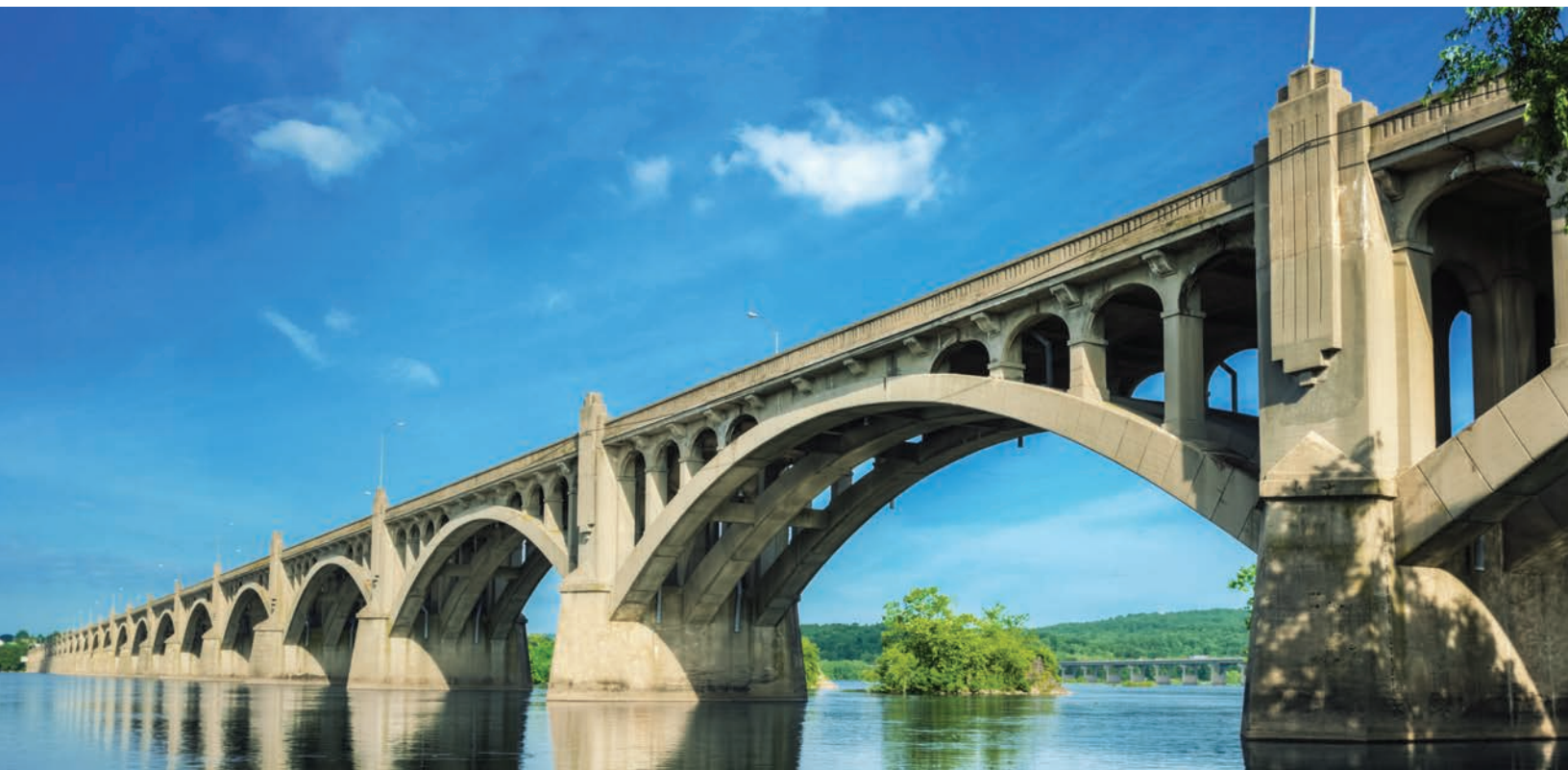


**BENEFITS OF TRUST PLANNING**

# Structuring your trust plan in a new tax paradigm



Not a bank or credit union deposit, obligation or guarantee	May lose value
Not FDIC or NCUA/NCUSIF insured	Not insured by any federal government agency

# Preserving your legacy for future generations

With the passage of the Tax Cuts and Jobs Act of 2017 (TCJA), much attention was focused on the impact of estate planning. Whether the possibility of estate taxes remains or not, legacy planning is still essential.

