60K exemption, 40% estate tax, 9-month deadline. PPLI converts uncertain U.S. estate tax exposure into a known, budgeable cost while keeping investment rights in U.S. contract law.

"PPLI rewards discipline. It punishes improvisation."

APPROPRIATE WHEN

- ✓ $5M+ committed premium — institutionally viable scale
- ✓ Family has an existing investment philosophy to preserve
- ✓ Material tax drag from alternatives or private credit
- ✓ Multigenerational planning is a core objective
- ✓ Investment manager can satisfy investor control rules
- ✓ Family committed to a long-horizon structure

NOT APPROPRIATE WHEN

- ✗ Asset base does not justify governance requirements
- ✗ Family wants to direct their own investments
- ✗ Advisor cannot satisfy investor control conduct rules
- ✗ Family needs near-term liquidity from the structure
- ✗ Strategy is primarily buy-and-hold equity (low tax drag)
- ✗ Family would treat the structure as "set it and forget it"

PPLI AS ESTATE PLANNING INFRASTRUCTURE

How PPLI Integrates with the Structures You're Already Building

Dynasty Trust / ILIT

Trust-owned PPLI keeps proceeds outside the estate (§ 2042). Premiums funded via annual exclusion gifts or Crummey notices. The trust's PPLI investment compounds for generations without current income tax.

IDGT Installment Sale

Appreciated assets sold to an IDGT at frozen values. Sale proceeds fund PPLI inside the trust. The family freezes the estate while PPLI compounds the trust's capital tax-free. Combine freeze with insurance.

Family Bank/Non-Grantor Trust

PPLI inside a non-grantor dynasty trust operates as an internal capital market. Tax-free policy loans provide liquidity without trust distributions. Death benefit recapitalizes trust principal each generation.

Foreign Nationals

NRA clients with U.S. estate tax exposure convert uncertain liability into a planned cost. PPLI anchors investment rights in U.S. contract law. Coordinates with foreign trusts and holding structures.

THREE THINGS TO DO THIS WEEK

Key Takeaways Across All Three Topics

01

Audit the Insurance Inside Your Clients' Trusts

Ask the three questions. Order an in-force illustration on every trust-held policy not reviewed in the past two years. Before any surrender, get a life settlement bid. The trustee who waits isn't being conservative — they're exposed.

02

Run Every Entity-Held Buy-Sell Through a Connelly Filter

Every entity redemption agreement funded by life insurance now has a Connelly analysis to run. Start with taxable estates and work down. The structure may be repairable — but it must be assessed first.

03

Know When to Bring in a Specialist

PPLI structuring, post-Connelly buy-sell redesign, and in-force policy reviews all require insurance expertise beyond product selection. The right question is not "what policy should I buy?" — it is: "what does this family actually own, and what should we do about each piece of it?"

What We're Asking You to Do This Week

Send us one policy statement from any life insurance policy in your current client base.

Any carrier. Any vintage. Any policy type.

Receive a Traffic Light executive summary review — green, yellow, or red.

The advisor who brings us a problem early enough to fix it looks like a hero.

The advisor who brings us the same problem too late may find there is no solution.

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