Allianz Life Insurance Company of North America

Spousal limited access **trust**

A trust that can provide your spouse with distributions of your life insurance policy's available cash value

Help limit estate taxes while providing the trustee **with access to the life insurance policy's available cash value for your spouse** during your lifetime.

If you're concerned about the tax implications your beneficiaries will face at the time of your death, an irrevocable life insurance trust (ILIT) can help your estate planning strategy.

When structured and administered properly, the life insurance benefits in the trust will not be subject to the federal estate tax (and potentially the state estate tax) upon your death.

However, a traditional ILIT limits access to the policy's available cash value while you're alive. If you want to provide the trustee with potential access to the policy's available cash value for your spouse – while still potentially minimizing estate taxes – you'll want to consider establishing the ILIT as a spousal limited access trust (SLAT).

How a spousal limited access trust works

In a spousal limited access trust, one spouse has an attorney draft the trust. The trust purchases a life insurance policy on the life of this spouse, who makes gifts of cash to the trust to pay the life insurance premiums.

The other spouse (and often, the children) will have the right to withdraw[1] a pro rata, or proportionate, share of the cash that's been gifted to the trust. The beneficiary's right to withdraw assets is required to qualify the gifts for the annual gift tax exclusion. However, there are some limitations on this amount for the spouse.[2]

When properly created and maintained, the spousal limited access trust is an effective strategy that can offer distributions without jeopardizing its estate tax benefits.

The benefits of a properly created and maintained spousal limited access trust:

- No gift tax on gifts to the trust with Crummey[2] withdrawal rights
- All trust property passes estate-tax-free
- Trust property remains available for the spouse during their lifetime
- Discretionary distributions are possible with the independent trustee
- Attorney has flexibility in drafting trust provisions

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[1] Policy loans and withdrawals will reduce available cash values and death benefits, and may cause the policy to lapse or affect any guarantees against lapse. Additional premium payments may be required to keep the policy in force. In the event of a lapse, outstanding policy loans in excess of unrecovered cost basis will be subject to ordinary income tax. Tax laws are subject to change and you should consult a tax professional.

[2] Crummey v. Commissioner, 397 F. 2d 82 (9th Cir. 1968).

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THE **SPOUSAL LIMITED ACCESS TRUST**

1 SETTING UP THE TRUST

MARK SEES AN ATTORNEY TO DRAFT THE SPOUSAL LIMITED ACCESS TRUST.

JANE DOES NOT HAVE ANY TRUST POWERS THAT WOULD INCLUDE TRUST PROPERTY IN HER TAXABLE ESTATE.

MARK GIFTS CASH **FROM HIS SEPARATE PROPERTY** TO THE TRUST.

SPOUSAL LIMITED ACCESS TRUST

THE TRUST PURCHASES LIFE INSURANCE ON MARK.

AN **INDEPENDENT TRUSTEE** IS CONTRACTED TO OVERSEE THE TRUST.

Please note: See your attorney to discuss whether a spousal limited access trust might be appropriate for your estate plan. And talk to your financial professional about the type of life insurance policy that best meets your financial needs.

All examples are for illustrative purposes only.

2 DISTRIBUTIONS WHILE THE INSURED SPOUSE IS ALIVE

THE **SLAT** OWNS THE POLICY.

SPOUSAL LIMITED ACCESS TRUST

THE TRUSTEE ACCESSES THE POLICY'S AVAILABLE CASH VALUE.[2]

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JANE AND THEIR CHILDREN (THE BENEFICIARIES) **HAVE WITHDRAWAL POWERS**[1] THAT QUALIFY THE GIFTS FOR THE ANNUAL GIFT TAX EXCLUSION, SUBJECT TO CERTAIN LIMITATIONS FOR JANE.

THE INDEPENDENT TRUSTEE HAS DISCRETION TO PROVIDE JANE WITH ACCESS TO **THE POLICY'S AVAILABLE CASH VALUE.**[2]

Please note: If Jane is the trustee, her rights to distributions from the trust are limited to an appropriate amount (known as an ascertainable standard) that provides for her health, education, maintenance, and support.

