

SPOUSAL LIFETIME ACCESS TRUST (SLAT)
(SPOUSE AND CHILDREN AS BENEFICIARIES)
(LIFE INSURANCE POLICY OR SPLIT DOLLAR INTEREST)

CHECKLIST

There is more than one way to set up an irrevocable Spousal Lifetime Access Trust with life insurance on the Grantor (or Settlor) spouse. Following is a step-by-step guide that helps the Attorney, Agent, CPA, and Grantor keep track of the many steps that must be completed in setting up and operating such a Trust. This checklist assumes that the decision to establish a life insurance trust has been made and that new or existing life insurance is being placed in the Trust.

Setting Up the Trust

- ___ Complete the life insurance application. (Agent)
- ___ Submit the application to the carrier without cash. (Agent)
- ___ Discuss planned Trust terms with proposed Trustee(s) and obtain permission to name that person as Trustee. (Grantor and Attorney)
- ___ While the application is being evaluated by insurance company underwriters, draft the Trust. (Attorney)
- ___ Execute the Trust. (Grantor(s) and Trustee(s), under direction of Attorney)
- ___ Provide signed originals of Trust agreement to Grantor(s), Trustee(s), Attorney, and Agent. (Attorney)
- ___ Obtain Federal Tax ID number for Trust, using IRS Form SS-4, the same form that is used for granting Federal Employer Identification Numbers. (Trustee)
- ___ Establish checking account in Trustee's name, that is, “[Name of Trustee], Trustee for the [Name] Family Trust.” Trustee uses cash, money order, or check provided by Grantor to establish account. If more than one trustee is involved, one should be designated as “agent” for the others. If a Federal Tax ID number has not yet been received, simply write “applied for” on the application. When writing a check, the Trustee should sign, “[Name], Trustee”. (Trustee)
- ___ Have Trustee sign new application for insurance on the Insured's life, and, if a prior application was submitted, substitute this new application for the one that was earlier submitted for underwriting purposes, ideally by someone other than the Insured.
- ___ Assign all policies to the Trust that were not originally applied for by the Trustee. (Trustee)

and Agent) The policy ownership designation should read:

“[Name of Trustee], Trustee for The [Name] Family Trust dated [date of Trust]”

- ___ If existing policies with outstanding loans are to be transferred to the Trust, make certain that the loan does not exceed the transferor's basis in the policy. Otherwise, a transfer for value may occur that may cause part of the proceeds to be subject to income tax at the death of the insured. (Policyowner and Agent)
- ___ Notify insurance company of Trustee's address and direct that all future premium notices, statements, and announcements be sent to that address. (Agent)
- ___ Complete forms designating the Trustee as the beneficiary of all policies. Send the new ownership assignment and beneficiary forms to the insurance company. The company should record the changes and send a copy to the Trustee to be attached to the policies. (Agent)
- ___ Request IRS Form 712 from the insurance company for each existing policy transferred. This form gives the gift tax value of each policy as of the date of the transfer. (Agent)
- ___ If the transfer of cash or policies exceeds the gift tax annual exclusion per donee (beneficiary with withdrawal right) or is a gift of a future interest (no or insufficient withdrawal power), a gift tax return signed by the Grantor will have to be filed. (Attorney or CPA and Grantor)

Operating the Trust While Insured Is Alive

- ___ Make sufficient gifts to the Trust to cover all premiums due that year. (Grantor)
- ___ Give written notice to Crummey power holders of their limited right to withdraw contributions to the Trust. Keep a copy of these notices. (Trustee)
- ___ If the Trust owns more than one policy, the Trustee should establish a system to determine the time premiums are due and the amounts. The Agent should request annual premiums and similar premium due dates for all policies. (Trustee and Agent)
- ___ Pay premiums from the Trust checking account. (Trustee)
- ___ Make sure that appropriate gift tax returns or generation-skipping tax elections, if any, are filed each year. (Trustee and Attorney or CPA)
- ___ Grantor's Spouse has access to Trust assets through loans and limited withdrawals during Spouse's lifetime.
- ___ Trust assets will be beyond the reach of Grantor's creditors and the creditors of any Trust beneficiary, provided the Trust beneficiaries do not have unrestricted access to Trust assets.

Operating the Trust After Insured Is Deceased

- ___ After insured dies, the Trustee files the claim with the insurance company. The company pays the death proceeds to the Trustee. (Trustee and Agent)

- ___ Now that the Trust is funded, the Trustee uses Trust monies to purchase assets from or lend money to the estate of the insured as authorized by the terms of the Trust document. This exchange of assets between the estate and the Trust provides the estate with the liquidity to pay debts, death taxes, and expenses. (Trustee)

- ___ Trust assets are to be held, managed, and invested for the benefit of beneficiaries as directed by the Trust document. (Trustee)

- ___ Income tax returns must be filed to report and pay tax on Trust income. This is done by filing a quarterly estimated tax return. (Trustee and CPA)

- ___ Income tax informational returns must be sent to beneficiaries to report income taxable to the beneficiaries. A copy of the information return must be sent to the IRS. (Trustee and CPA)

- ___ Trust is designed to benefit Grantor's spouse, and after spouse's death, children and other descendants.

Important Note: This material is for educational purposes only. In all cases, the approval of a client's legal and tax advisers must be secured regarding the implementation or modification of any planning technique as well as the applicability and consequences of new cases, rulings, or legislation upon existing or impending plans.