



A CLIENT GUIDE FOR

Louisiana

Your Guide to a Credit Shelter Trust

Protect your half of the community

In Louisiana, each spouse already owns half of everything the couple built together. When the first of you dies, only your half passes. The natural plan is to leave it to your spouse, outright or in a lifetime usufruct. It is simple, and it costs no tax. But it puts your half into your spouse's hands with few rules about where it goes if your spouse remarries, is sued, or needs care, and it means the growth on your half is taxed in your spouse's estate. A credit shelter trust keeps your half working for your spouse and then delivers it to your children, on your terms, without a second round of tax.

The problem, and the solution

THE PROBLEM

Louisiana has no death tax, but the federal tax takes 40 percent of everything over \$15,000,000 per person

The exemption your spouse can inherit from you is frozen the day you die; it never grows

The exemption for gifts to grandchildren cannot be inherited by your spouse at all

A usufruct gives your spouse the use of your half, but ends on remarriage unless the will says otherwise, and hands cash to your spouse outright

Children under 24 are forced heirs with a guaranteed share, and a badly drafted plan can be reformed by a court

THE SOLUTION

The trust uses your \$15,000,000 exemption at your death, and everything it earns after that is never taxed

The trust's assets can double or triple and still pass tax-free

The trust can be built to last for grandchildren, using your exemption before it is lost

The trust gives your spouse income for life and principal for needs, and holds the principal for your children under written rules

The trust holds each forced heir's share on the exact terms Louisiana law allows

What our clients pay: a flat fee of \$4,900 for a married couple's complete trust-based estate plan, which includes the credit shelter trust provisions. No hourly bills.



What a credit shelter trust is

A credit shelter trust is a trust that comes to life when the first spouse dies. It holds that spouse's half of the community (and any separate property), keeps it working for the surviving spouse, and then passes it to the children without being taxed a second time.

Think of it as a locked box with a window.

At the first death, the deceased spouse's half goes into the box. The surviving spouse can reach through the window for income and for money needed for support, maintenance, education and medical expenses, and can even hold the key as trustee. But because the box is not in the survivor's name, it is not counted in the survivor's estate at the second death, no matter how large it has grown, and it cannot be claimed by a new spouse or a creditor.

Louisiana families have long done something similar with a usufruct: the survivor gets the use of the property for life, and the children own it underneath. The trust does the same job with more control, and it is what federal tax law expects to see. This guide explains both so you can choose.

Words you will see in this guide

WORD

WHAT IT MEANS

Community property	Everything either of you earned or acquired during the marriage. Each spouse owns half. Property owned before marriage or inherited is separate property.
Exemption	The amount a person can leave at death without federal estate tax: \$15,000,000 in 2026, adjusted for inflation from 2027. Louisiana has no estate or inheritance tax.
Family Trust	Our name for the credit shelter trust. Also called a bypass trust.
Marital Trust	The trust that holds anything above the exemption for the surviving spouse. It is not taxed at the first death.
Usufruct	The Louisiana right to use property and take its income for life (or a shorter time) while someone else, the naked owner, owns it underneath.
Forced heir	A child who is 23 or younger, or permanently disabled, when a parent dies. Louisiana guarantees that child a share of the parent's estate.
Legitime	The forced heir's guaranteed share: one-fourth of the estate for one forced heir, one-half for two or more.
Portability	A federal rule that lets a surviving spouse inherit the deceased spouse's unused exemption by filing a return.
Basis step-up	A reset of the income tax cost of an asset to its value at death, so it can be sold without capital gains tax. In Louisiana, both halves of the community get this reset at the first death.

Why Louisiana couples use one

There is no Louisiana death tax. Louisiana's inheritance tax stopped applying to deaths after June 30, 2004 and was repealed in 2010; the gift tax was repealed in 2008. The only death tax that can touch a Louisiana family is the federal estate tax, and it applies only to estates over \$15,000,000 per person (2026). Gifts between spouses are never taxed, so the first death of a married couple never produces tax.

Only your half passes. Because each spouse already owns half of the community, your spouse's half is already your spouse's, with a fresh income tax basis at your death. What the plan controls is your half.

