Estate
Planning

Spousal Limited Access Trust (SLAT)

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SPOUSAL LIMITED ACCESS TRUST (SLAT)

The Concept...

- A Spousal Limited Access Trust (SLAT) is an irrevocable trust that lets estate owners:
    - make lifetime gifts to descendants
    - avoid transfer taxes, and
    - provide lifetime access to trust assets
- A SLAT is attractive to estate owners who want to protect and pass on assets but are concerned about permanently giving up access to a large part of their estate.
- Although a SLAT removes assets from the owner's estate, the trust terms allow the spouse (and sometimes children and grandchildren) limited access to trust assets during the spouse's lifetime.
- The trust lets an estate owner ensure the ability to maintain a current lifestyle while sheltering the gift to future generations from transfer taxes (up to an amount equal to the applicable estate tax exclusion).

Funding...

- The estate owner establishes a SLAT during life and funds it in an amount that is equal to the available applicable estate tax exclusion ($5.49 million in 2017).
- The estate owner typically funds the trust with life insurance; however, other property (stocks, bonds, cash, etc.) can also be used.
- To ensure the integrity of the trust and maintain its tax status, estate owners must relinquish all control over trust assets and make certain they use separately owned property to pay life insurance premiums.

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SPOUSAL LIMITED ACCESS TRUST (SLAT)

The Process...

- A SLAT trustee can make distributions to the estate owner's spouse during the spouse's lifetime. While SLATs are designed to give away property while avoiding transfer taxes, the ability to take distributions means the trust assets can continue to benefit the couple during life.
- The trust terms will often give the spouse the right to withdraw of the greater of $5,000 or 5% of the principal annually. The trustee is limited to making distributions for the spouse's health, education, support and maintenance needs.
- The spouse may serve as trustee provided the life insurance policy does not insure the spouse and the trust terms appropriately limit the spouse's rights.
- Despite the limited right to distributions, when the spouse dies, the SLAT assets are not included in the spouse's gross estate. Of course, other assets owned by the spouse will be included in the spouse's estate at death.
- When the spouse dies, the SLAT typically terminates, distributing trust assets to heirs as the estate owner dictated in the trust terms. It's also possible for the trust to grant the spouse a testamentary power of appointment over how the assets are distributed to descendants.

The Tax Picture...

- The applicable estate tax exclusion protects trust assets from federal gift and estate tax. This can be particularly useful for tax planning in states with an estate tax exemption that is significantly lower than the federal exemption ($5.49 million in 2017).
- An estate owner may also choose to apply the generation-skipping tax (GST) exemption to trust assets, allowing the trust to benefit multiple generations without incurring additional GST taxes. This is helpful since there is no portability of the GST exemption between spouses.

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The Bottom Line...

An estate owner establishes and funds a SLAT during life to accomplish important planning objectives that benefit both the estate owner and the spouse. The trustee makes distributions to the spouse during life, which helps ensure maintenance of the spouse's current lifestyle. The trust protects assets from creditors and ultimately passes those assets to descendants with significant tax savings. The trust may contain legacy provisions that enable tax-free distributions to multiple generations.

SUMMARY

WHAT IS A SPOUSAL LIMITED ACCESS TRUST?

A spousal limited access trust (SLAT) is an irrevocable trust designed to give property to heirs without transfer tax consequences while retaining a limited right to the assets for the estate owner's spouse.

HOW DOES IT WORK?

An estate owner establishes a SLAT during life and funds the trust with separate property in an amount that is equal to the federal estate tax exemption. Many estate owners use life insurance to fund the trust, since the death benefit is not subject to income and estate taxes.

The trust terms can give the trustee the right to annually distribute the greater of $5,000 or 5% of the principal to the estate owner's spouse. The trustee can also make distributions to support the spouse within certain limits (for health, education, support and maintenance needs). If the spouse serves as trustee, to maintain applicable tax benefits, the spouse must strictly adhere to all trust document limitations.

Trust principal typically remains in the trust until the spouse dies. Trust assets are not included in the spouse's gross estate at death, but instead pass directly to the named beneficiaries.

WHAT HAPPENS AT DEATH?

When the estate owner dies, the SLAT continues to provide distributions to the surviving spouse. When the spouse dies, all assets in the SLAT go directly to the heirs. (Of course, trust assets are not included in the spouse's estate, and therefore avoid probate.) Alternately, the trust terms may stipulate that the trust will continue to hold the assets for the benefit of heirs.

WHAT ARE THE BENEFITS?

Typically, if an estate owner makes an irrevocable transfer to a trust, those assets cannot be retrieved. However, in a SLAT, the estate owner benefits through the spouse's limited access to the trust assets. An estate owner can use a SLAT to create a customized arrangement that meets a variety of planning goals—avoiding transfer taxes, making full use of the applicable exclusion amount, and benefitting not just the heirs (as the ultimate beneficiaries) but also the spouse.

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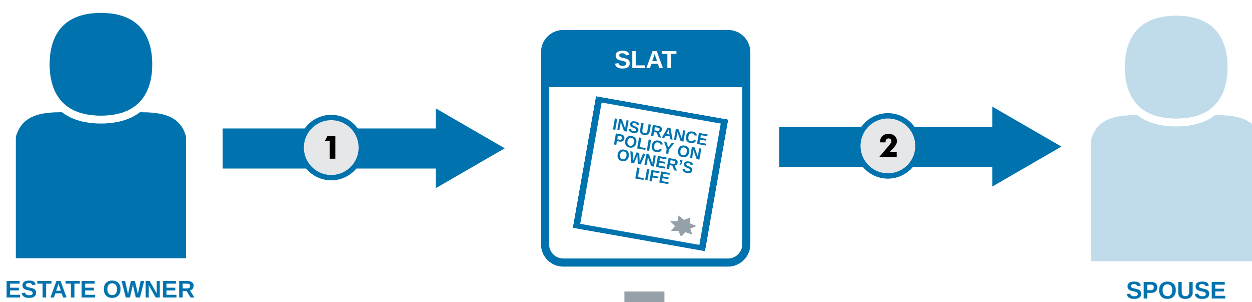
1. During life, the estate owner irrevocably transfers separate assets to the SLAT up to the value of the lifetime federal estate tax exemption, often using a life insurance policy for funding.



2. The estate owner's spouse may access the policy's cash value or other trust assets according to the limitations set forth in the trust.

3. When the spouse dies, SLAT assets pass directly to named beneficiaries free of estate tax. (Assets going to grandchildren also pass free of the generation-skipping transfer tax.)