

# **ESTATE PLANNING: What Is It and Why Do You Need It**

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# Today's Topics

- Incapacity
- Probate
- Wills
- Trusts
- Estate Taxes





# What is Estate Planning?



**Default:**

**Do Nothing and the State Decides**

# Incapacity

- **With No Planning**
  - **Guardianship**
- **With Planning**
  - **Durable Power of Attorney**
    - **Medical**
    - **Financial**
  - **Living Will**
    - **Indicates type of care and degree of life support in case of terminal illness or permanent unconsciousness**

# Intestacy

- Spouse/No Children
  - All to Spouse
- Spouse/Common Children
  - All to Spouse
- Spouse/Different Children
  - First \$20K + 1/2 of the balance
  - First \$60K + 1/3 of the balance
- No Spouse/Children
  - All to Children



# Probate

- Court Proceeding
- Concludes all Legal and Financial Matters of the Deceased
- Problems
  - Expensive
  - Time Consuming
  - Lack of Privacy





# Assets that Avoid Probate

- **Beneficiary Designation**
  - Tax-Advantaged Accounts
    - Qualified Retirement Plans
      - 401K
      - 403b
    - IRA's
    - Annuities
    - Life Insurance Policies
  - “Payable On Death” (POD)
  - “Transfer On Death” (TOD)



# Avoiding Probate

- **Joint Tenancy**
  - Advantages
    - Postpones Probate
  - Disadvantages
    - May Result in Guardianship
    - Creates Taxable Estates
    - May Decrease Control
    - Can Cause Liability Exposure
    - May Trigger Gift Tax



# Estate Planning

- **Lifetime Documents**
  - Durable Power-of-Attorney
    - Medical
    - Financial
  - Living Will
  - Organ Donation Form
  - Right of Disposition Document



# Last Will and Testament

- Legal Instrument
- Instructions for Distributing Assets
- Must be Written
- Names Guardians
- Names Executors
- Probate Court Oversight



# Choosing the Right Executor

- Spouse
- Child
- Other Family Member
- Friend
- Corporate Executor



# Trusts

- **Inter Vivos**
  - Revocable “Living”
  - Irrevocable
    - ILIT (Life Insurance)
    - Gift Trust
- **Testamentary**



# Parties Involved in a Trust

- Settlor(s)
- Trustee
  - Trust Advisor
  - Trust Protector
- Beneficiaries



# Estate Taxes

- Rule Number 1:  
The Rule of Everything
- Rule Number 2:  
The Spouse Rule
- Rule Number 3:  
The Credit Rule



# Estate Taxes - Federal

Year	Estate Tax Rate	Applicable Exclusion Amount
2002 to 2003	50%, 49%	\$1,000,000
2004 to 2005	48%, 47%	\$1,500,000
2006 to 2008	46%, 45%, 45%	\$2,000,000
2009	45%	\$3,500,000
2010	35% or Basis Adjustment	\$5,000,000 or \$0
2011	35%	\$5,000,000
2012	35%	\$5,120,000
2013	40%	\$5,250,000
2014	40%	\$5,340,000
2015	40%	\$5,430,000
2016	40%	\$5,450,000



# Estimating Estate Taxes

- Assets (Wherever Located)
  - Home or Other Real Estate
  - Investment Accounts
  - Retirement Accounts
  - IRA's
  - Life Insurance
  - Joint Assets
  - Interests in Trusts
  - Powers of Appointment
  - Tangible Property

# Estate Taxes - Ohio

Year	Estate Tax Credit	Applicable Exclusion Amount
2001	\$6,600	\$200,000
2002 to 2003	\$13,900	\$338,333
2004 to 2005	\$13,900	\$338,333
2006 to 2008	\$13,900	\$338,333
2009	\$13,900	\$338,333
2010-2012	\$13,900	\$338,333
2013	Estate Tax Repealed	



