



Your Guide to a Credit Shelter Trust

Protect the second half of your estate

When the first of you dies, the natural plan is to leave everything to the other. It is simple, and in Mississippi it costs no tax. But it puts everything you built into one basket for the second death, with one exemption, and no rules about where it goes if your spouse remarries, is sued, or needs care. 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

Mississippi has no estate 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

If your spouse remarries or is sued, your half can end up with a stranger

You are afraid of tying your spouse's hands

THE SOLUTION

The trust uses the first spouse's \$15,000,000 exemption at the first 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 holds your half under written rules: your spouse first, then your children

Your spouse can be the trustee, live in the home, take the income, and take principal for health and support

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 the amount that spouse can leave free of federal estate tax, 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 share goes into the box. The surviving spouse can reach through the window for income and for money needed for health, support, education and living 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.

Married couples have used this trust for decades. For most Mississippi families today the federal exemption (\$15,000,000 per person in 2026) is large enough that tax is not the main reason. The main reasons are protection and control: making sure the survivor is cared for, the children are not cut out, and the assets are managed if the survivor becomes unable to manage them.

Words you will see in this guide

WORD	WHAT IT MEANS
Exemption	The amount a person can leave at death without federal estate tax: \$15,000,000 in 2026, adjusted for inflation from 2027. Mississippi has no estate 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.
Portability	A federal rule that lets a surviving spouse inherit the deceased spouse's unused exemption by filing a return.
Trustee	The person who manages the trust. Usually the surviving spouse, with a backup.
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.
Renounce	A surviving spouse's right in Mississippi to reject a will and take a share of the estate set by law.

Why Mississippi couples use one

There is no Mississippi death tax. Mississippi has had no estate tax since 2005, and it has never had an inheritance tax or a gift tax. The only death tax that can touch a Mississippi 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.

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. That works, and for many couples it is enough. But the exemption your spouse inherits is frozen at the amount on the day you died, while your spouse's own exemption keeps rising with inflation. 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 half in a Family Trust at the first death and its growth is never counted.

Remarriage, lawsuits, and second marriages. If your spouse remarries, your half can end up with the new spouse or the new spouse's children. If your spouse is sued or goes into a nursing home, your half is exposed. If this is a second marriage for either of you, a plan that leaves everything outright to the survivor depends entirely 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.

The survivor's right to renounce. In Mississippi a surviving spouse who is unhappy with a will can reject it within 90 days after probate and take a share set by law. A plan that treats the survivor well (income for life, principal for needs, the right to live in the home) makes that unlikely, and a Marital Trust with a full income interest is the safer design in a second marriage.

The figures in this guide are the 2026 figures published by the Internal Revenue Service and the Mississippi 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, your family, 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, whether the children or grandchildren receive anything while the survivor is alive, and where the money goes after both of you are gone.
- 2 You sign a joint revocable trust.** The credit shelter trust is a set of instructions inside your living trust. Nothing happens to your money now. You keep full control of everything, can change the plan any time, and file your taxes exactly as before.
- 3 You retitle your assets to the living trust.** Your home is deeded to the trust and a memorandum of trust is recorded so your homestead exemption continues; we prepare and file both with the chancery clerk. 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.** The trustee gets values for everything as of the date of death and divides the deceased spouse's share by the formula in the trust: 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 outright. For most families under the exemption, the independent trustee decides at that time how much, if anything, to place in the Family Trust.
- 5 The federal return is filed.** No Mississippi 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.
- 6 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.
- 7 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, with no probate.

Who can be trustee

Your spouse. Most of our clients name the surviving spouse as trustee of both trusts. Federal law and Mississippi's Trust Code both allow it as long as the spouse's power to take principal for herself is limited to health, education, support and maintenance. Mississippi supplies that limit automatically for a beneficiary who serves as trustee, and our documents say it expressly as well.

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 health-and-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, get tax ID numbers, divide the assets by the formula, retitle them, record the deed and memorandum of trust for the home
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, file the trust's income tax returns, keep simple records
As needed	Pay principal for the survivor's health and support; 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. Mississippi law lets us suspend the trustee's duty to send reports to the children while the surviving spouse is alive, which most couples prefer. A trust worth less than \$150,000 can be wound up without going to court. And because Mississippi has no decanting statute, we name a trust protector with power to fix administrative and tax problems 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. Whether the home sits in the Family Trust or the Marital Trust, the trust gives the survivor the right to live there for life, and the trustee pays taxes, insurance and repairs from the trust. Because the trust is recorded and gives the survivor the right to occupy the home, the Mississippi homestead exemption continues, including the larger exemption for owners 65 and older. If the survivor wants to sell and move, the trust can sell and buy or rent something else.

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.

