

How to Keep Money in the Family



A Seminar Presentation on Trusts and Estate Planning

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WHAT IS ESTATE PLANNING?

- WHAT YOU OWN
- GOES TO WHO YOU WANT
- WHEN YOU WANT
- HOW YOU WANT

Trusts Can be Custom Drafted For Your Situation

- **Delayed Distributions Based on Age or Educational Achievement**
- **Drug, Alcohol or Impaired Child**
- **Educational Trusts for Grandchildren**
- **Planning for Second Marriages**
- **Creditor or Spousal Protection**

Educational Trusts & Gifts

- Established during lifetime
 - Give up to \$13,000 each year (inflation adjusted)
- Established at death - funded by portion of living trust assets (i.e., 25%)
- Unlimited exclusion for gifts directly to school or medical provider
- UTMA Accounts
- College 529 Plans

Basic Estate Planning Goals

- **Develop a Plan on How Assets are Distributed at Death**
- **Planning for Disability**
- **Minimizing Estate and Gift Taxes**
- **Minimizing Probate Costs**
- **Health-Care Decisions**

Basic Estate Planning Documents

- **LIVING TRUST**
- **WILL**
- **PROPERTY POWER OF ATTORNEY**
- **HEALTH CARE POWER OF ATTORNEY**
- **IRA BENEFICIARY DESIGNATIONS**



Common Estate Planning Mistakes

- Assets Passing Outside Will or Trust
- Improper Use of Joint Tenancy
- Improper Beneficiary Designations
- Wrong Executor or Trustee
- Procrastination

Common

Asset Protection Techniques

- **Buy “Umbrella” Insurance Coverage**
- **Transfer Assets to Spouse**
- **Hold Residence in Tenancy by the Entireties**
- **LLCs to hold Business & “Risky” Assets**
- **Beneficiary Controlled Trusts**
 - **Protection against Divorce/Creditors of Child**



PROBATE: *The legal process of proving and administering a will*

- Expensive
- Time consuming
- May delay distributions to beneficiaries
- Court supervised
- A matter of public record

Probate can be avoided!

What Assets Avoid Probate?

- **Assets held in a living trust**
- **Assets payable under contract to a named beneficiary**
 - IRAs
 - Life insurance policies
 - Pension assets
 - Annuities
- **Jointly-held property (upon 1st to die)**



Revocable Living Trust Benefits

- Avoids probate upon death
- Avoids guardianship upon incapacity
- Avoids or reduces Estate Taxes
- Protects inexperienced or incapable beneficiaries from managing assets

Revocable Living Trust

- You Can Be:
 - Grantor, Trustee & Beneficiary
 - No Loss of Control Over Assets
- “Funding” a Trust - transfer of legal title to Trust for Trustee to administer

IRA Distribution Rules Before Death

- First IRA Distribution: April 1st Year after Age 70 1/2
- “Liberalized” IRS Distribution Table:

Age 70 – 3.65%	Age 76 – 4.55%	Age 85 – 6.76%
Age 72 – 3.91%	Age 78 – 4.93%	Age 90 – 8.77%
Age 74 – 4.2%	Age 80 – 5.35%	Age 95 – 11.63%

- Distributions based on Prior Year (12/31) Account Balance
- If Spouse is 10 Years Younger, even Longer Payouts

IRA Distribution Rules After Death

- Living Trust as IRA Beneficiary? (**BEWARE!!!**)
 - “Control” Rationale
 - Distributions generally begin Year after Death based on Age of Oldest Beneficiary
 - Most Trusts do not Comply with IRS rules resulting in a 5-Year Payout
 - SOLUTION?: **Merrill Lynch Trusteed IRA**
- Spouse or Children as IRA Beneficiaries?
 - No “Control”
 - Spouse may Rollover IRA
 - Defer Distributions until Age 70 ½
 - Name Children as Beneficiary (“Stretch IRA” Benefits)

Dealing with the Estate Tax

- Minimization or Avoidance of Estate Taxes is Easily Done by having both Spouses establish Funded Living Trusts
- **CREDIT SHELTER TRUSTS**
- **DISCLAIMER TRUSTS...A Flexible Solution**
 - Surviving Spouse Elects to:
 - Continue 1st to Die's Trust (If Estate Tax Concerns)
 - Liquidate 1st to Die's Trust (if No Estate Taxes)

IRA Beneficiary Designations

<u>Status</u>	<u>Factors</u>	<u>Primary</u>	<u>Secondary</u>
Married	<ul style="list-style-type: none"> • Harmonious Marriage • IRA not needed to fund Estate Tax Trust & Children are Responsible 	Spouse Spouse	Children
Married	<ul style="list-style-type: none"> • 2nd Marriage, or • Want Trust “Control” • Asset Protection 	Trust/TA Trust/TA	N/A
Single	<ul style="list-style-type: none"> • Responsible Children • Young or Irresponsible Children/Asset Protection 	Children Trust/TA	N/A

“TA” = Merrill Lynch Trusteed IRA

Death Tax Reform – Business as Usual

Changes in Estate Tax Could
Bring About a Bad Heir Day

8-30-01



Janet Cleland

Estate Taxes - A Changing Calculation



Year	Federal Exclusion	Illinois Exclusion	Top Federal Rate
2011	\$5M	\$2M	45%
2012	\$5.12M	\$3.5M	35%
2013	\$1M???	\$4M	55%???