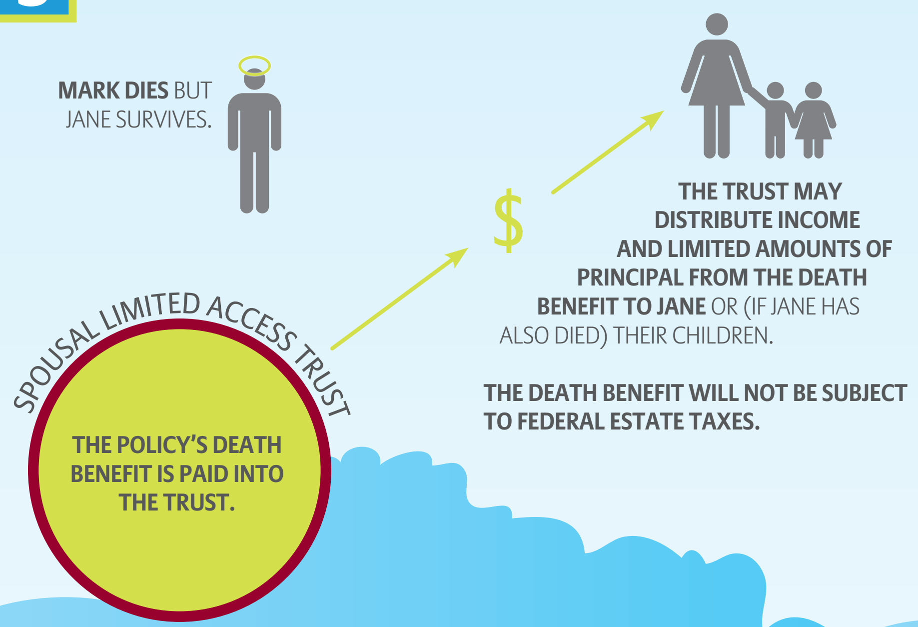
[1] Crummey v. Commissioner, 397 F. 2d 82 (9th Cir. 1968).

[2] Policy loans and withdrawals will reduce available cash values and death benefits, and may cause the policy to lapse or affect any guarantees against lapse. Additional premium payments may be required to keep the policy in force. In the event of a lapse, outstanding policy loans in excess of unrecovered cost basis will be subject to ordinary income taxes. This example is for illustrative purposes only.

IN ACTION

The following hypothetical example demonstrates the benefits a SLAT provides to a married couple, Mark and Jane (not actual Allianz clients).

3 DISTRIBUTIONS AFTER THE INSURED SPOUSE DIES



Special considerations for a spousal limited access trust

- The grantor spouse must not have any "incidents of ownership" in the policy. Some incidents of ownership include:
  - the right to change the beneficiary
  - the right to surrender or cancel the policy
  - the right to assign the policy
  - the right to revoke an assignment
  - the right to pledge the policy for a loan
  - the right to obtain a policy loan
- The trust must avoid providing the spouse with rights that result in estate inclusion.
- To avoid any inclusion in the spouse's estate, the spouse's Crummey withdrawal power must be limited to the greater of $5,000 OR 5% of all the property in the trust.[1]
- With second-to-die life insurance, the spouse cannot serve as trustee.
- With second-to-die life insurance, an independent trustee is advisable and the trust should specify limitations on the spouse's rights to the principal and income in order to avoid estate tax inclusion.
- Only one SLAT should be established by either spouse to avoid reciprocal trust problems.

A SLAT has advantages that a traditional ILIT does not.

- With an ILIT, the life insurance policy and its available cash value are not usually accessible for family needs until after your death.
- When the ILIT policy insures only **your** life, your spouse may have to wait until after your death to benefit from the trust assets.
- If you retain too many rights in the ILIT, or if you provide your spouse with uncontrolled access, the death benefit could be subject to estate taxes in your, or your spouse's, estate.

A trust is a legal structure where one party holds property for the benefit of another party.

Grantor is the person who establishes the trust and makes gifts of property to it.

Trustee is the person who oversees and controls the trust. An independent trustee is unrelated to and not controlled by the grantor.

Beneficiary is the person(s) who receives distributions from the trust.

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