# Techniques for Advanced Estate Planning

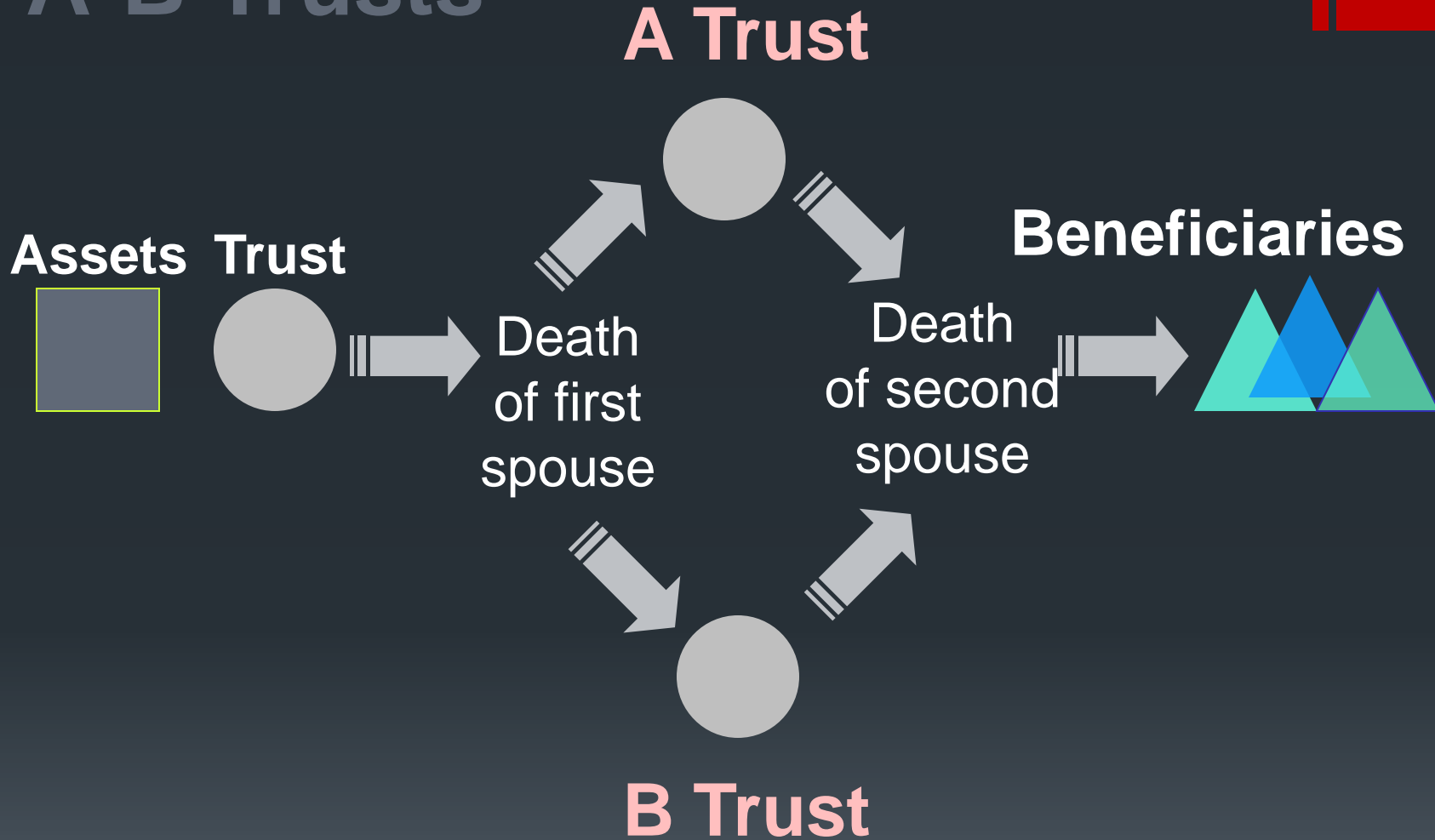
- A-B or Bypass Trust with Income Tax Planning
- Qualified Terminable Interest Property Trust
- Irrevocable Life Insurance Trust
- Gifting with Irrevocable Trusts
- Charitable Trusts
  - CRT
  - CLT



# Postponing Estate Taxes

- A-B Trust
  - Creates Two Taxable Entities
    - Credit-Shelter Trust
    - Marital Deduction Trust
  - Only Applies to Married Couples

# A-B Trusts





# Postponing Estate Taxes

- Qualified Terminable Interest Property Trust (QTIP Trust)
  - Often Used in Second Marriages for the Benefit of the Surviving Spouse for His or Her Lifetime
  - Remainder Passes to Children from the First Marriage



# Reducing Estate Taxes

- Irrevocable Life Insurance Trust (ILIT)
  - Premiums for Life Insurance are Gifted to the Trust
  - No Incidents of Ownership
  - Proceeds Used to Pay Estate Taxes, Preserving the Remainder of Estate for Heirs





# Reducing Estate Taxes

- Lifetime Gifting
  - Transfers Assets During Lifetime
  - \$14,000 per Person, per Year Without Tax Consequences
  - May be Cash or Other Assets
  - Removes Assets (and Appreciation) from Estate for Tax Purposes



# Reducing Estate Taxes

- Charitable Remainder Trusts (CRT)
  - Generates Immediate Income Tax Deduction
  - Preserves Income for Donor's Use
  - Generally Eliminates Estate Taxes on the Asset
  - Asset Passes to Charity at Donor's Death



# Action Steps

- 1** Determine Goals and Objectives
- 2** Examine Tax Considerations
- 3** Update Beneficiary Information
- 4** Seek Estate Planning Advice



# Where Do We Go From Here?

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