

LIFE SETTLEMENTS · QUICK REFERENCE

The Attorney's One-Page Snapshot

Tax tiers, viatical exclusion, NAIC model citations, rescission ranges, and the eight-factor suitability screen. Current as of May 2026. Cite primary sources — links in the Citation Vault at pinelakelegacy.com/attorney-advisor-resource-center/.

FEDERAL TAX TREATMENT — IRS RR 2009-13 (POST-TCJA)

Tier	Character	Formula	Notes
1	Tax-free recovery of basis	Up to cumulative premiums paid	Post-TCJA (2017), basis is NO LONGER reduced by cost of insurance.
2	Ordinary income	Cash surrender value – basis	Same character as a straight surrender — the inside build-up.
3	Long-term capital gain	Settlement price – surrender value	The "settlement premium." Where the after-tax advantage shows up.

Viatical exception (IRC §101(g)(2)): If the insured is terminally ill (life expectancy ≤ 24 months) or chronically ill, the entire proceeds are excluded from gross income — the three-tier framework does not apply.

REGULATORY ANCHORS

NAIC Model #697	Viatical Settlements Model Act — adopted in some form by majority of states.
NAIC Model #698	Viatical Settlements Model Regulation — implementing rules.
Rescission windows	Range from 15 days (e.g., FL) to 30 days (e.g., NY) after contract; some states tie to receipt of proceeds.
Broker licensing	42+ states require broker/provider licensure via the state DOI. Confirm at Verify-a-Broker.
IRC §6050Y	Reportable policy sale: Form 1099-LS to seller, Form 1099-SB by issuer. Buyer files Form 1099-LS.
STOLI prohibition	Most states prohibit stranger-originated life insurance; 2-5 year non-contestability/anti-STOLI windows common.

Diligence note. Statutes and rescission periods vary materially by state. Always confirm at the client's state Department of Insurance and at the State Compass at pinelakelegacy.com/life-settlement-laws-by-state/.

SUITABILITY · EIGHT-FACTOR SCREEN

When the conversation belongs on the table.

A defensible first screen. None of these factors alone disqualify a transaction, but the more that line up favorably, the stronger the case for considering a settlement over surrender or lapse.

#	Factor	Favorable signal	Red flag
1	Age of insured	65+	Under 65 (typically)
2	Health since issue	Material decline or new dx	Stable or improved
3	Policy face amount	\$100K+ (efficient market above \$250K)	Under \$100K (cost drag)
4	Premium burden	Burdensome / unaffordable	Easily affordable
5	Client posture	About to surrender or lapse	Wants to keep policy
6	Beneficiary need	No dependent need for DB	Family relies on DB
7	Tax posture	Low marginal bracket	Top bracket on Tier 2 income
8	Replacement coverage	No need for replacement	Cannot re-underwrite

PRIMARY SOURCES (verify every claim)

- IRS Revenue Ruling 2009-13 — tax treatment to the seller. [irs.gov/pub/irs-drop/rr-09-13.pdf](https://www.irs.gov/pub/irs-drop/rr-09-13.pdf)
- IRS Revenue Ruling 2009-14 — tax treatment to the buyer. [irs.gov/pub/irs-drop/rr-09-14.pdf](https://www.irs.gov/pub/irs-drop/rr-09-14.pdf)
- IRC §101(g) — viatical settlement exclusion. [law.cornell.edu/uscode/text/26/101](https://www.law.cornell.edu/uscode/text/26/101)
- IRC §6050Y — reportable policy sale reporting. [law.cornell.edu/uscode/text/26/6050Y](https://www.law.cornell.edu/uscode/text/26/6050Y)
- Public Law 115-97 §13521 — TCJA basis-reduction repeal.
- NAIC Viatical Settlements Model Act (Model #697) — [content.naic.org](https://www.content.naic.org)
- GAO-10-775 — Life Insurance Settlements Market Report.
- Life Insurance Settlement Association (LISA) — [lisa.org](https://www.lisa.org)

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