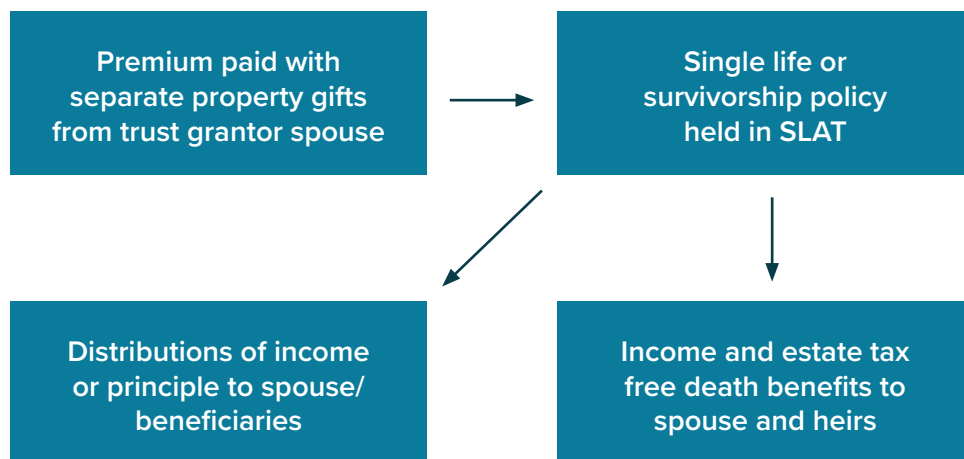


SPOUSAL LIFETIME ACCESS TRUST

Many high net worth couples would like to take advantage of gifting moderate or substantial gifts but are hesitant to do so because they would lose access to the property and its income. A Spousal Lifetime Access Trust (SLAT), is a method of keeping principal and income within reach.

A Spousal Lifetime Access Trust is a type of irrevocable trust that allows the spouse of the trust grantor to receive distributions during the spouse's lifetime. The spouse is a trust beneficiary as well as the children and/or grandchildren. A trust with these provisions can be used with either a single life or a survivorship life insurance policy. As long as the trust is drafted and administered properly, it will have all the tax benefits of a traditional irrevocable trust.

How it works:



- One Spouse (the “grantor”) gifts assets to an irrevocable trust. These assets must come from that spouse’s separate property and not from jointly owned property. The gift tax annual exclusion (\$15,000 for 2020) and the current 2020 lifetime gift tax exemption of \$11,580,000 can be used to shelter the gift from taxation
- Eligible trustees may include the grantor’s spouse, an independent trustee, a family member or close friend. If the grantor’s spouse is to serve as sole trustee, the right to make discretionary distributions to himself/herself should be limited to “ascertainable standards” (health, education, maintenance and support). If the life insurance policy is a survivorship policy, on the lives of the husband and wife, someone other than the spouse should be named as sole or co-trustee and special wording used so that the policy is not included in the spouse’s estate
- During the grantor’s lifetime, the trustee(s) have the discretion to make tax favored distributions from the policy’s cash value or income or principal from the other assets in the trust

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SPOUSAL LIFETIME ACCESS TRUST

Continued

Advantages

- Annual, scheduled or lump sum gifts of cash, income producing or other assets are made to the trust. The trust may then use all or a portion of the gifts to purchase life insurance to gain leverage immediately
- A SLAT allows distributions of income or principal to the grantor's spouse and children and/or grandchildren during the grantor's lifetime— allowing access to trust assets
- An irrevocable trust that spans generations can protect the assets held in trust for the beneficiaries from creditors, bankruptcy and divorce situations
- The estate will be reduced by the amount of the gifts made as well as the growth on those gifts, thereby subjecting less of your wealth to estate taxes

Other Considerations

- If the spouse predeceases the grantor, then the first level of contingent beneficiaries, which may be the children, step on and may receive the same or entirely different withdrawal rights
- To protect against the possibility of the grantor and spouse being divorced down the road, the trust can be set up so that rather than using the spouse's name as beneficiary, the spouse is described as "Grantor's Spouse"
- Throughout the trust and the trust specifically excludes any former spouse who is no longer married to the grantor—having the same impact as death of the spouse. This also means that if the grantor remarries, the new spouse would become a beneficiary of the trust since he/she would now be the "Grantor's Spouse". With this wording, a third party trustee might be advisable
- Strong consideration should be given to using a third party trustee and eliminating support standards as the reason for the distribution. Since distributions would be made while the grantor spouse is alive, the grantor may have legal support or other obligations that would result in bringing assets back in the grantor's estate as indicated in IRS Regulation 20.2036-1(b)(2)

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