Love and Estate Planning Go Together Like a Horse and Carriage

Protect Your Wealth and Your Spouse with a Spousal Lifetime Access Trust

February, the month of love, is the perfect time to show your loved ones that you care about their financial futures.

While chocolates and flowers are nice gestures, a *spousal lifetime access trust* (SLAT) can make a more lasting gift, especially with the record-high estate tax exemption set to decrease drastically in 2026. In general terms, a SLAT is a trust that allows you to transfer your assets (for example, your accounts, money, and property) to your spouse while minimizing estate taxes and shielding those assets from probate and potential creditors.

Although the weather may still be cool outside, this time of year is when estate and tax planning heat up. So grab a cup of cocoa, snuggle up with your sweetheart, and dive into the world of SLATs.

How SLATs Work and Key Features

A SLAT is an irrevocable trust set up by one spouse (the *donor spouse*) primarily for the benefit of the other spouse (the *beneficiary spouse*). Other beneficiaries, such as children or grandchildren, are named remainder beneficiaries for when the beneficiary spouse passes away. Some key features of a SLAT are as follows:

- The beneficiary spouse can receive direct distributions from the trust; the donor spouse maintains indirect access to the assets through the beneficiary spouse.
- When the donor spouse funds the SLAT, the value of the assets transferred is treated as a taxable gift to the trust beneficiaries, even the beneficiary spouse. The gift is typically sheltered from federal gift taxes by the donor spouse's federal lifetime gift and estate tax exemption, which in 2025 is $13.99 million per individual.
- After the assets have been transferred to the trust, they are removed from the donor spouse's taxable estate and are generally not included in the surviving spouse's taxable estate.
- Any future appreciation of SLAT assets after transfer to the trust is not subject to estate taxes.
- A properly drafted SLAT generally protects the assets of the beneficiary spouse from creditors.
- Depending on how the trust is structured, the donor spouse is usually responsible for paying income taxes on the trust's assets, including dividends, interest, and capital gains.
- When the trust terminates (i.e., when the beneficiary spouse passes away), the remaining trust assets pass to the remainder beneficiaries, such as children, whom the donor spouse has named in the trust document. The assets can be distributed directly to the remainder beneficiaries or held in further trusts tailored to each beneficiary.
- Married couples can set up separate SLATs to benefit each other. However, it is important to ensure that the trusts have different terms to avoid the *reciprocal trust doctrine*, which could cause both trusts to be undone, resulting in the assets being included in the spouses' taxable estates.

Why Now Is the Time to Consider a SLAT

As you may know, the federal estate tax exemption is at a record high right now but could drastically decrease in 2026. If you have a large estate and that happens, your loved ones could face a hefty tax bill when inheriting your assets without proper planning.

SLATs grew in popularity amid the uncertainty of the 2012 fiscal cliff. The present uncertainty around tax legislation makes them an intriguing option to “lock in” today’s high federal estate and gift tax exemption.

This exemption, which allows a couple to shield a total of $27.98 million without paying any federal estate or gift tax, is the highest it has ever been. It marks an upward trend since the 2017 tax reforms under the first Trump administration. However, without further congressional action, these limits are scheduled to expire at the end of 2025.

Important Considerations and Potential Drawbacks of SLATs

SLATs offer tax efficiency, wealth preservation, and financial flexibility, but they are *irrevocable* (in other words, they cannot be changed once created) and require proper planning to avoid loss of access to assets as well as Internal Revenue Service (IRS) scrutiny. Here are some points to keep in mind about SLAT planning:

- If the beneficiary spouse predeceases the donor spouse, the donor spouse loses their (indirect) access to the SLAT assets. (The same can happen in the event of a divorce; without the right provisions, the donor spouse may still be on the hook for paying income taxes on trust assets that are solely benefiting their (now) ex-spouse.)
- If trust law is not carefully followed, unwanted tax consequences can occur. One such outcome is that, if the donor spouse retains certain powers over the SLAT, such as the unrestricted ability to replace the trustee, the trust’s assets might still be included in the donor spouse’s estate.
- It is not ideal for the beneficiary spouse to receive distributions from the SLAT unless they are truly needed because the distributions bring assets back into their estate and reduce the trust assets that can grow tax-free.
- When assets are placed in a SLAT, they retain the donor spouse’s original tax basis, so beneficiaries could end up owing capital gains tax particularly on low-basis assets when they are eventually sold or liquidated.
- If the beneficiary spouse is the SLAT’s trustee, distributions should be limited to the health, education, maintenance, and support (HEMS) standard. However, the level of access that the beneficiary spouse has will impact the level of asset protection. If more protection is needed, an independent trustee should be appointed and the distributions permitted only at the trustee’s discretion.

Love Is in the Air (and in Your Estate Plan) with a SLAT

Valentine’s Day provides a welcome reprieve from the seemingly interminable period between the holidays’ end and spring’s beginning. However, while the days are getting longer, the time to lock in a guaranteed high federal estate tax exemption in 2025 is growing shorter.

Given the approach of tax season and the ongoing questions around tax law, now is an opportune time to review your estate plan and ensure that your wealth stays in the family rather than goes to the IRS. SLATs are a timely and powerful (and, dare we say, romantic?) tool to transfer substantial wealth and lock in current tax advantages while maintaining financial security and flexibility.

Schedule a meeting to explore how you can show your love with a SLAT this Valentine’s Day.