How to set up a spousal trust

An irrevocable trust can be a versatile legal arrangement used for tax-sheltering, protecting assets and other purposes. Irrevocable trusts are legal entities operated according to a trust agreement which is followed by the trustee. Irrevocable trusts cannot be modified, amended or terminated, except in very limited circumstances. Assets transferred into a irrevocable trust become the property held in trust for the beneficiaries. The person creating the trust loses control and possession of the asset. Step 1Plan the purpose and scope of the irrevocable trust. Because an irrevocable trust contains important legal rights, it must be thought out and carefully planned, with the understanding that any asset transferred into the trust is no longer yours to own or control. Step 2Choose a trustee. This might be a close friend or commercial entity, such as a trust company. Note that commercial entities charge fees for their services. Step 3Prepare an irrevocable trust agreement. This is a legal document that creates the trust. Templates are available, but they should only be used as a guide. The specific terms of the trust must be tailored to your individual needs. Step 4Obtain a taxpayer identification number for the trust from the Internal Revenue Service. As a separate legal entity, your trust must account for any income it earns through interest on investments or additions of assets. Step 5Check your state laws for specific requirements, such as the need to register the trust with the district court. Comply as necessary. Step 6Transfer the assets into the trust. Transferring assets might require additional legal documents such as deeds for real estate transfers or a written acknowledgement. Setting a solid meeting agenda ensures the success of the meeting. It helps you stay on track and accomplish important goals. Here are some steps you can take when setting a meeting agenda.Get Input From the TeamEspecially when the meeting is collaborative in nature rather than informative, getting input from the team can help you craft the agenda. For example, if you're putting together an agenda for a staff meeting, you can create a basic list of topics and send them out to your team. That way, if someone has an important item they'd like to bring up to discuss with the group, you can add it to the official agenda. Keep in mind that not all of your team members' input will be applicable, so stick to topics that affect everyone rather than items that can be discusses in smaller groups.Start With a TemplateDepending on the type of meeting you're putting together, the agenda may need to be detailed and professional. A good example of this would be a board meeting agenda, which is of utmost importance since top members of the organization will be part of the meeting.Rather than start the process from scratch, you can download a template online. This will help you ensure that you capture all of the important pieces that should go into an agenda. Templates are available through the Microsoft Office website, and they range from conference agendas, education agendas and more.Create the HeaderThe header of the agenda should include all of the pertinent details, like the date, time and place. If you are catering to people outside of your business during the meeting, you can also add your business name, address, phone number and website. For a visual impact, add the business logo.Outline the AgendaThe next step is to put together the body of the agenda. You might use bullet points with numbers or letters. Some people like to use tables to keep the information organized. If you want to emphasize the time table for the meeting, add an "Estimated Time" column to indicate how long you expect each agenda item to take. That way, you can make sure that everyone is on track.Send the AgendaOnce you have an agenda set, you can send it out to the participants. You might get more feedback on items that need to be changed or added. That gives you enough time to make any necessary changes before handing out the final copy on the day of the meeting. MORE FROM QUESTIONSANSWERED.NET A Spousal Lifetime Access Trust (SLAT) is one of many types of irrevocable trusts utilized for transferring wealth outside of an estate. SLATs provide an opportunity to take advantage of the current federal exclusion before it sunsets, or expires, on December 31, 2025. A properly structured SLAT provides the donor limited, indirect access to the trust assets. Most estate plans are designed primarily to protect and transfer assets—today and into the future. For some high net worth individuals, there are many kinds of trusts that may be utilized for transferring wealth to the next generation. Let's focus on one strategy: the Spousal Lifetime Access Trust (SLAT). As the name suggests, a SLAT is an irrevocable trust where one spouse makes a gift into a trust to benefit the other spouse (and potentially other family members) while removing the assets from their combined estates. One spouse may choose to fund a SLAT for the benefit of the other spouse or each spouse may choose to fund SLATs. For married couples, this may offer a way to take advantage of the federal lifetime gift and estate tax exclusion, which is currently $11.7 million per person in 2021, or $23.4 million per married