

Spousal Lifetime Access Trust (SLAT) Funded with Indexed Universal Life

OPPORTUNITY FINDER - FLEXIBLE ESTATE PLANNING FOR HIGH-NET-WORTH CLIENTS

CLIENT PROFILE:

- Healthy/Insurable married couples, ages 40-70
- Business and investment assets more than \$5 million and growing
- Reluctant to make irrevocable gifts to descendants – concerned about losing access and/or control of assets
- Want to maintain current lifestyle

CONCEPT BRIEF:

With a spousal lifetime access trust (SLAT), one spouse (donor-spouse) makes a gift to an irrevocable trust using the gift tax exemption. The SLAT names the other spouse as a current beneficiary, which allows the trustee to distribute funds to the beneficiary-spouse during their life. This gives the beneficiary-spouse access to trust assets for education, medical expenses, support and maintenance, home purchases, starting a business, or other family needs.

A SLAT offers a number of advantages, including:

- The donor-spouse may not feel a “permanent loss” of assets as the beneficiary-spouse still has access to the funds, if needed, during life.
- The donor-spouse can retain control by gifting non-voting interests in the family business.
- The beneficiary-spouse and/or descendant(s) can serve as trustee, subject to certain limitations (see below under “Planning Considerations”).
- Descendants can be named as current and/or remainder beneficiaries, so the SLAT can continue as part of a legacy plan for future generations.
- As an irrevocable trust, the SLAT can protect assets from creditors of the donor-spouse, the beneficiary-spouse and the children.
- The SLAT acts as a de facto “prenup” to protect the family’s wealth from future ex-spouses of the descendants, or in the event the beneficiary spouse remarries after the death of the donor-spouse.

WHY LIFE INSURANCE?

SLATs are often combined with life insurance, with the SLAT using the donor’s gift to buy life insurance on the donor-spouse. If appropriate, the trustee can choose to take policy loans or withdrawals to supplement or support distributions to the beneficiary-spouse, potentially income tax-free (depending on the type of policy and the amount of loan/withdrawal). Further, upon the donor-spouse’s death, the death benefit will pass to the SLAT free of income and estate taxes.

A SLAT may also own life insurance on the beneficiary-spouse to replenish trust assets, provide liquidity for estate equalization, benefit from tax-deferred growth, or act as a non-correlated component of the trust’s overall investment portfolio.

ADVANCED
MARKETS



How it Works:

- Donor-spouse donates funds to irrevocable trust with gift tax exemption
- Beneficiary-spouse can access funds for education, medical expenses, support and maintenance, home purchases, starting a business, or other family needs

CONSIDERATIONS

To achieve the potential benefits offered by a SLAT, the following questions should be carefully considered.

- How will the SLAT be funded? The donor-spouse should consider funding the SLAT using only their own assets (not joint assets). If the beneficiary-spouse is deemed to make a gift to the SLAT, it could result in inclusion of the trust assets in his or her estate.
- The SLAT must be irrevocable.
- Will the SLAT acquire life insurance on the beneficiary-spouse? If so, the beneficiary-spouse should not serve as trustee, or all authority to act or not act with respect to the policy should be assigned to a co-trustee.
- Who will serve as trustee? The beneficiary-spouse or another beneficiary may serve as a trustee of the SLAT, provided that the beneficiary's power to make distributions to him or herself is limited by something called an "ascertainable standard," e.g., distributions can only be made for health, education, maintenance and support. For maximum creditor protection of trust assets, consider making any distributions subject to the discretion of a non-beneficiary trustee or co-trustee. The donor-spouse may not serve as a trustee of the SLAT.
- How will you provide for planning flexibility? The beneficiary-spouse can be given a limited power of appointment, effective at his or her death, which allows them to change how the SLAT assets will be distributed among the couple's descendants after their death.
- Who will have access to the SLAT funds? Divorce or the premature death of the beneficiary-spouse will cut off the donor-spouse's access to the SLAT funds. The risk of premature death can be mitigated by having the donor-spouse own a term life insurance policy on the beneficiary-spouse.

WHY DOES THIS PLAN WORK NOW?

- The recent tax reform doubled the lifetime gift tax exemption amount (expiring in 2026 unless further Congressional action is taken), so virtually everyone can make large gifts without incurring gift taxes.
- Owning wealth in a modern trust is far better than owning it outright, regardless of whether federal estate taxes are an issue. Advantages include creditor protection, spendthrift protection and enhanced privacy, potentially over multiple generations.
- Clients are looking for flexibility – a properly drafted SLAT can accommodate a range of future outcomes.

CONVERSATION STARTER

"In our experience, many high-net-worth families are concerned about making their children too well off. They are also reluctant to make large, irrevocable gifts given uncertainty about future tax laws or their economic well-being. We believe you should learn about the flexibility provided by a spousal lifetime access trust, and why using one can be far more effective than doing nothing."

NEXT STEPS

1. Identify your clients who fit the profile
2. Set an appointment to discuss their current estate plan
3. Identify their goals and objectives, and probe for their worries and concerns.
If flexibility is important to them, introduce the SLAT strategy and why it may be a good fit for their estate plan.

Why it Works Now:

- Recent tax reform doubled the lifetime gift tax, so large gifts can be made without taxes
- Wealth in a modern trust is better than owning it outright due to creditor protection, spendthrift protection and privacy
- SLATs are flexible for future outcomes