Portability is good, but it has three holes. Federal law lets your executor file a return after your death and hand your unused exemption to your spouse. But the exemption your spouse inherits is frozen at the amount on the day you died, while your spouse's own exemption keeps rising. The separate exemption for gifts to grandchildren cannot be handed over at all. And everything your spouse inherits, plus all its growth, is counted in your spouse's estate.

Growth is the quiet problem. A couple with \$16,000,000 today owes no federal tax at either death if both exemptions are used. But if the survivor lives twenty years and the money doubles, the survivor's estate is \$32,000,000 against \$30,000,000 of exemption, and the tax on the excess is 40 percent. Put your half in a Family Trust at the first death and its growth is never counted.

Usufructs, remarriage, and forced heirs

The usufruct and its limits. If you die without a will, your spouse automatically gets a usufruct over your half of the community, but it ends if your spouse remarries. A will can make the usufruct last for life and cover separate property too, and federal law accepts a lifetime usufruct for the marital deduction. But a usufruct over cash and other consumables makes your spouse the owner of that money, owing the value to the children only at the end; it gives the children no say while your spouse is alive; and if a forced heir is not your spouse's child, that child can demand security. The trust does the same job with a trustee, written rules, and no security bond.

Remarriage, lawsuits, and second marriages. If your spouse remarries, your half can end up with the new spouse. If your spouse is sued or goes into a nursing home, your half is exposed. If this is a second marriage, a plan that leaves everything to the survivor depends on the survivor's goodwill toward your children. The Family Trust removes all of that from the survivor's hands without taking anything from the survivor's life.

Forced heirs. If you have a child who is 23 or younger, or a child of any age who is permanently disabled, that child is guaranteed a share of your estate no matter what your will says. A trust can hold that share, but only on terms Louisiana law spells out. We build those terms in so the plan is not rewritten by a court.

The figures in this guide are the 2026 figures published by the Internal Revenue Service and the Louisiana Department of Revenue. They change every year.

How it works, step by step

- 1 **We design the plan.** At your planning meeting we go through your assets (sorting community from separate), your family (noting any child under 24 or with a disability), and your wishes, and decide together how the Family Trust and Marital Trust should work: who gets income, when principal can be used, who serves as trustee, and where the money goes after both of you are gone.
 - 2 **You sign a joint revocable trust before a notary and two witnesses.** Louisiana requires that form. The credit shelter trust is a set of instructions inside your living trust. Nothing happens to your money now; you keep full control, can change the plan any time, and file your taxes exactly as before. The trust says in writing that putting community property into it does not change the community.
 - 3 **You retitle your assets to the living trust.** Your home is transferred to the trust by an act we prepare, and an extract of trust is recorded in every parish where you own real estate; Louisiana requires that for the trust to hold land. Accounts are retitled or given the trust as beneficiary. We give you a written funding letter for each institution. Retirement accounts stay in your name and name your spouse as beneficiary.
 - 4 **The first spouse dies and the community is split.** The trustee gets values for everything as of the date of death and divides the trust into two halves: the survivor's half, which stays the survivor's under the survivor's own terms, and the deceased spouse's half. Only the deceased spouse's half goes on to the next step.
 - 5 **The deceased spouse's half is divided by the formula.** If there are forced heirs, their shares are set apart first in a legitime trust. Then an amount up to the federal exemption goes into the Family Trust, and anything above it goes into the Marital Trust or to the survivor in a lifetime usufruct. For most families under the exemption, the independent trustee decides at that time how much, if anything, to place in the Family Trust.
 - 6 **The federal return is filed.** No Louisiana return exists. The federal estate tax return is due in 9 months; it shows no tax and carries any unused exemption over to the survivor. We prepare a trustee instruction letter that lists every deadline and election.
 - 7 **The survivor lives on both trusts.** The survivor receives all the income of the Marital Trust and the income and, as needed, principal of the Family Trust, and can serve as trustee of both. Each trust files a short income tax return every year.
 - 8 **The second spouse dies.** The Marital Trust is counted in the survivor's estate and covered by the survivor's own exemption. The Family Trust is not counted at all. Both pass to your children under the terms you wrote, without a succession proceeding.
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Who can be trustee

Your spouse. Most of our clients name the surviving spouse as trustee of both trusts. Louisiana law expressly allows a trustee to be a beneficiary, and federal law allows it as long as the spouse's power to take principal for herself is limited to support, maintenance, education and medical expenses. Louisiana's Trust Code uses almost the same words, and our documents say it expressly.