couple,1 while retaining limited access to the assets, in the event such access is ever needed. Because a SLAT is funded with a gift made during the spouse's lifetime, any post-gift appreciation will take place in the trust and be excluded from the estate of both spouses for federal estate taxation purposes. Married couples may be interested in making large, permanent gifts to reduce the size of their estate. However, concerns can arise because many gifting strategies involve the loss of control of the assets during their lifetime and they may be unsure whether the assets will be needed in the future. A SLAT is an estate planning strategy that can perhaps address these conflicting objectives. This type of trust is created by one spouse (the "donor" spouse) gifting property to an irrevocable trust for the benefit of the other spouse ("non-donor" spouse). They may also elect to include other family members (typically children and grandchildren) as beneficiaries. Generally, the gift to the SLAT is not taxable because the donor spouse uses their federal gift and estate tax exclusion when transferring assets to the SLAT. Although the trust is irrevocable, the donor spouse may indirectly benefit from the property gifted to the trust, as long as the non-donor spouse is living and remains married to the donor. This indirect benefit is achieved because the non-donor spouse is the primary beneficiary of the trust and can request distributions from the trustee of the trust, if needed, during their lifetime. The trustee may approve this request and distribute income or principal to the non-donor spouse, typically to maintain their accustomed standard of living. While the donor spouse may indirectly benefit if the non-donor spouse receives a distribution from the trust, most advisors and attorneys recommend that the non-donor spouse not request distributions from the SLAT unless it is absolutely necessary to maintain the non-donor spouse's accustomed standard of living after exhausting other available resources. Distributions to the non-donor spouse will be reintroduced into their taxable estate until further expended. The appropriate amount to gift to a SLAT should be determined through careful budgeting and planning, with the ultimate goal of the SLAT being the appreciation of the assets outside the donor's estate for the benefit of their descendants. Upon the death of the non-donor spouse, the trust assets are transferred to the remaining trust beneficiaries (e.g., children or grandchildren), either outright or in further trust. The donor's transfer of assets to the SLAT is considered a taxable gift, but gift tax may not be owed if the donor utilizes their Federal gift and estate tax exclusion. If structured properly, the assets and any future appreciation is removed from the donor's taxable estate. Even though the non-donor's spouse is a beneficiary of the SLAT, the trust is excluded from the non-donor's taxable estate as well. SLATs are typically structured as grantor trusts for income tax purposes. This means the donor pays the income tax liability personally on the earnings, rather than the trust itself bearing the burden of income taxes.2 The grantor trust structure may also further reduce the taxable estate of the donor and allow the assets inside the trust to appreciate outside of the estate of the donor without being encumbered by income taxes. The current estate tax environment also provides a benefit for those considering SLATs. The current estate tax exclusion is $11.7 million (in 2021) per person, but is scheduled to "sunset" in 2026, if it is not changed sooner. By funding a SLAT prior to the exclusion being lowered, a donor will be able to utilize the historically high exclusion amount. Individuals who take advantage of the increased exclusion in effect until December 31, 2025 will not be adversely impacted after 2025 when the exclusion amount sunsets. In other words, there will be no clawback of previously gifted amounts on the individual's estate tax return.3 Like other irrevocable trusts, a SLAT can be an effective tool for multi-generational planning. A SLAT may be designed to benefit the next generation only or be structured as a dynasty trust, which is a long-term trust created to pass wealth from generation to generation without incurring transfer taxes, such as estate and gift taxes or generation skipping transfer tax.4 1. Risk of death or divorce of the non-donor spouse A disadvantage of a SLAT is that upon the non-donor spouse's death, the donor spouse no longer has indirect access to the trust assets. Instead, the trust may either terminate and be distributed to or continue for the benefit of the donor's children and other family members. In the event of divorce, a disadvantage of a SLAT is that the separated non-donor spouse will continue to benefit from the trust as a beneficiary while the donor spouse loses the indirect access in the same way that they would if the non-donor spouse passed away while they were still married. Divorce risk could be alleviated by terminating the non-donor spouse's beneficial interest in the trust in the event of divorce. 