If you're considering a strategy to pass on your legacy to future generations, you may want to enhance your strategy with the benefits of trust planning using life insurance.



# Do I still need an estate plan?

The Tax Cuts and Jobs Act of 2017 (TCJA) brought significant changes to the tax law, including the area of estate and gift taxes. In 2020, the exclusions for federal estate and gift tax exemptions (indexed for inflation) increased to \$11,580,000 for individuals and \$23,160,000 for couples. While many estates will fall below the federal exclusion amount, there are still many important reasons to consider using a trust funded with life insurance for legacy planning. Consider the following:

## State estate tax

As of January 1, 2020, 17 states and the District of Columbia collect either a state estate tax or inheritance tax—or both, in the case of Maryland. State estate tax exclusions range from \$1,000,000 to \$5,850,000, and tax rates ranging from 8% to 20%.<sup>1</sup>

## Illiquid assets

The largest portion of one's estate typically comes in the form of illiquid assets. Illiquid assets can include assets such as the family home, vacation property, various investment vehicles or jewelry. If cash is needed to settle the estate, your beneficiaries may be forced to sell these assets to raise cash. Selling assets may present problems, particularly if the timing coincides with depressed real estate values or other slumping market conditions.

## Policy ownership

Life insurance proceeds are included in your taxable estate if you “own” the policy. If you can make changes in your policy—such as changing the beneficiary—you will be viewed as the owner. However, if you transfer the policy to an irrevocable trust, after three years the life insurance amount will be outside your estate, and the proceeds will be exempt from estate taxes. It is important to note that any premiums paid by you (as a grantor) to the irrevocable trust may be brought back into your estate during the three-year period if they exceed the annual gift tax exclusion amount of \$15,000 for 2020.

## Family-owned business

Trust planning using life insurance can assist in the disposition of a family-owned business, particularly as a solution for inheritance equalization if one or more of the trust beneficiaries is not active in the business.

## Why use trusts?

Trusts are used not only for the reduction of taxes. They remain essential planning tools for individuals and couples looking to efficiently transfer assets. Here are a few reasons why you may still want to move your hard-earned legacy assets into a properly designed trust.<sup>2</sup>

### 1 Better control

Whether you are concerned about paying estate tax or not, you may not want to just hand over your legacy to beneficiaries and hope for the best—especially when beneficiaries are young or otherwise not prepared to manage their own affairs. When assets are moved into a trust, you create a “playbook” that dictates how the assets are managed and ensures that funds are distributed according to your wishes.

### 2 Asset protection

Assets placed in a trust, if properly structured, are separated from your estate, which protect them from creditors and preserves them for your beneficiaries. Trusts also can ensure that assets will go to your intended recipients. For example, if a surviving spouse remarries, a properly structured trust can ensure that your original beneficiaries receive what you intended, rather than the surviving spouse designating step-children or other beneficiaries.

### 3 Income tax planning

Trusts allow for flexible strategies to effectively manage income taxation. Care should be taken to reduce or defer taxable income, as trusts are subject to high income taxes at a low income threshold. Income shifting can be accomplished by establishing a type of grantor trust. As the grantor, you are responsible for the income taxes due, using your marginal tax bracket to relieve the trust of its obligation to spend any earnings. In addition, trusts can be drafted to “spray” or spread distributions out among beneficiaries in lower tax brackets.