A co-trustee for the rest. We name an independent co-trustee (an adult child, a trusted friend, an accountant, or a bank) for two kinds of decisions the spouse should not make alone: distributions beyond the support standard, and the tax elections at the first death. Your spouse stays in charge of the day-to-day.

What makes a good trustee

- Organized enough to keep the trust's money separate from personal money and file a tax return each year
- Honest, and comfortable saying no to a relative
- Likely to be around, with a named backup
- Willing to call us or an accountant rather than guess

What the trustee does

WHEN	WHAT
At the first death	Gather values, sort community from separate, split the trust into the two halves, get tax ID numbers, set apart any forced heir's share, divide the rest by the formula, retitle assets, record the extract of trust in each parish
Within 9 months	File the federal estate tax return and make the elections (we prepare the instruction letter)
Every year	Invest the trust, pay income to the survivor (and to any forced heir as needed), file the trust's income tax returns, keep simple records
As needed	Pay principal for the survivor's support and medical needs; help a child if the trust allows it
At the second death	Distribute the trusts to the children as written, with no court involvement

The trustee's protection. The trustee can hire an investment adviser and an accountant, and the trust pays for them. A trust worth less than \$100,000 can be wound up with the beneficiaries' consent without going to court. Because a Louisiana trust cannot be changed by the beneficiaries' agreement alone, we reserve amendment powers in the document so administrative and tax problems can be fixed later without a court.

How the surviving spouse lives after the first death

This is the question every couple asks: will my husband or wife be all right? Here is what changes and what does not.

Your home

The survivor keeps living in the home. The survivor's own half of the home was always the survivor's. The deceased spouse's half is held in the trust with the survivor's right to live there for life, or in a lifetime usufruct, and the trustee pays taxes, insurance and repairs from the trust. Louisiana's homestead exemption continues when the survivor holds a usufruct over the home or is a principal beneficiary of the trust that holds it; we write the plan so it qualifies and confirm it with the parish assessor. If the survivor wants to sell and move, the trust can sell and buy or rent something else.

Principal when it is needed

If income is not enough, the trustee can pay principal from the Family Trust for the survivor's support, maintenance, education and medical expenses: a hospital bill, a new roof, a car. The Marital Trust can be written to allow principal for any reason the trustee thinks wise.

Your income

The survivor receives all the income of the Marital Trust, at least once a year; that is required by law. The survivor also receives the income of the Family Trust, either automatically or as the trustee decides, depending on how we write it. Social Security, pensions and retirement accounts are the survivor's own and never go into the trusts. And the survivor's own half of the community is the survivor's to use as she pleases.

Control

If the survivor is the trustee, the survivor decides how the money is invested, when income is paid, and when principal is used for support. The survivor can also be given the power to decide, in her own will, how the Family Trust is divided among the children at her death.

The marital portion, and what changes

The marital portion

Louisiana gives a surviving spouse who is left poor compared to the deceased spouse a right to claim a share of the estate (up to one-fourth, capped at \$1,000,000). A plan that gives the survivor income for life from both trusts satisfies that right, so it is not a concern in a well-built plan.

What changes

- The Family Trust and Marital Trust have their own tax ID numbers and file their own income tax returns each year (income paid to the survivor is taxed on the survivor's return).
- The survivor cannot give the Family Trust away, put it in a new spouse's name, or leave it to anyone outside the group you both chose.
- Assets in the Family Trust do not get a second basis step-up when the survivor dies. The survivor's own half already got its step-up at the first death, and we place assets so the cost is as small as possible.

The Landrys of Lafayette

Mr. and Mrs. Landry of Lafayette own a home, farmland, mineral interests, investments and retirement accounts worth \$24,000,000, all community property. This is a second marriage for Mr. Landry, who has a 20-year-old son from his first marriage. Mr. Landry dies in 2026. Mrs. Landry's half, \$12,000,000, is already hers. Mr. Landry's half, \$12,000,000, is divided: one-fourth, \$3,000,000, goes into a legitime trust for his son, because the son is a forced heir; the remaining \$9,000,000 goes into the Family Trust.

