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The Standby Survivorship Trust

The Standby Survivorship Trust offers a flexible funding solution that will help meet the needs of clients who want to integrate estate planning with education or retirement funding goals. The suitable client may be wealthy or moderately wealthy, usually younger in age in their 40's and 50's, who may have maxed out their contributions to their existing retirement plans and have excess discretionary income.

Because traditional Irrevocable Life Insurance Trusts ("ILITs") are irrevocable and grantors cannot access or control life insurance cash values, they may not be well suited for clients seeking to access policy cash values to fund a college education or to supplement retirement income. As a result, it may be advisable to consider two alternative ILIT designs.

One alternative design is a **Survivorship Standby Trust ("SST")**. A survivorship standby trust funded by survivorship life insurance can help a couple meet goals of estate tax-efficiency and liquidity without relinquishing access to life insurance cash values while both insured's are alive.

While alive, the policy owner maintains access and control over the policy's cash value. At the owner's death, the policy is transferred to an irrevocable trust with estate tax and liquidity advantages similar to a traditional ILIT. Although the policy cash value will be included in the owner's taxable estate upon the first death, the tax can be sheltered using the applicable exclusion amount. With proper design, the death benefit paid on the second death will be entirely income tax-free and excluded from the estates of both spouses.

The second alternative design is a **Spousal Limited Access Trust ("SLAT")**. A SLAT is a type of trust that expands on the benefits of either a standard ILIT or an SST.

It allows the non-grantor (non-owner) spouse, who is also a trust beneficiary, limited access (through a third-party trustee) to the policy's cash value for specified purposes such as health, welfare and maintenance. This idea can be attractive to many couples but may have special appeal to couples in which one spouse is much younger and/or healthier than the other.

Survivorship Life Insurance policies may be a cost effective funding solution for trusts as the premiums are typically lower than the cost of two separate life policies. They however, do not provide family security at the first death of either spouse. However, they do provide cash value accumulation potential for SSTs and SLATs.

The contracts can be structured as an alternative asset class since they allow for the investment opportunities of equity market performance without risk of market declines. Furthermore, they provide the income tax advantages of tax deferred accumulation and tax free income distributions.

Many of these policies provide for cash value growth based on the performance of a leading market index, many at a multiple of the market index return, and some include a minimum rate of return regardless of market performance. In addition, all gains are tax deferred, distributions are tax-free, and there is no risk due to market declines.

More importantly, several selective Survivorship Life Insurance contracts provide riders which can be useful in replenishing any borrowed amounts after the first death. This rider may also be used to help pay up the policy after the grantor's death so that the surviving spouse will not have concerns over continued premium payments or continued trust gifting.