### 4 Permanency

As with any tax law, Congress could in the future change or eliminate portability, the current applicable exclusion amount or the lifetime gift amount. “Permanency” may not be long-term, but trusts should remain a stable and efficient alternative for wealth transfer.

### 5 Portability

Current estate-tax rules allow for a surviving spouse to retain any unused exclusion amounts from a deceased spouse. The Deceased Spousal Unused Exclusion Amount (DSUEA) is now permanent, but relying on portability and simply transferring all assets to a surviving spouse may make the planning process more complicated.

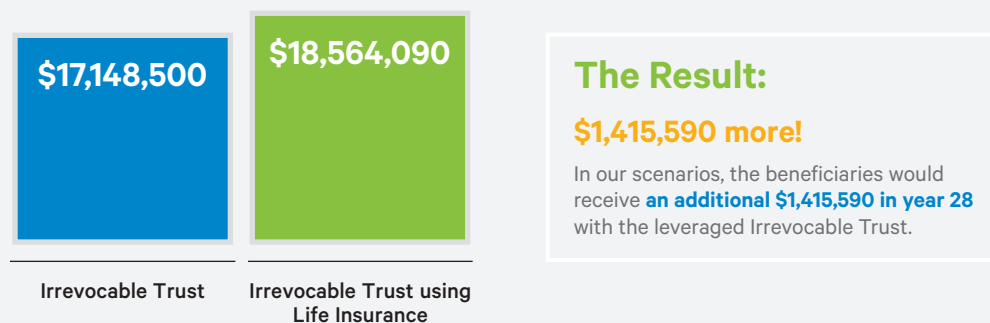
The use of trusts may be more beneficial, as:

- The DSUEA is not indexed each year, and there is no portability of the generation-skipping transfer tax (GSTT) to benefit multiple generations.
- The unused exclusion from a pre-deceased spouse will be lost if the surviving spouse remarries and survives his or her next spouse.
- Regular growth in assets is not excluded from the gross estate of the surviving spouse, unlike growth in a trust.

## The value of life insurance in trust planning

Life insurance can be a highly effective vehicle for asset protection and increasing the wealth that passes to your beneficiaries—in some cases, over several generations. But with a life insurance policy properly structured in a trust held outside of the estate, your assets can work even harder for your beneficiaries. Life insurance provides tax-deferred accumulation, and the death benefit is paid to the trust free of federal income and estate tax. By “leveraging your assets” you’ll have more control and a more efficient way to pass on your legacy.<sup>3</sup>

### The Power of Using Life Insurance in Trusts



This hypothetical scenario assumes the grantor spouse gifts \$5,000,000 to the trust with an annual gross return of 5% less annual account management fees of .50% for a net rate of 4.50%. This also assumes that the trust purchases a Symetra Protector Indexed Universal Life Insurance (IUL) policy with a face amount of \$5,000,000 with annual premium of \$126,392 for 10 years to guarantee the policy to age 88 (based on a 60-year-old female in the Preferred Non-Nicotine rate class). Symetra Protector IUL assumes a 5% initial crediting rate, JP Morgan ETF Efficiente 5 Index - 1 year point-to-point Core Index Strategy, current policy charges. Policy remains in-force to age 119. The net to beneficiaries of \$18,564,090 at the end of year 28 includes the remaining trust assets of \$13,564,090 and the life insurance death benefit of \$5,000,000, which is not subject to federal income or estate taxes.

## Strategies

There are different trust options to help you achieve your protection and transfer goals. In an Irrevocable Life Insurance Trust (ILIT), you (or you and your spouse) gift funds to the trust using your annual exclusions or the gift tax exemption, and your designated trustee uses some or all of the funds to purchase life insurance owned by the trust on your life or the lives of you and your spouse.<sup>4</sup> Upon death, the death benefit is received by the trust free of federal estate and income taxes, and the trustee distributes the funds based on the trust specifications.

Intentionally Defective Grantor Trusts (IDGTs), you—as the grantor(s)—retain certain power over the trust assets, causing you to pay income taxes due on any earned income held in the trust, while effectively transferring assets out of your estate. This way, no values come out of the trust and more wealth passes to your beneficiaries.