Mrs. Landry is trustee of the Family Trust with Mr. Landry's brother as co-trustee, keeps living in the house, draws the income, and uses principal when she needs it. She lives another twenty years and the Family Trust grows to \$18,000,000. When she dies, her own estate is covered by her own exemption, the Family Trust is not taxed at all, and it passes to Mr. Landry's son as he directed.

The son received the income he needed from his legitime trust while he was young and the principal outright later.

Two couples, side by side

The savings depend on how much you own, how fast it grows, and how long the survivor lives. These examples use the 2026 federal exemption of \$15,000,000 per person, a 40 percent tax rate, community property, and assets that grow 50 percent between the two deaths.

	EVERYTHING TO THE SURVIVOR WITH PORTABILITY	WITH A CREDIT SHELTER TRUST	FEDERAL TAX SAVED
Community of \$8,000,000 (your half \$4,000,000)	Survivor's exemption \$15,000,000 plus \$15,000,000 inherited. Survivor's estate grows to \$12,000,000. Tax \$0. Everything gets a second basis step-up.	Family Trust \$4,000,000. Survivor's estate \$6,000,000. Tax \$0. Family Trust gets no second step-up.	\$0: portability is better here
Community of \$30,000,000 (your half \$15,000,000)	Survivor's exemption \$30,000,000 (the inherited half never grows). Survivor's estate grows to \$45,000,000. Taxable \$15,000,000. Tax \$6,000,000.	Family Trust \$15,000,000 grows to \$22,500,000 outside the estate. Survivor's estate \$22,500,000. Taxable \$7,500,000. Tax \$3,000,000.	\$3,000,000

What this means: the larger the estate and the longer the survivor lives, the more the trust saves. The smaller the estate, the more the family gives up in basis step-up for no tax benefit. That is why, for most Louisiana couples, we build the trust in as an option the trustee can use at the first death rather than a requirement.



Four ways to plan

PLAN	HOW IT WORKS	WHO IT FITS
Credit shelter trust plus Marital Trust	Your half goes into the Family Trust at the first death; the rest into the Marital Trust; the executor also elects portability	Couples over about \$15,000,000; second marriages; forced heirs; planning for grandchildren; protection for the survivor
Lifetime usufruct to your spouse	Your half goes to your spouse in a usufruct for life; the children own it underneath; the executor elects marital-deduction treatment for the usufruct and portability	The traditional Louisiana plan; first marriages; families who want the children to own now
Everything to the survivor with portability	No Family Trust. The executor files a federal return to carry your unused exemption to the survivor.	Couples well under \$15,000,000 in a first marriage who value simplicity
Decide later (Clayton trust)	Your half goes to a marital trust. After the death, an independent trustee decides how much to shelter in the Family Trust based on the numbers and the law at that time.	Most Louisiana couples; keeps every option open

Most of our Louisiana clients in a first marriage with no forced heirs choose the “decide later” plan with portability. Second marriages, families with forced heirs, larger estates, and families planning for grandchildren choose the first plan.



Your children under 24: forced heirs

Louisiana is the only state that guarantees certain children a share of a parent's estate. If you have a child who is 23 or younger when you die, or a child of any age who is permanently unable to care for himself or manage his affairs (including a child with a diagnosed inherited condition that may later cause that), that child is a forced heir.

The share. One forced heir is entitled to one-fourth of your estate; two or more share one-half. The share is never more than what the child would receive with no will. For community property, the fraction applies to your half. Life insurance and retirement accounts are left out of the calculation, but anything paid from them to the forced heir counts toward the child's share.

The share can be held in trust, on strict terms. The trust must pay the child enough income for health, support, maintenance and education after counting what the child already has; it may not put other conditions on the share; it may not last longer than the child's life; no principal from the share may go to anyone else; and the principal must be handed to the child free of trust when the trust ends. A spendthrift clause is allowed. Your spouse may be given the income or a usufruct over the share for life. If any of these terms is missed, a court rewrites the trust.

