

Understanding the Structure and Taxation of A/B Marital Trusts

Example Assumes the Current Estate Tax Exemption Sunsets in 2025

2025

Spouse 1 and 2 have \$20,000,000 in community property

Spouse 2 has \$1,000,000 in separate property

Spouse 1 and Spouse 2 establish a revocable living trust with a bypass trust structure: "A/B Planning", in 2024.

Upon first death division into 2 sub-trusts

2026

Spouse 1 dies
Applicable exclusion amount is \$ 7 million.

No estate tax is due at the death of spouse 1 due to a combination of bypass trust and unlimited marital deduction

Survivor's Trust
\$10 M + \$1 M
+ \$3 M from Spouse 1

Bypass Trust
\$7 M (limited to exclusion amount)

2036

Spouse 2 dies. The assets in the Bypass Trust have grown to \$12 M. This growth occurred on assets outside the surviving settlor's estate, therefore the beneficiaries of that trust have no estate tax to pay. The Survivor's Trust is subject to estate tax if it surpasses the then prevailing estate tax exemption.

The surviving settlor's one-half of the community property and all their separate property is allocated to the survivor's trust;

The deceased settlor's one-half of the community property and all their separate property, up to the deceased settlor's applicable exclusion amount, is allocated to the bypass trust