2. The reciprocal trust doctrine In order to fully utilize both exclusions, each spouse may create a SLAT for the benefit of the other. However, careful planning must be done to avoid the "reciprocal trust doctrine" that applies when the IRS interprets the 2 trusts as constructively similar or interrelated. If the trusts run afoul of the reciprocal trust doctrine, then the trusts may be "undone" and included in the donor spouses' respective taxable estates. Some differences may include creating and funding the trusts at different times (on different dates or in different years), including different classes of beneficiaries, providing different terms for distributions to beneficiaries, giving beneficiaries different rights of withdrawal, and granting beneficiaries the power to change beneficiaries under certain restrictions. Given the complexity and risks, consulting an attorney is highly recommended. 3. Ability for non-donor spouse to serve as trustee The non-donor spouse can serve as trustee under certain circumstances as long as the power to make distributions to them is limited. Spouses might consider whether an independent co-trustee should serve with a non-donor spouse. A beneficiary serving as trustee with the ability to make broad distributions to themselves beyond the ascertainable standard of "health, education, maintenance, or support" could trigger the inclusion of the trust assets in the taxable estate of the non-donor spouse, potentially unwinding the intent of the strategy. In addition, distribution rights that are too broad may erode the creditor protection features that a trust generally provides. 4. Tradeoffs with respect to basis step-up at death The transfer of assets to the SLAT is irrevocable and permanently removes the assets from the donor's taxable estate; therefore, the assets in the SLAT will not obtain a "step-up" in cost basis upon the donor's death. The trust could provide specific language that allows the donor spouse the power to substitute or "swap" assets of equal value with the trust. This could allow the donor to remove assets with low basis from the trust and substitute cash or assets with high basis. Swapping assets may provide beneficial income tax treatment when the assets are liquidated or sold by the trust beneficiaries. 5. Types of assets to fund a SLAT A SLAT can be funded with a variety of assets and may also own life insurance. Care must be taken to only transfer assets owned by the donor spouse (not assets owned jointly by both spouses) so that the gift is not treated as made by both spouses, which would negate the benefits of the SLAT. In community property states, this may require additional documentation and transfers. 6. Reducing state estate tax exposure Funding a SLAT may be a viable strategy for individuals who reside in states with a state estate tax. These individuals may benefit by removing assets from their taxable estate (at the state level), even if they are not expected to be subject to federal estate tax. 7. Tax return filing requirements Because SLATs are typically structured as grantor trusts, they do not require the filing of a trust tax return each year while the donor spouse is living. However, if the SLAT is not structured as a grantor trust, a separate income tax return will be required. The transfer of property to the SLAT will cause the need to report the transfer on a gift tax return in the year of the gift. Tricia and Sam have $30 million in total assets. In 2021, Sam transfers $11.7 million to a SLAT for the benefit of Tricia and their children, fully utilizing his exclusion amount. Sam reports the gift on a gift tax return. They believe that their remaining combined assets of $18.3 million will be sufficient to sustain their retirement needs and other estate planning goals. Upon Tricia's and Sam's deaths, the SLAT and appreciation on the assets from the date they were gifted to the SLAT will be excluded from their taxable estates. In 2026, Tricia's remaining exclusion amount sunsets to $5 million, inflation adjusted. Sam no longer has an available estate tax exclusion; however, he effectively transferred $11.7 million out of his estate before the sunset. If Sam predeceases Tricia, Tricia continues to utilize her other remaining assets and any additional assets inherited from Sam to support her lifestyle. She continues to be a beneficiary of the SLAT until her death, though as anticipated she does not need to request distributions from the SLAT and these assets continue to grow outside of her estate. Upon Tricia's death, she will have her own exclusion to offset her remaining taxable estate. If Tricia predeceases Sam, the SLAT would distribute assets to their children in further trust and Sam would no longer have indirect access to the SLAT. However, they reviewed this scenario with a financial advisor before funding the SLAT and they anticipate that Sam will remain financially secure with his remaining assets and any other assets inherited from Tricia. While tax law changes are uncertain, a SLAT may be an effective wealth transfer strategy to consider while the estate tax exclusion remains at historically high levels and if the donor has sufficient assets remaining outside of the SLAT to support their lifestyle. It is vitally important to work with an experienced estate planning attorney and tax advisor that specialize in this area to see if this strategy makes sense for one's unique situation.

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