How we handle it. The plan sets apart each forced heir's share in its own trust with exactly these terms, and the rest of your half goes into the Family Trust under your ordinary terms. Once the youngest child turns 24 (and no child is disabled), the forced heir rules no longer apply and the plan simply runs as a Family Trust. We review this with you at every planning meeting as the children get older.

A note for 2026. Beginning August 1, 2026, a permanently disabled adult forced heir whose own net worth exceeds \$50,000,000 has a forced share of one dollar. This will rarely apply, but we will tell you if it does.

What goes in the Family Trust and what stays out

At the first death the trustee chooses which assets fill the Family Trust and which go to the Marital Trust or the survivor. Because Louisiana community property is split in half at the first death, the trust lets the trustee place whole assets rather than half of each. The choice matters for income tax, because Family Trust assets do not get a second basis step-up at the survivor's death.

ASSET	BEST HOME	WHY
Cash, CDs, bonds, money-market funds	Family Trust	Little or no built-in gain, so losing the second step-up costs nothing
Investments you expect to sell anyway	Family Trust	The gain will be taxed whenever sold; sheltering the growth is the bigger win
The family home	Marital Trust, the survivor, or a usufruct	Usually held for life; gets a second step-up; simplest for the homestead exemption
Farmland, timberland, mineral interests, a business, long-held stock	Marital Trust or the survivor	A second step-up wipes out decades of capital gains for the children
IRAs, 401(k)s, other retirement accounts	The survivor directly (trust as backup beneficiary)	Naming a trust speeds up income tax and forfeits the spousal rollover
Life insurance	Depends on the policy	Often best owned by a separate insurance trust; we will tell you
A forced heir's share	Its own legitime trust	Louisiana requires specific terms for that share

Every family's mix is different. Our trustee instruction letter tells the trustee how to place your assets at the first death, and the trustee can swap assets between the trusts later within limits.

Frequently asked questions

Does anything change while we are both alive?

No. The credit shelter trust is a set of instructions inside your revocable living trust. You keep control of everything, can change the plan any time, and file your taxes as you always have. Putting community property into the trust does not change the community.

Can my spouse be the trustee?

Yes. Louisiana law expressly allows it. Your spouse can be trustee of both trusts, with an independent co-trustee for a few decisions the spouse should not make alone.

Will my spouse have enough to live on?

Yes. The survivor keeps her own half of the community outright, receives all the income of the Marital Trust and the income and, as needed, the principal of the Family Trust, and keeps every retirement account, pension and Social Security payment.

Why not just leave my spouse a usufruct like my parents did?

You can, and for many first marriages under the exemption it works well. The trust adds a trustee, written rules, no security bond, and no ownership of cash passing to the survivor outright. We will lay both side by side with your numbers.

What if my spouse remarries?

The Family Trust stays for your spouse and then your children. A new spouse has no claim to it. A usufruct given in a will can also be written to continue after remarriage; one that arises without a will ends on remarriage.

What if we get divorced?

The plan is written for both of you and is changed or unwound in the divorce like any other joint plan. Louisiana law also cancels trust provisions in favor of a former spouse.

Does Louisiana tax any of this?

No. Louisiana has no estate tax, inheritance tax, or gift tax. The only tax in play is the federal estate tax, which applies only above \$15,000,000 per person in 2026.

Do we need this if our estate is under \$15,000,000?

Usually not for tax. You may still want it to protect the survivor, to protect children of a first marriage, to hold a forced heir's share properly, or because your estate may grow. We build it in as an option the trustee can use at the first death, and we will tell you plainly whether it fits.

Will we lose the homestead exemption on our house?

No. The plan gives the survivor a usufruct over the home or makes the survivor a principal beneficiary of the trust that holds it, which is what the Louisiana Constitution requires, and we confirm it with the parish assessor.

Our children are grown. Do the forced heir rules matter?

Not unless a child is 23 or younger or permanently disabled when you die. If your children are all 24 or older and healthy, your half passes exactly as the trust says.

Frequently asked questions

Is the trust counted if my spouse needs a nursing home?

The Family Trust is a trust created by you, not by your spouse, so it is treated differently from your spouse's own assets. This is a Medicaid question, not an estate tax question, and we plan for it separately if it matters to you.

