

News & Insights

Samantha Davis - Journal Record Gavel to Gavel - Building a SLAT in Your Estate Plan

November 12, 2020

By: Samantha Weyrauch Davis

The Journal Record

https://journalrecord.com/2020/11/11/gavel-to-gavel-building-a-slat-in-your-estate-plan/

Spousal lifetime access trust ("SLAT") planning can provide powerful estate and tax planning opportunities - and perhaps one of the most popular techniques for married couples for the foreseeable future given the possible changes in the law post-election and to help pay for massive government bailouts due to the pandemic. The government raising revenue will be critical and ways to do so can include raising taxes, reducing federal estate tax exemption, increasing estate tax and other changes.

SLATs are irrevocable trusts which can also provide asset protection benefits while removing all of the growth in assets from your taxable estate. At its most basic, a SLAT is a gift from one spouse to an irrevocable trust for the benefit of the other spouse (and typically lineal descendants, if needed). A SLAT allows the donor spouse to transfer up to the donor spouse's available federal estate tax exemption without a gift tax. When the donor spouse dies, the value of the assets (and their appreciation) in the SLAT are not subjected to federal estate tax. Further, transferring assets to a SLAT may also provide a measure of protection from creditor claims on both the donor spouse and the beneficiary spouse.

A SLAT can be created by one spouse or can be created by both spouses. The creation of SLATs by one spouse for the other may raise the issue of what is called the "reciprocal trust doctrine." Under this doctrine, if the first spouse creates a SLAT for the second spouse and the second spouse creates a SLAT that is nearly identical for the first spouse, the the two trusts will be "un-crossed" and treated for tax purposes as if each spouse had created a trust for himself or herself. The logic behind this treatment is that the spouses will be in the same economic position as they would have been if they created trusts naming themselves as life beneficiaries and the plan will fail. The SLATs should have differing terms. It is also important to make sure adequate outside resources exist as SLATs are intended as a "rainy day fund" not as a primary support for a spouse or another beneficiary.

You may wish to consider SLATs as part of an overall estate plan that accomplishes your family and tax goals currently - and in the near future.

Attorneys

- Samantha Weyrauch Davis

Practices

- Estate Planning & Administration