## Importance of trust-owned life insurance reviews

Trusts should be reviewed annually to ensure proper administration and to protect your legacy from unforeseen changes. A trustee must act in a fiduciary capacity to achieve the objectives stated in your trust, and must understand asset management as it pertains to risk tolerance, including life insurance policies.

The Uniform Prudent Investors Act (UPIA), created by the National Conference of Commissioners on Uniform State Laws, holds trustees to a high standard of conduct, and provides a means to enforce those standards. Most states have adopted the UPIA standards, which provide the fiduciary obligations of trustees, including the duty to:

- Understand the objectives and terms of the trust.
- Select a risk/return strategy that is appropriate for the trust.
- Diversify the asset holdings.
- Avoid or reduce unreasonable or inappropriate expenses.
- Consider and disclose tax consequences.
- Make changes as needed.

In addition, the UPIA encourages trustees to create a formal trust investment policy statement. This written statement is not a legal or binding agreement, it simply describes the investment parameters and review process of the trust, and how the trust's assets will be managed in order to meet its objectives. Designed to continuously improve the management of the trust's assets for the benefit of the beneficiaries, the investment policy statement should be flexible and changed when appropriate.

### Trust reviews

Trusts should be reviewed by your trustees and legal professionals for operational, taxation and funding concerns, as they pertain to the trust's objectives and terms. Reviews should consider:

- If Crummey powers are being used to qualify for the annual gift tax exclusion, ensure the requirements are being met by the trustee.
- Changes in the grantor's or beneficiaries economic or life circumstances.
- Appropriate gift tax returns or generation-skipping transfer tax elections, if any, are filed each year.
- Confirming any required actions by the trustee and the frequency for each action.
- Accounting for contributions and/or gifts to the trust and distributions to beneficiaries.
- Provisions for successor trustee(s).

### Policy reviews

Life insurance policies are complex financial instruments. Reviews should include:

- Policy administration to ensure policy premiums are timely and appropriate, accounting of policy values is accurate, and ownership and beneficiary information is correct.
- Insurance company's ratings to ensure financial integrity remains positive.
- Changes to federal and/or state tax law that may negatively impact the policy.
- Policy performance to determine if the policy is performing as expected, and consider opportunities for:
  - Improved underwriting options
  - Appropriate product risk
  - Products with more cost efficient pricing and guarantees
  - Innovative riders with improved options
  - Change in need from a second-to-die policy to a single life policy

## Checklist for trust-owned life insurance

Use this checklist with your financial professional to review each life insurance policy owned by the trust. This list is not comprehensive, but it will help ensure the trust's objectives are being met, and that trustees and legal professionals are meeting their fiduciary duties to monitor and review existing policies.

### Policy reviews

- Obtain current, in-force illustrations for each policy owned by the trust.
- Review and compare in-force illustrations to the sales illustrations issued upon the purchase of the policy.
- Compare previous years' in-force illustrations to determine performance trends.
- Is the policy's death benefit guaranteed for life?
- If not guaranteed for life, how long is the coverage guaranteed?
- Is the current guarantee period consistent with the objectives of the trust?
- Are the policy's provisions and riders still consistent with the objectives of the trust?
- Does the insurance company's financial integrity remain positive?

### Product review

- Is the current product appropriate for the objectives of the trust?
- Would other life insurance policies or types of policies better meet the objectives of the trust?
- If the policies are dependent on a non-guaranteed death benefit, should the trust consider a life insurance product with a guaranteed death benefit?
- If the current policies have a guaranteed death benefit, would other life insurance policies provide the same guaranteed death benefit at a lower cost?
- Would other life insurance policies provide more guaranteed death benefit at the current cost?
- Do other life insurance policies have improved or innovative riders that may be more aligned with the trust objectives?

