

Trust A—A Marital Trust

How It Works

Under current law, at the death of the first spouse, the estate can utilize an unlimited marital deduction (if the surviving spouse is a U.S. citizen). Regardless of the size of the decedent's estate, the estate can generally be planned using the unlimited marital deduction so that no federal estate taxes are due at the death of the first spouse.

In many estates, a trust is set up in what is commonly referred to as an A-B Trust. The assets of Trust A, the "*marital share*," can pass estate tax-free to a surviving spouse by utilizing the unlimited marital deduction. Trust A is a popular phrase typically used to describe a type of marital trust.

Any remaining portion of the assets of Trust B, the non-marital share, typically passes estate tax-free to the "*last survivor's*" children at the survivor's death.

The major characteristics of a Trust A are:

- Trust A is usually established in the will or revocable living trust to take advantage of the marital deduction.
- At the first death, the property is placed in a marital trust in such a way that the property is subject to estate taxation at the death of the surviving spouse.
- The surviving spouse usually has access to some or all of the trust assets in addition to receiving income from the trust at least annually.
- The surviving spouse is given a life estate with a general power of appointment over the trust estate (This is not true of a QTIP trust, which is a specific type of marital trust).

Benefits of Trust A (Marital Trust)

- The surviving spouse receives all income generated in Trust A.
- The surviving spouse may be able to withdraw any or all of the total principal of Trust A, without trustee approval.
- The surviving spouse may be able to completely terminate Trust A at any time.
- The trust allows management of the assets by a trustee designated by the grantor (the first to die). Often this provides the grantor peace of mind knowing that the spouse will be provided professional management of the assets.