Survivorship standby trusts

Control and flexibility

PLANNING TIP:

Survivorship standby trusts are designed to permit a couple to retain control of a life insurance policy generally until the death of an owner or spouse when the policy is gifted to an irrevocable trust. Individuals should work together with their financial professional, attorney and their tax professional to help understand any state law requirements as well as the tax implications of the planning strategy.

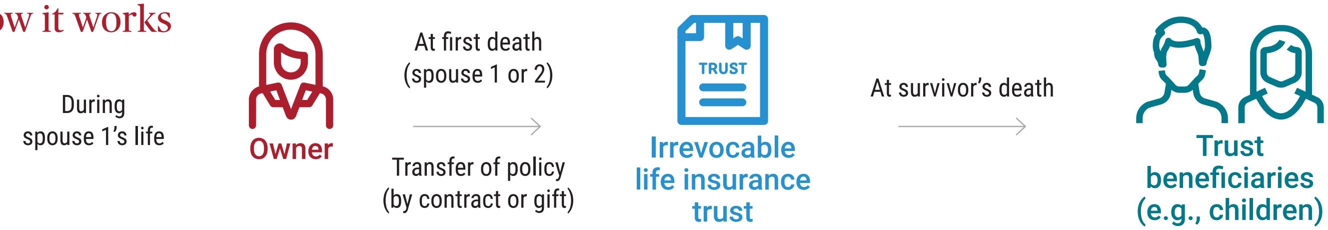
Summary

This technique allows both access to policy account values during lifetime and exclusion of death proceeds from the estate. The spouse with the shorter life expectancy (spouse 1) applies for a survivorship policy on himself or herself and spouse 2. Spouse 1 is the initial owner of the policy, with an irrevocable life insurance trust (ILIT) named as the contingent owner — spouse 1 pays all premiums from separate funds (be careful in community property states) and has access to policy account values.

If spouse 1 dies first, the policy passes to the ILIT and the proceeds are outside spouse 2's estate at death, since spouse 2 never had any incidents of ownership in the contract. The policy's account value at spouse 1's death is included in his or her estate.

If spouse 2 dies first, spouse 1 immediately transfers the policy to the ILIT. This is a taxable gift, and the policy would be included in spouse 1's estate should he or she die within three years of the transfer to the ILIT. However, if spouse 1 survives the three years after the transfer, the policy proceeds are outside the estate.

How it works



Tax considerations

- Premium payments made by spouse 1 are not gifts, because he or she owns the policy.
- Spouse 1 has access to the policy values during his or her lifetime.
- If spouse 1 dies first, the policy value is included in the estate.
- If spouse 2 dies first, the policy is transferred to the trust as a taxable gift and the three-year rule applies.

Not a deposit
Not FDIC-insured
Not insured by any federal government agency
Not guaranteed by any bank or savings association
May go down in value

How to implement

Before executing this estate planning strategy, consult a qualified attorney to draft your trust, and discuss which assets are appropriate to be included in the trust. Your attorney will be familiar with all the legal requirements for a dynasty trust and how to structure the transfer of assets to the trust. Work together with your financial professional, attorney and your tax professional to help understand any state law requirements as well as the tax implications of the planning strategy.

- Spouse 1 applies for the policy using separate funds.
- Spouse 1 is the owner of the policy; the irrevocable life insurance trust is the contingent owner.
- The irrevocable life insurance trust may be drafted either during spouse 1's lifetime or at the death of the first spouse. The trust cannot be named as the contingent owner until it is drafted and signed.

Ask your financial professional how you can protect more wealth in today's tax environment.

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Important information

One should not rely on this presentation to justify such a transaction. Actual cases are different from the hypothetical discussion presented herein. Lincoln does not provide any guarantees that such a transaction will ultimately work. Taxpayers should discuss their own situations with their legal or tax professionals.

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