THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY (NORTHWESTERN MUTUAL)

Spousal Lifetime Access Trust (SLAT)

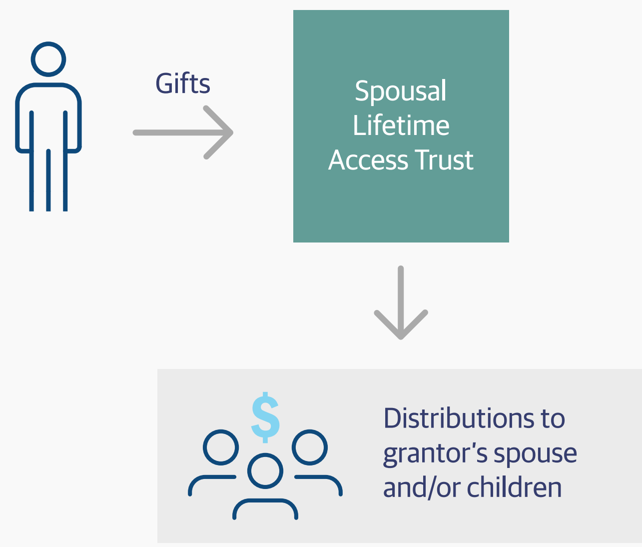
In brief

AN IRREVOCABLE TRUST DESIGNED WITH THE FLEXIBILITY TO BENEFIT A SPOUSE

What is a SLAT?

A Spousal Lifetime Access Trust (SLAT) is an irrevocable trust that allows the grantor's spouse to receive distributions during life. If the spouse is named as both trustee and beneficiary, spousal distributions must be limited to an "ascertainable standard," such as health, education, maintenance, or support (HEMS).

HOW IT WORKS — DURING LIFE OF INSURED



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What are the main benefits of a SLAT?

- Gift uses current gift tax exemption.
- Grantor's spouse may receive distributions from the SLAT.
- Other non-spousal beneficiaries (children/grandchildren) can also received trust distributions.
- Assets in the trust may be protected from creditors.

What assets are used to fund a SLAT?

- Any asset can be used to fund a SLAT. Common assets used to fund a SLAT include securities, real estate, life insurance, and business interests.
- Permanent life insurance – spousal access may be a feature of an irrevocable life insurance trust (ILIT). Accumulated value from the life insurance may be available for distributions to the insured grantor's spouse.

Who can serve as the trustee of a SLAT?

- **Spouse** – with careful trust drafting and administration, the grantor's spouse may be both trustee and beneficiary. To avoid estate inclusion for the spouse, distributions to the spouse must be limited to an ascertainable standard, such as health, education, maintenance or support (HEMS). The spouse generally should not serve as trustee if the trust holds second-to-die life insurance on his or her life.
- **Independent Individual Trustee** – a trusted individual who is not a beneficiary may be given the power to make discretionary distributions to the spouse.
- **Corporate Trustee** – a corporate trustee may have more administrative, investment, tax, and accounting expertise than individual trustees.

What are the income tax consequences of a SLAT?

- Typically, a SLAT is designed as a "grantor trust" for income tax purposes during the lifetime of the grantor. Any income in a grantor trust is taxable to the grantor.
- Upon the grantor's death, the trust becomes a non-grantor trust. Trust income left in a non-grantor trust is taxed to the trust at trust tax rates. Trust income distributed to the beneficiaries is generally taxed to the beneficiaries at their individual tax rates.

What are the gift and estate tax consequences of a SLAT?

- A SLAT is funded with lifetime gift(s) from the grantor, often using the grantor's annual gift exclusion and/or the grantor's lifetime gift exemption.
- If properly designed and administered, the assets in the SLAT are not included in the estate of either the grantor or grantor's spouse.

Items to be aware of with a SLAT

- Estate Inclusion Risk – SLATs need to be carefully drafted and administered to avoid estate tax inclusion for the grantor or spouse. For example, the trust document should prohibit a trustee from making distributions to minor children that satisfy either spouse's legal support obligation.

  – Reciprocal Trust Doctrine – if both spouses create mirror-image trusts for each other, there could be estate inclusion under the reciprocal trust doctrine. To minimize the risk of the reciprocal trust doctrine, the trusts should have different provisions, such as:

    - Only one trust gives the spouse a lifetime limited power of appointment.
    - Only one trust gives the spouse a withdrawal right.
    - Differences in amount and timing of distributions.
    - Different amounts of premiums and cash values with respect to any life insurance.

- Divorce – divorce could frustrate the objectives of a SLAT. Trust provisions could remove a former spouse as trustee and beneficiary upon divorce.

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