Flexible Estate Liquidity Planning
Standby Trust, SLAT & Private Loans

Clients have worked hard to accumulate wealth. Planning that protects their wealth from estate taxes, while providing flexibility in case they need access to those assets during life, poses a unique planning opportunity. A Standby Trust, Spousal Lifetime Access Trust (SLAT) or Private Loan arrangement might meet their objectives for proper liquidity protection against estate taxes while providing a financial safety net for their personal finances.

Many affluent couples have spent the necessary time planning for the orderly disposition of assets at their death. A fundamental part of this planning typically includes purchasing a life insurance policy designed to provide the required liquidity when the estate tax payment is due. Proper estate planning considers how the policy should be owned to keep the death proceeds from estate inclusion. Minimize the chance that the insured owns, or is considered to own, the policy at death is a primary goal. This planning often utilizes an irrevocable trust.

Additionally, these same clients often seek financial protection. They are looking for ways of maintaining access to the life insurance policy cash values as a financial "safety net" while accomplishing the proper estate liquidity planning.

Fortunately, there are several planning techniques that can be used in minimizing death benefit estate inclusion risks while providing flexibility for cash value access - - just in case. These flexible estate planning techniques include: (1) Standby Trust; (2) SLAT; and (3) Private Demand Loans

Standby Trust

The Standby Trust typically involves a survivorship policy (although a single life policy also can be used) and can be a very beneficial wealth transfer strategy for married couples who want control over the policy during life (including access to policy cash value), are reluctant to make irrevocable gifts to the life insurance trust and desire some measure of estate tax wise planning.

How It Works

1. The spouse more likely to die first is purchaser/owner of a survivorship policy (or a single life policy insuring the other spouse)
2. The owner-spouse names his/her credit shelter trust (or other irrevocable trust) as the contingent owner of the policy
3. The owner-spouse pays premiums and controls the policy, including access to policy cash value
4. If the owner-spouse dies before the other spouse, then the policy is transferred to the listed contingent owner (credit shelter trust or other irrevocable trust)
5. The Trustee (cannot be the surviving spouse/insured) names the trust as beneficiary of the policy
6. The policy's fair market value (not face value) is included in the deceased spouse's estate (typically far less than policy death benefit amount)
7. The credit shelter trust continues paying any required premiums until the surviving spouse (insured) dies
8. The trust will receive the death benefit proceeds income and estate tax free at the surviving spouse's death
9. The Trustee then holds or distributes the policy death proceeds according to the trust terms

Advantages	Disadvantages
Owner has control over policy and access to policy cash value (financial "safety net")	Policy FMV is part of owner's taxable estate at his/her death
Liquidity will be received when estate taxes are required (assuming proper estate planning)	Policy death proceeds (face amount) could be part of the taxable estate if the spouses die out of order
Inexpensive, simple, flexible and easy to set up	Credit shelter trust may need to pay additional premiums

Spousal Lifetime Access Trust (SLAT)

The SLAT also utilizes a single life or survivorship policy and can be a very beneficial wealth transfer strategy for married couples who want to provide proper liquidity planning but retain some measure of access to policy cash value as a financial "safety net."

How It Works

1. The grantor-spouse establishes an irrevocable life insurance trust ("ILIT") designed to be owner/beneficiary of the life insurance policy
2. The grantor-spouse gifts separate property to the ILIT to make the necessary premium payments on the life insurance policy – the Grantor can also gift other separate property to the ILIT (especially income producing property)
3. The ILIT trustee purchases a life insurance policy on the Grantor or on the Grantor and his/her spouse
4. The trustee, according to the ILIT terms, has the ability to access trust assets (including the policy's cash values) for the benefit of the Grantor's spouse
5. The ILIT will receive the policy's income-tax-free proceeds at the death of the insured(s)
6. The ILIT funds can then be used for estate liquidity by lending money to the estate or by purchasing assets from the estate
7. The ILIT beneficiaries will receive distributions from the ILIT according to the trust document

Advantages	Disadvantages
The life insurance proceeds should not be included in the insured's estate because the policy is owned by the ILIT	Access to ILIT assets (including the life policy) is eliminated if the grantor's spouse dies or otherwise departs
If the clients need supplemental funds, the trustee can access the life insurance policy cash value and distribute those sums to the grantor's spouse	
Liquidity will be received when estate taxes are required (assuming proper estate planning)	

Private Demand Loans

The Private Demand Loan strategy also utilizes a single life or survivorship policy and can be a very beneficial wealth transfer and gifting reduction strategy for married couples who want indirect control over the policy during life (including indirect access to policy cash value), are reluctant to make irrevocable gifts to the life insurance trust and desire estate and gift tax wise planning.

How It Works

1. The Grantor establishes an irrevocable life insurance trust ("ILIT")
2. The Grantor loans (not gifts) funds to the ILIT sufficient to pay the required premiums
3. The Trustee purchases a policy on the Grantor or on the Grantor and his/her spouse
4. The loan is structured as a Demand loan
5. Annual interest needs to be properly accounted for each year that the loan obligation is outstanding
6. The annual gift to the ILIT may be significantly reduced depending upon required interest rates (announced annually by the IRS but typically lower than available commercial rates)
7. The Grantor can demand loan repayment (in whole or in part) at anytime
8. If estate tax concerns are eliminated or if the Grantor needs funds (financial "safety net") he/she can exercise the right to demand repayment
9. Trustee can access policy cash value to satisfy the repayment demand

Advantages	Disadvantages
The life insurance proceeds should not be included in the insured's estate because the policy is owned by the ILIT	The promissory note will be included in Grantor's estate unless repaid before death
Grantor can demand repayment in whole or in part if funds become necessary	Interest needs to be accurately accounted for annually – rate fluctuates annually (interest rate risk)
Annual gifting to the ILIT for premium support is reduced from annual premium to interest required on outstanding loan balance	Additional repayment strategies should be considered for terminating promissory note once policy access is no longer desired

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