Allianz

LIFE ADVANCED MARKETS

Flexible estate planning strategies

Spousal Lifetime Access Trust (SLAT)

While there are a number of strategies for accomplishing a family's estate planning goals, many require irrevocable decisions be made with limited ability to make modifications should circumstances change (e.g., changes in tax laws and changes in family dynamics).

The current federal estate tax has gone through a constant stream of changes over the past few decades. There have been attempts to repeal the tax and changes to the exemption amount and tax rates; there was even a year without an estate tax (2010) that turned into a year with a retroactive estate tax.

As the federal government has modified its transfer tax laws, states have followed suit and implemented their own changes. This trend will likely continue in the years ahead, making estate planning somewhat of a moving target.

Family dynamics are likely to change over the years as well. Some changes are positive – grandchildren come into the world, marriages add new family members, and family business success is achieved. Some changes are negative – divorce separates families, family friction creates rifts, and family members may pass away well before their time. With each change, a family's goals for passing on the wealth they have accumulated may change as well.

Due to these factors, when possible, families and their financial professionals should take into consideration strategies for building a level of flexibility into their plans. One such strategy is a spousal lifetime access trust (SLAT) funded with an indexed universal life insurance (IUL) policy.

SPOUSAL LIFETIME ACCESS TRUST (SLAT)

Summary of strategy	
Basic Design	• An irrevocable trust is established by one spouse (the grantor spouse) to benefit the other spouse (the beneficiary spouse) and children. • The trust purchases a life insurance policy on the life of the grantor spouse. • While both spouses are alive, the trustee of the SLAT may make distributions to the beneficiary spouse and their children for their health, education, maintenance, and support. The trustee may use withdrawals and/or loans from the life insurance policy or other trust assets to make the distributions. • Upon the death of the grantor spouse, life insurance death proceeds will be paid to the trust. The trust may continue to provide income to the beneficiaries or may terminate and distribute the remaining income and principal to the beneficiaries.
Advantages	• A SLAT provides advantages similar to a traditional irrevocable trust – e.g., assets contributed to the trust are removed from the estate and free from estate taxes, trust property may be protected from potential creditors, professional management of trust assets, etc. • **The grantor spouse retains access to trust income "indirectly" through the beneficiary spouse.**

CONSIDERATIONS

IUL requires qualification through health and financial underwriting.

Since access to policy cash values are derived indirectly through a spouse, a divorce would eliminate that access and leave an ex-spouse as a beneficiary of the trust (most likely a less than desirable result). The SLAT may contain language that treats the beneficiary spouse as if they were deceased should a divorce occur, therefore distributions would be made solely to their children (see PLR 200426008).[1] In addition, each spouse may create a SLAT for the benefit of the other such that both retain access to policy cash values held by the separate SLATs.

When dual SLATs are considered, care must be taken to assure the death benefit proceeds are excluded from each spouse's gross estate upon their death. If each spouse's SLAT is identical, there is a risk the IRS may consider them "reciprocal trusts" and include the death benefit proceeds in their estates.

Clients should consult with their legal and tax advisors if considering this strategy.

ENHANCING A SLAT

One way to add an additional level of flexibility to a SLAT is to treat the contributions as loans instead of gifts. A similar advantage may be gained by funding the SLAT via a private collateral assignment split-dollar arrangement (refer to separate Allianz® materials on private financing and private split dollar).

In both designs, the grantor spouse makes contributions to the SLAT, but retains the right to receive their contributions back at some point in the future. In addition to retaining access to the funds transferred, these alternatives provide the family with the flexibility to determine the nature of the transfer (gift vs. loan) and a level of control over the timing of such a decision.

FOR MORE INFORMATION on SLATs funded by life insurance, contact the Life Case Design Team at 800.950.7372

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[1] Private Letter Ruling (PLR) 200426008, Issued 6/25/04. A PLR is directed only to the taxpayer who requested it. IRC Section 6110(k)(3) provides that it may not be used or cited as precedent.

The death benefit is generally income-tax-free when passed on to beneficiaries.

Policy loans and withdrawals will reduce the available cash value and death benefit and may cause the policy to lapse, or affect guarantees against lapse. Withdrawals in excess of premiums paid will be subject to ordinary income tax. Additional premium payments may be required to keep the policy in force. In the event of a lapse, outstanding policy loans in excess of unrecovered cost basis will be subject to ordinary income tax. If a policy is a modified endowment contract (MEC), policy loans and withdrawals will be taxable as ordinary income to the extent there are earnings in the policy. If any of these features are exercised prior to age 59½ on a MEC, a 10% federal additional tax may be imposed. Tax laws are subject to change and clients should consult a tax professional.

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