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INSURANCE PRODUCTS	
MAY LOSE VALUE	NOT A DEPOSIT
NOT BANK GUARANTEED	NOT FDIC INSURED
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ILIT overview

An irrevocable life insurance trust (ILIT) is one of the most efficient estate planning tools to transfer wealth to your loved ones. Most notably, assets owned in an ILIT and all appreciation on those assets will not be subject to estate taxes. In addition to estate tax exclusion, the irrevocable trust structure offers enhanced privacy, creditor protection, and control over the timing and manner of distributions to beneficiaries.

Although a traditional ILIT offers many benefits, a common concern is that gifts made to the trust are irrevocable, meaning that you cannot access these assets. This includes access to any accumulation of life insurance policy cash values. This loss of control can become problematic if circumstances change.

Consider these questions:

- What if your **financial situation** changes?
- What if your **goals** change?
- What if **tax laws** change?

A spousal lifetime access trust (SLAT) can address these concerns while still providing all of the benefits of an ILIT.

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SLAT basics

A SLAT is a variation on a traditional ILIT. A SLAT will offer a simple way to increase flexibility and access in an ILIT. A SLAT gives the trustee the ability to make distributions to your spouse during their lifetime, even though the trust may ultimately be created to benefit children, grandchildren, and other beneficiaries.

For example, a SLAT can be drafted to provide distributions to your spouse for health, education, maintenance, or support (HEMS). It may also be drafted more broadly to give an independent trustee absolute discretion to make distributions of income and/or principal to your spouse.

Funding a SLAT with lifetime gifts to purchase permanent life insurance can be an effective way to protect legacies, provide liquidity, and create estate equalization. At the same time, the spousal access provisions provide the donor with indirect access to trust assets during the spouse's lifetime, including the policy cash value.

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How SLATs work

1

Your attorney drafts an ILIT with spousal access provisions (a SLAT). You are the SLAT's creator (the grantor). Your spouse (the non-grantor spouse) can be designated as one of the SLAT's beneficiaries.

2

You fund the SLAT by making gifts to the trust. You can choose to fund the trust by:

- making annual exclusion gifts up to $18,000 per trust beneficiary each year without having to pay gift taxes.[1]
- deciding to make larger gifts to the trust using some of your available lifetime exemption ($13.61 million in 2024).[2]

3

The SLAT's trustee purchases a life insurance policy on your life. The gifts to the trust can be used to pay the insurance premiums. The policy's cash value grows inside the trust on a tax-favored basis.

4

During your lifetime, the trustee may make tax-free distributions to your spouse from the policy's cash value (if available) or from other trust assets as permitted by the trust terms.

A SLAT allows for drafting flexibility to provide your spouse distributions for health, education, maintenance, or support, or can provide more broad distributions of income and/or principal at the discretion of an independent trustee.

5

At your death, the trust will receive the life insurance death benefit free from both income and estate taxes to benefit trust beneficiaries.

Key benefits of SLATs

A spousal access trust with life insurance can offer you several benefits:

- Tax-free death benefit provided to the SLAT for heirs.
- Greater flexibility and access through SLAT provisions allowing trust assets to be distributed to your spouse.
- The option to give a trustee the ability to make trust distributions to provide supplemental retirement income for your spouse via policy loans and withdrawals.
- Two layers of creditor protection: both from your creditors and from creditors of your beneficiaries (third parties, divorcing spouses, etc.). The trust can also include “spendthrift” language to protect a beneficiary from reckless spending and preserve trust assets.
- Enhanced privacy via the trust structure and greater control over the timing and manner of trust distributions (e.g., at certain ages and/or for certain purposes).

Some considerations

The primary drawback of a SLAT is that upon your spouse’s death, there will no longer be indirect access to trust assets. It is important to consult a local estate planning attorney to discuss how to plan for this risk.

Your attorney will also address other complexities, such as determining who should serve as trustee, what type of life insurance policy is most appropriate, and planning against SLAT risks such as divorce.

Additionally, if you live in a community property state, the SLAT must be drafted and funded with this in mind.

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Is a SLAT right for you?

A spousal access trust can help provide flexibility for your estate plan by allowing your spouse access to trust assets, including policy cash values, while keeping the death benefit out of your estate and the hands of creditors.

Even if the trust is intended to be primarily for the benefit of beneficiaries/heirs, the SLAT allows the trustee to make distributions to your spouse, providing much desired flexibility should unforeseen circumstances arise.

1. $18,000 is the annual exclusion amount in 2024. Annual exclusion gifts are indexed annually for inflation.
2. The Tax Cuts and Jobs Act of 2017 temporarily increased the lifetime exemption from $5 million (indexed for inflation) to $10 million (indexed for inflation). The exemption is scheduled to revert to a $5 million exemption (indexed for inflation) in 2026.

Trusts should be drafted by an attorney familiar with such matters in order to take into account income and estate tax laws (including the generation-skipping transfer tax). Failure to do so could result in adverse tax treatment of trust proceeds. There can be costs associated with drafting a trust.

Loans and withdrawals will reduce the death benefit and the cash surrender value and may cause the policy to lapse. Lapse or surrender of a policy with a loan may cause the recognition of taxable income. Withdrawals in excess of the cost basis (premiums paid) will be subject to tax and certain withdrawals within the first 15 years may be subject to recapture tax. Additionally, policies classified as modified endowment contracts may be subject to tax when a loan or withdrawal is made. A federal tax penalty of 10% may also apply if the loan or withdrawal is taken prior to age 59½. Withdrawals are available after the first policy year.

Life insurance death benefit proceeds are generally excludable from the beneficiary's gross income for income tax purposes. There are few exceptions such as when a life insurance policy has been transferred for valuable consideration.

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