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SPOUSAL LIFETIME ACCESS TRUST (SLAT)

A Perfect Opportunity

The Tax Cuts and Jobs Act of 2017 (the "Act") significantly increased the federal estate and gift tax exemptions, which stand at $12,920,000 per individual for 2023 (subject, however, to any retroactive tax law changes made by the Biden administration and congress). However, the Act is set to expire on December 31, 2025, leaving much doubt as to the size of future estate and gift tax exemptions. Taking advantage of the current favorable tax environment may be critically important for individuals and families with larger estates. **The IRS has recently issued "anti-clawback" regulations regarding the Act, confirming that individuals will be able to use current gift tax exemption amounts and not be penalized if the exemption is reduced in the future**. The implementation of a Spousal Lifetime Access Trust ("SLAT") is an effective way to utilize current tax exemption amounts before they disappear.

SLAT Overview

- ☐ Grantor Spouse creates an irrevocable trust with the other spouse as beneficiary and trustee.
- ☐ Grantor Spouse gifts assets to the SLAT and files a gift tax return, using some (or all) of the lifetime gift tax exemption.
- ☐ Trustee can make distributions from the SLAT to Beneficiary Spouse during their lifetime for health, maintenance and support.
- ☐ SLAT contains directions on how assets will be distributed on death of Beneficiary Spouse, i.e., to children or trusts for their benefit.

SLAT Advantages

- ☐ **Use of Current Lifetime Gift Tax Exemption**. As mentioned, the "anti-clawback" has created a "use it or lose it" opportunity. The SLAT permits individuals to use their significant current lifetime gift tax exemptions now even though they will be reduced in the future.
- ☐ **Tax Reduction**. Once assets are gifted to the SLAT, the gifted assets can grow estate tax free and are not included in either spouse's taxable estate at death. For example, if an individual gifts $5M to a SLAT and the gifted assets grow in size to $20M, the entire amount escapes the estate tax. The Rule of 72 proves principal doubles in value every 10 years assuming a 7% return on investment. If the same individual otherwise retained the same $5M and the assets grew to $20M at death, the current estate tax exemption may only cover the first $12,920,000. The remaining amount could be subject to federal estate tax (currently 40% or $2,832,000 in additional tax).
- ☐ **Wealth Protection**. SLAT assets are also protected under Florida law from both spouses' creditors. SLATs create significant wealth protection from lawsuits against the grantor, trustee and beneficiaries, potentially protecting the wealth in the event children or grandchildren divorce or remarry.
- ☐ **Multiple Beneficiaries**. Though its name may suggest otherwise, there may be multiple beneficiaries in addition to a grantor's spouse. This same technique is available for children, grandchildren or other beneficiaries. The utilization of a SLAT coupled with a generation-skipping plan design could literally save families *millions* of dollars in estate taxes over several generations. See Rule of 72 noted above.