



A SLAT Offers Estate Planning Benefits and Acts as a Financial Backup Plan

Some of the most effective estate planning strategies involve the use of irrevocable trusts, but it can be uncomfortable for someone to place assets outside of his or her control. What happens if a grantor's financial fortunes take a turn for the worse after a large portion of wealth has been irrevocably transferred? A spousal lifetime access trust (SLAT) can be a viable strategy to obtain the optimal benefits of an irrevocable trust. This type of trust allows a marital partner to help create a solid financial backup plan for his or her spouse.

Indirect access

A SLAT is an irrevocable trust that authorizes the trustee to make distributions to a spouse if a need arises. A SLAT can be designed to benefit one's children, grandchildren or future generations. A lifetime gift tax and generation-skipping transfer tax exemption (currently, \$11.4 million each) can be used to shield contributions to the trust, and future appreciation, from transfer taxes. The trust assets will also gain some protection against claims by a beneficiaries' creditors, including any former spouses.

The key benefit of a SLAT is that, by naming a spouse as a lifetime beneficiary, the grantor of the trust retains indirect access to the trust assets. A trust can be set up to make distributions based on an "ascertainable standard" — such as a spouse's health, education, maintenance or support. Another option is to give a trustee full discretion to distribute income or principal to a spouse.

To keep the trust assets out of one's taxable estate, he/she must not act as trustee. A spouse can be appointed as trustee as long as distributions are limited to an ascertainable standard. If greater flexibility is desired over distributions to a spouse, an independent trustee should be appointed. Also, the trust document must prohibit distributions to satisfy legal support obligations.

Another critical requirement is to fund the trust with one's own, separate property. If marital or community property is used, there is a risk that the trust assets will end up in the other spouse's estate.

Risks

There is a significant risk inherent in the SLAT strategy: If the trustee spouse predeceases the other, or if there is a divorce, there will be a loss of indirect access to the trust assets. However, there may be ways to mitigate this risk.

For those considering using a SLAT, contact your Anchin Relationship Partner or Tamir Dardashtian and Michael Rudegear, members of Anchin Private Client, at info@anchin.com or 212.840.3456.



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