### Next steps

- Review and compare the competitiveness of the current life insurance policies with potential new policies.
- Complete and submit an application for one or more new policies from a selected insurer or insurers.
- Exchange, add or subtract policies owned by the trust as needed.
- Document the results and actions of the review.
- Establish a reasonable time frame for future life insurance policy reviews.

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## Contact your insurance professional to learn more.

Symetra Protector IUL is a flexible premium adjustable life insurance policy with index-linked interest options issued by Symetra Life Insurance Company located at 777 108th Avenue NE, Suite 1200, Bellevue, WA 98004-5135. This policy is not available in all U.S. states or any U.S. territory; where available, it is usually issued under policy form number ICC18\_LC2.

Symetra Protector IUL has fixed and indexed accounts. Interest credited to the indexed accounts is affected by the value of outside indexes. Values based on the performance of any index are not guaranteed. The policy does not directly participate in any outside investment or index.

Guarantees and benefits are subject to the claims-paying ability of the issuing insurance company.

Life insurance policies contain exclusions, limitations, reductions of benefits and terms for keeping them in-force. Please refer to the policy for complete details.

Except for the JPMorgan ETF Efficiente 5<sup>®</sup> Index, an index does not include the payment or reinvestment of dividends in the calculation of its performance. It is not possible to invest in an index.

The JPMorgan ETF Efficiente<sup>®</sup> 5 Index ("Index") has been licensed to Symetra Life Insurance Company (the "Licensee") for the Licensee's benefit. Neither the Licensee nor Symetra Protector IUL (individually, the "Product") is sponsored, operated, endorsed, recommended, sold or promoted by J.P. Morgan Securities LLC ("JPMS") or any of its affiliates (together and individually, "JPMorgan"). JPMorgan makes no representation and gives no warranty, express or implied, to policyowners in or those otherwise taking exposure to the Product. Such persons should seek appropriate professional advice before making any investment. The Index has been designed and is compiled, calculated, maintained and sponsored by JPMS without regard to the Licensee, the Product or any policyowner. JPMorgan is under no obligation to continue compiling, calculating, maintaining or sponsoring the Index. JPMorgan may independently issue or sponsor other indices or products that are similar to and may compete with the Index and the Product. JPMorgan may also transact in assets referenced in the Index (or in financial instruments such as derivatives that reference those assets). These activities could have a positive or negative effect on the value of the Index and the Product.

This is not a complete description of your Symetra Protector IUL policy. For a more complete description, please refer to the policy.

This material is not intended to provide investment, tax or legal advice. You should consult with your attorney or tax professional for more information.

<sup>1</sup> Source: The American College of Trust and Estate Counsel (ACTEC), State Death Tax Chart, revised January 27, 2020, accessed July 2020, <https://www.actec.org/resources/state-death-tax-chart/>. For current information and an assessment of your unique situation, please consult your tax professional.

<sup>2</sup> Trusts should be drafted by an attorney familiar with such matters. Failure to do so could result in adverse tax treatment of trust proceeds.

<sup>3</sup> The trust should have a provision to purchase life insurance as a trust investment and the trustee should have authority to purchase life insurance on the grantor(s).

<sup>4</sup> Individuals can gift up to \$15,000 per year, per recipient, free of federal income and estate taxes in 2020. The applicable federal estate tax exclusion amount (indexed for inflation) is \$11.58 million per individual in 2020. The estate tax is unified with the federal gift tax and generation-skipping transfer such that in 2020 the lifetime gift tax exclusion and generation-skipping transfer tax is \$11.58 million (indexed for inflation) and the maximum tax rate for both of these taxes will be 40%. The estate and gift tax exemption are set to expire on 12/31/2025 and revert back to \$5.6 million per person increased by inflation. (Source: "Frequently Asked Questions on Gift Taxes," IRS, accessed January 2020: <https://www.irs.gov/businesses/small-businesses-self-employed/frequently-asked-questions-on-gift-taxes>). For current information and an assessment of your unique situation, please consult your tax professional.



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