

Trusts & Estates Features Insight for Estate Planning Professionals in 2024 From Clary Redd

In the News

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Stinson LLP Partner [Clary Redd](#) authored a column for *Trusts & Estates*, "Emerging Topics and Trends to Follow," that explores several tax and non-tax estate and trust planning strategies and approaches gaining momentum and likely to start reshaping the estate planning landscape.

Use it or Lose it

"As 2026 inches ever closer, no serious commentator on federal estate and gift tax matter is predicting that, come Jan. 1, 2026, the basic exclusion amount as established by the 2017 Tax Act will be preserved," Redd writes. He notes that many clients are not waiting until 2025 to take action and are "recognizing the benefit of removing post-gift investment return from their eventual taxable estates."

Spousal Lifetime Access Trusts (SLAT)

"Implementing a SLAT has recently become the preferred approach for many who want to 'have their cake and eat it too,'" Redd writes. He also details why the implementation of SLATs is expected to increase in 2024. "A properly designed SLAT wouldn't be implicated by any provisions of the IRC but would provide many of the same advantages, albeit indirectly, of a transfer with retained beneficial interests."

Step Transaction Doctrine

Redd says the step transaction doctrine is a "classic example of a trap for the unwary," and provides individuals methods to consider for avoiding the ploy:

- There should be a significant amount of time (at least a few months) between the wealthier spouse's gift to the poorer spouse and the poorer spouse's subsequent gift.

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- Engineer the wealthier spouse's gift to the poorer spouse and the poorer spouse's subsequent gift so they aren't of the exact same assets and/or not in the exact same amount.
- Ensure (and document the fact) that, at the time of the gift to the poorer spouse, the poorer spouse had a clear and unambiguous understanding that the wealthier spouse's impending gift to the poorer spouse was absolute and unrestricted and that the poorer spouse would be unrestrained in retaining the gifted property indefinitely or disposing of it at any time and in any manner whatsoever.

Environmental, Social and Governance (ESG) Investing in a Trust

Redd says investing in ESG matters doesn't mean sacrificing financial gains, though he cautions trustees from ESG investments if investing for the wrong reasons.

"Trustees who invest to fulfill their own non-economic agenda, at the cost of lower returns on trust investments, breach their duty of loyalty to the beneficiaries," Redd writes. "If a trustee can make an ESG investment that produces returns as good as or better than non-ESG investments, no one will have grounds to complain under traditional prudent investor rule principles."

Trustee Indemnification

He suggests there will be an increase of trustee indemnification matters and explores *Barbara Hastings et al. v. PNC Bank NA* to provide insight on how a release and indemnification of a trustee of a terminating trust can be effectuated.

Redd has a preeminent, national reputation for developing and implementing unique solutions to complex problems, resolving intra-family disputes efficiently and sensitively and providing practical advice for current and future generations. He works on complex estates, trusts and estate planning projects, and is deeply involved in the intertwined legal and practical aspects of wealth preservation and transmission. In 2023, Redd was honored by the Estate Planning Council of St. Louis with the Distinguished Estate Planner of the Year Award.

[Read the full column.](#)

CONTACT

Charles A. Redd

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