What if the exemption changes?

The trust uses a formula, not a dollar figure, so it adjusts automatically. The "decide later" feature lets the independent trustee shelter more or less at the first death depending on the law then in force.

Does the trust avoid a succession?

Yes. Everything in your living trust, including the Family Trust and Marital Trust, passes without a court proceeding. The extract of trust recorded in each parish is what lets the trustee deal with real estate.

Can the trust last for our grandchildren?

Yes, as a class trust for your descendants, which Louisiana allows to run past the usual time limits. Your exemption for gifts to grandchildren can be assigned to the Family Trust at the first death; that exemption cannot be passed to your spouse, so this is the only way to use it.

What does the survivor give up?

Two things: the Family Trust cannot be given away or left to someone outside the group you chose, and its assets do not get a second basis step-up at the survivor's death. The survivor's own half already got its step-up at the first death.

One of us is not a U.S. citizen. Does that matter?

Yes. Gifts to a non-citizen spouse do not get the marital deduction unless a special trust is used. We build that into the plan.

How long does it take?

Most couples sign within four to six weeks of the planning meeting.

How much does it cost?

The complete trust-based plan for a married couple is a flat \$4,900. That includes the living trust with the community split, Family Trust and Marital Trust provisions and any forced heir's trust, wills, powers of attorney (mandates), health care directives, the act transferring your home and the extract of trust for recording, and written funding instructions. Signing before a notary and two witnesses is included. You pay only the parish clerk's recording fees. The federal estate tax return at the first death is a separate engagement.

Things this trust does not do

We would rather you hear these from us now than be surprised later.

- It does not save Louisiana tax, because there is none. Its tax value is federal only, and only for estates that may exceed the exemption.
- It does not touch the survivor's own half of the community. That half was always the survivor's.
- It does not reduce tax while you are both alive. It works at the first death.
- It does not override forced heirship. A forced heir's share is set apart first, on the terms Louisiana requires.
- It does not give the Family Trust assets a second basis step-up at the survivor's death. We manage this by choosing which assets go in.
- It does not remove the income tax returns. Each trust files a short return every year after the first death.
- It does not protect against a nursing-home spend-down for the spouse who created it. That is Medicaid planning, which is a separate conversation.
- It does not replace a federal portability election. We still file the federal return at the first death.
- It does not work if your assets are not titled to the living trust, the extract of trust is not recorded in each parish, or accounts do not name the trust as beneficiary. Funding is the client's job with our written instructions, and we check it at every review.

Why families choose Trusted Plan Lawyers

A real Louisiana lawyer, start to finish.

Brad Williams is licensed in Louisiana and Mississippi and personally designs and reviews every plan.

One flat fee.

The married couple's trust-based plan is \$4,900. That includes the living trust with the community split, Family Trust and Marital Trust provisions and any forced heir's trust, wills, mandates, health care directives, the act transferring your home and the extract of trust, and written funding instructions. No hourly bills.

Plain English.

You will understand every page before you sign. If you cannot explain it to your children, we have not finished our job.

Fast without rushing.

Most plans are signed within four to six weeks of the planning meeting.

A partner for life.

When the law or your family changes, we are still here.

Ready to protect your half of the community?

Call (844) 544-PLAN or visit trustedplan.com to schedule a planning meeting.

Your next steps

- 1 Gather your information.** Acts of sale and deeds for real estate (and the parish for each), the most recent statement for each account, life insurance policies, retirement account beneficiary forms, any marriage contract, and a list of your children with dates of birth. We will send you a one-page checklist.
 - 2 Think about your trustee.** Your spouse, and then who? Who is organized, honest, and likely to be around?
 - 3 Think about your family.** Is any child under 24 or disabled? Should the children or grandchildren receive anything while the survivor is alive? Should the survivor be able to adjust the children's shares?
 - 4 Come to your planning meeting.** We will walk through everything in this guide with your own numbers and tell you plainly whether this trust, a usufruct, or a simpler plan is the right fit.
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This guide is general information for our clients. It is not legal advice for your specific situation until we have met and reviewed your facts. Dollar figures are those published by the Internal Revenue Service and the Louisiana Department of Revenue for 2026, and they change every year.

