

Spousal Lifetime Access Trust: SLATs

Irrevocable trusts are a great way to minimize estate taxes, but some people are uncomfortable with the fundamental premise of irrevocable trusts since they require you to permanently give up ownership and control of the assets you place in them. A Spousal Lifetime Access Trust, or SLAT, is a solution that married couples might consider as it removes assets from their taxable estate while still maintaining some access to the assets.

What is a SLAT?

A SLAT is an irrevocable trust that you (the grantor) can set up for the benefit of your spouse and your descendants. You can make a gift to the SLAT, using some or all of your federal lifetime exemption. This would shield the gift and its future appreciation from gift and estate tax. While you give up direct ownership over the gifted assets, your spouse, as the beneficiary of the the SLAT, will have access to the gifted asset - which in turn gives you indirect access.

What are the current estate tax rules?

The Tax Cuts and Jobs Act of 2017 markedly increased the federal estate tax exemption. The current lifetime estate tax exemption is historically high at \$13.99 million per person as of 2025 (or \$27.98 million per married couple). However, this is scheduled to sunset at the end of 2025. At that time, the exemption will be reduced to about \$6.99 million per person (or \$13.99 million per couple). Since the estate tax on amounts over the lifetime exemption is 40%, many ultra-high net worth families are exploring their options to make large, permanent gifts to reduce the size of their estate.

SLATs allow investors to shield gifts from estate taxes while maintaining indirect access to the assets...

Who should consider a SLAT?

The ideal candidate for a SLAT is generally someone in a stable, long-term marriage who has accumulated significant assets such that they have a federally taxable estate.

SLATs are a useful solution for couples who are hesitant to make irrevocable gifts that would cause them to lose control of their assets. The grantor of a SLAT can have peace of mind in knowing that since their spouse is the named beneficiary, they have indirect access to the assets through their spouse.

SLATs not only remove the gifted assets from your taxable estate but also shelter any future growth of the gifted assets from estate taxes. As such, if you have assets that could grow rapidly, such as shares of a privately held business that might be sold or taken public, you are an especially good candidate for a SLAT.

You do not want to put assets into a SLAT that you might need during your lifetime. Ideally, the assets that remain in your estate should support your lifestyle and, even though you have access to the SLAT assets, you would not want to utilize them for your spending needs unless absolutely necessary. This way, the SLAT can grow undisrupted for the benefit of future generations.

Are there any other benefits to a SLAT?

SLATs are typically structured as grantor trusts. A grantor trust allows you (the grantor) to pay the tax on any trust income, such as stock dividends and capital gains. Structuring the trust this way means that you are not reducing the trust's value by using its assets to pay its income taxes. Instead, you are further reducing the value of your own taxable estate by using your personal assets to cover the trust's tax liability.

SLATs can provide tax benefits beyond reducing your own estate taxes. They are typically designed to benefit not only the non-donor spouse, but also the donor's children (and grandchildren) as contingent beneficiaries. In fact, a SLAT can be structured as a dynasty trust to benefit future generations while avoiding generation-skipping transfer taxes.

Can both my spouse and I set up separate SLATS for each other?

Yes. In fact, this is a very common strategy. However, if you and your spouse set up SLATs for each other, the two SLATs must not mirror each other. If the two SLATs are too similar, the IRS can apply the reciprocal trust doctrine and can effectively ignore both SLATs for gift tax purposes and pull the asset back into the spouses' estates. To avoid this, certain aspects of the SLAT agreements, such as distribution terms, trustees, remainder beneficiaries, funding sources and amounts, etc. should be sufficiently different.

One of several ways to make the trusts materially different is to establish them in separate years. The estate planning process should never be rushed – especially when considering irrevocable trusts such as a SLAT – but there is some wisdom in starting a conversation with your estate planning attorney sooner rather than later since there are only a few more years before the estate tax exemption is scheduled to be significantly reduced and establishing two SLATs could be a multi-year process.

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What are the drawbacks of a SLAT?

If your spouse predeceases you, you lose your indirect access to his or her SLAT payouts. When the beneficiary spouse dies, the trust's assets pass to the contingent or co-beneficiaries. Even though these beneficiaries may be the grantor's children, we want to avoid a scenario where a child needs to give their parent money. Not only is it uncomfortable, but it is also not tax efficient.

In the case of a divorce, you will lose the indirect access to the SLAT funds you had through your spouse unless you include a provision that states your trust is for the benefit of your current and future spouses, in which case you can regain indirect access to the assets once you remarry.

It is important to note that assets held in a SLAT do not receive a step-up in cost basis which potentially increases the capital gains tax liability to the remainder beneficiaries.

Final thoughts

A SLAT may be an effective wealth-transfer strategy to consider while the lifetime estate tax exemption remains at historically high levels. However, a SLAT strategy should be undertaken only with the help of an experienced estate planning attorney, who can help determine if it makes sense for your personal circumstances and help guide you through some of the more nuanced legal complexities.

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