

Estate Planning

Access Trust

An Access Trust is a tool that can provide estate-tax-free death benefits at your death while providing your family with income-tax-free access to cash values¹ while you are living—all from the same life insurance policy.

What is it?

The Access Trust is a variation of an Irrevocable Life Insurance Trust (ILIT) which permits married couples to own life insurance in a way that the all important death benefit proceeds are outside the estate for estate tax purposes, while still allowing access to the life insurance living benefits (cash values) during the couple's lifetime.

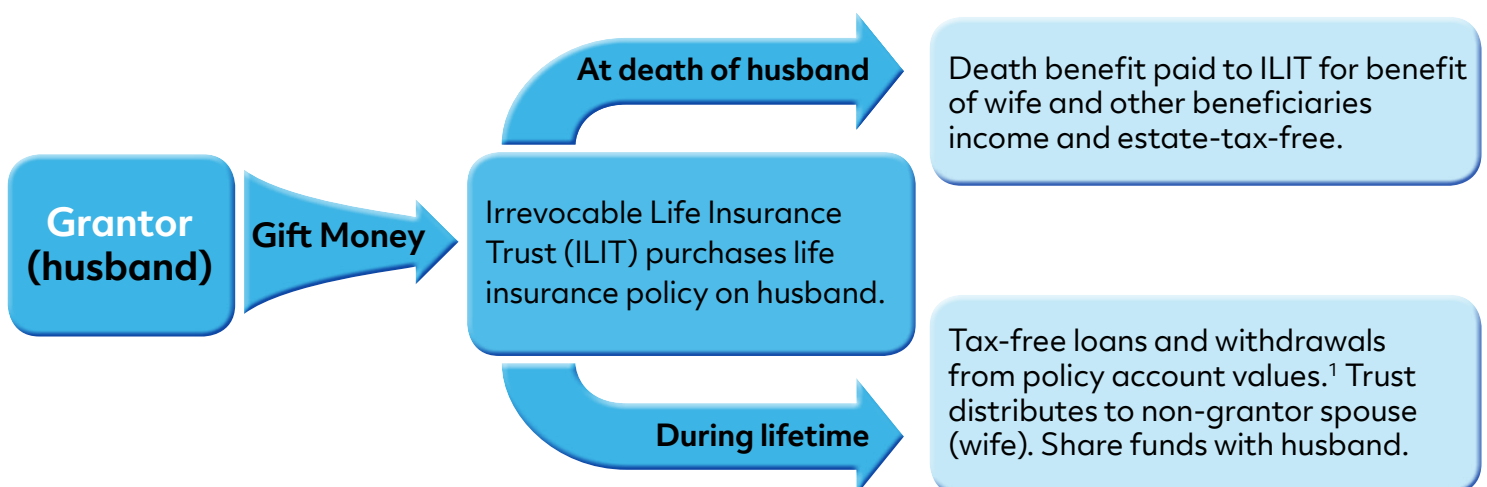
In a properly drafted Access Trust, the trustee can be authorized to make distributions of both income and principal. A properly structured life insurance policy allows cash values to be distributed from the policy income-tax-free through loans and withdrawals¹ during the insured's lifetime.

How does it work?

As the grantor, you make contributions, or gifts, to the Access Trust. The trustee, who could be a son or daughter, can be authorized to make distributions for the benefit of your spouse and other beneficiaries.

The Access Trust can be funded with a life insurance policy on you, your spouse or on both of you. During your lifetime, the trustee can receive tax-advantaged distributions from the policy, and can then distribute these funds to the non-grantor spouse, or other trust beneficiaries according to the terms of the trust. Once the money is received, your spouse can share it with you. Upon the death of the insured(s) an income- and estate-tax-free death benefit is paid to the Access Trust for the benefit of your surviving spouse and the other named beneficiaries.

Access Trust Insuring Either Spouse



How much can be gifted to the Access Trust?

The annual gift tax exclusion allows for annual gifts of \$15,000 per beneficiary (excluding spouse) to be made to the Access Trust. For married couples who consent to gift splitting, the annual exclusion can be doubled to \$30,000 per beneficiary. These amounts are for 2018 and are indexed periodically. For example, if there were two trust beneficiaries, cash contributions to the trust could range from \$30,000 to \$60,000 and be sheltered from gift taxes. Plus, each spouse could use his/her lifetime gift tax exemption and contribute up to an additional \$11,180,000 each to the trust during their lifetimes.²

Benefits:

Death benefit:

- Helps maximize the transfer of wealth to the heirs.
- Is not included in the estate of either spouse.
- Can be paid income- and estate-tax-free to the trust.

Life insurance cash values (living benefits):

- Accumulate on a tax deferred basis.
- Can be accessed income-tax-free.¹
- Can supplement retirement income or other needs.

Considerations:

- The gifts to the trust are irrevocable.
- Customers need to be married to split gifts.
- The trustee has access to the cash values through loans and withdrawals, and has discretion to make distributions to the non-grantor spouse and/or other trust beneficiaries.
- The grantor spouse has no direct access to the cash values.

¹ Partial withdrawals and surrenders from life policies are generally taxed as ordinary income to the extent the withdrawal exceeds the policyowner's investment in the contract, which is also called the "basis". In some situations, partial withdrawals during the first fifteen years may result in taxable income prior to recovery of the investment in the contract. Loans are generally not taxable if taken from a life insurance policy that is not a modified endowment contract. However, when cash values are used to repay a loan, the transaction is treated like a withdrawal and taxed accordingly. Unpaid interest on loans is added to the loan principal, thereby increasing the total debt on the policy. The combination of an increasing loan balance, and deductions for contract charges and fees, may cause the policy to lapse, triggering ordinary income tax on the outstanding loan balance to the extent it exceeds the cost basis in the policy. If a policy is a modified endowment contract, loans, withdrawals and surrenders are treated as taxable distributions to the extent of the policy gain and may also be subject to an additional 10% penalty tax if made prior to the policyowner's age 59½. Note that there is no exception from the penalty tax when the policyowner is not an individual person.

Loans, if not repaid, reduce the policy's death benefit and cash surrender value.

² The 2017 Tax Cuts & Jobs Act (TCJA) temporarily increased the federal estate tax exclusion to \$11,180,000 per individual (\$22,360,000 for a married couple). Effective January 1, 2026, the exclusion amount reverts to \$5 million (index for inflation) according to the American Taxpayer Relief Act (2012 Tax Act) which among other things made permanent the \$5,000,000 (indexed for inflation) federal estate and gift tax exclusion and raised the top estate tax rate to 40%.

An Access Trust, as with any irrevocable Life Insurance Trust should be drafted by a qualified attorney in your state. Please consult with your tax advisor.

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ALR1082POD-2 6/18



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