Principal when it is needed

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

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 health and 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, so the plan stays flexible as the family changes.

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, at the survivor's rates).
- 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. We place assets so this costs as little as possible, and for most Mississippi families under the exemption we keep the home and the farm out of it.

The Boyds of Madison

Mr. and Mrs. Boyd of Madison own a home, timberland, investments and retirement accounts worth \$20,000,000 together. This is a second marriage for Mr. Boyd, who has two children from his first marriage. Mr. Boyd dies in 2026. His half, \$10,000,000, goes into the Family Trust. Mrs. Boyd is trustee with Mr. Boyd's daughter as co-trustee. She 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 \$20,000,000. When she dies, her own estate is covered by her own exemption, the \$20,000,000 in the Family Trust is not taxed at all, and it passes to Mr. Boyd's two children as he directed.

Without the trust, the growth would have been taxed at 40 percent and the children would have depended on Mrs. Boyd's will.

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, and assets that grow 50 percent between the two deaths.

	EVERYTHING TO THE SURVIVOR WITH PORTABILITY	WITH A CREDIT SHELTER TRUST	FEDERAL TAX SAVED
Couple with \$8,000,000 (\$4,000,000 each)	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
Couple with \$30,000,000 (\$15,000,000 each)	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 Mississippi 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; planning for grandchildren; protection for the survivor
Everything to the survivor with portability	No Family Trust. The executor files a federal return to carry your unused exemption to the survivor.	Couples under about \$15,000,000 in a first marriage who value simplicity and a full basis step-up
Decide later (Clayton trust)	Everything 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 Mississippi couples; keeps every option open
Disclaimer trust	Everything to the survivor, who may give part of it to a Family Trust within 9 months.	Modest estates; a backstop only, because it depends on the survivor acting in time

Most of our Mississippi clients in a first marriage choose the “decide later” plan with portability. Second marriages, larger estates, and families planning for grandchildren choose the first plan.

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. 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 or the survivor	Usually held for life; gets a second step-up; homestead exemption is simplest
Farmland, timberland, 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
Real estate with a transfer-on-death deed	Tell us	A TOD deed controls over the trust unless it is revoked or names the trust; a will does not revoke it
Life insurance	Depends on the policy	Often best owned by a separate insurance trust; we will tell you

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.

Can my spouse be the trustee?

Yes. 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 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 outright.

What if my spouse remarries?

The Family Trust stays for your spouse and then your children. A new spouse has no claim to it. The Marital Trust also passes as you directed.

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. Nothing is locked while you are both alive.

Does Mississippi tax any of this?

No. Mississippi 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 provide for grandchildren, 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 trust is recorded and gives the survivor the right to occupy the home, which is what Mississippi requires. We file the memorandum of trust with the chancery clerk so the exemption continues, including the larger exemption for owners 65 and older.

We already recorded a transfer-on-death deed on our house. Does the trust override it?

No. The deed wins unless it is revoked or changed to name the trust, and a will cannot revoke it. Tell us about any deed you have recorded.

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 probate?

Yes. Everything in your living trust, including the Family Trust and Marital Trust, passes without a chancery court proceeding.

Will my children have to wait for their inheritance?

The children receive the Family Trust and Marital Trust after the second death. If you want a child to receive something at the first death, the Family Trust can allow distributions to children during the survivor's life.

Can the trust last for our grandchildren?

Yes. Mississippi lets a trust last for generations, and 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. Both are the price of keeping it out of the survivor's taxable estate.

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 Family Trust and Marital Trust provisions, wills, powers of attorney, health care directives, the deed and memorandum of trust for your home, and written funding instructions. You pay only the chancery clerk's recording fee (\$52 for the two instruments), which we collect at signing. Deeds for other properties are \$326 each. 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 Mississippi tax, because there is none. Its tax value is federal only, and only for estates that may exceed the exemption.
- It does not reduce tax while you are both alive. It works at the first death.
- It does not shelter the survivor's own half. The survivor's own assets are covered by the survivor's own exemption.
- 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, and by keeping the home and the farm out of it when tax is not the goal.
- 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 override a transfer-on-death deed you have already recorded.
- It does not work if your assets are not titled to the living trust or do not name it 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 Mississippi lawyer, start to finish.

Brad Williams has practiced in Mississippi for more than twenty years 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 Family Trust and Marital Trust provisions, wills, powers of attorney, health care directives, the deed and memorandum of trust for your home, 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 the second half of your estate?

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

Your next steps

- 1 **Gather your information.** Deeds (including any transfer-on-death deed), the most recent statement for each account, life insurance policies, retirement account beneficiary forms, and any prenuptial agreement. 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.** 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 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 Mississippi Department of Revenue for 2026, and they change every year.