- Will the Bush Tax Cuts “Sunset” in 2013?

2012: High Estate Taxes for the Wealthy

Tentative Taxable Estate	2011		2012	
	IL Rates <u>over</u> <u>2M</u>	Fed & IL Rates <u>over</u> <u>\$5M</u>	IL Rates over <u>\$3.5M</u>	Fed & IL Rates over <u>\$5.12M</u>
\$2,000,000	0%		0%	
\$2,500,000	25.70%		0%	
\$3,000,000	16.73%		0%	
\$4,000,000	12.70%		25.93%	
\$5,000,000	11.74%		23.48%	
\$5,120,000	11.67%		22.48%	
\$5,240,000	11.62%		21.63%	
\$6,000,000		64.64%		68.69%
\$7,000,000		53.38%		54.56%
\$8,000,000		49.75%		50.36%
\$9,000,000		48.02%		48.42%
\$10,000,000		47.05%		47.35%
\$20,000,000		44.96%		45.04%

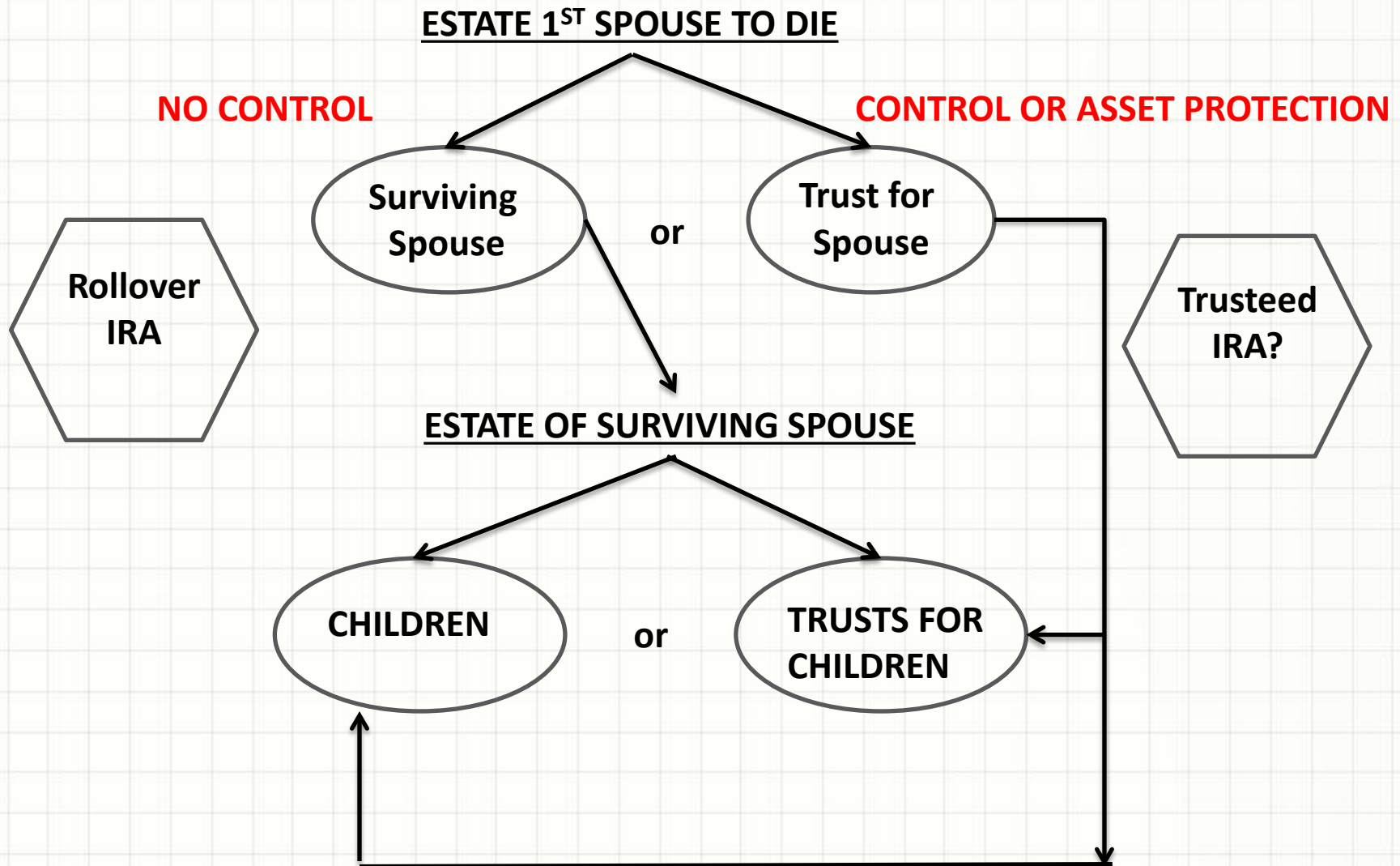
TRADITIONAL ESTATE TAX PLANNING

(Presume Deaths in 2007)

	Husband <u>(Dies 1st)</u>	<u>Wife</u>
ASSETS	\$2,000,000	\$2,000,000
ESTATE TAX EXCLUSION (Credit Shelter Trust)	<u>(\$2,000,000)</u>	<u>(\$2,000,000)</u>
NET ESTATE	\$0	\$0
ESTATE TAX	\$0	\$0

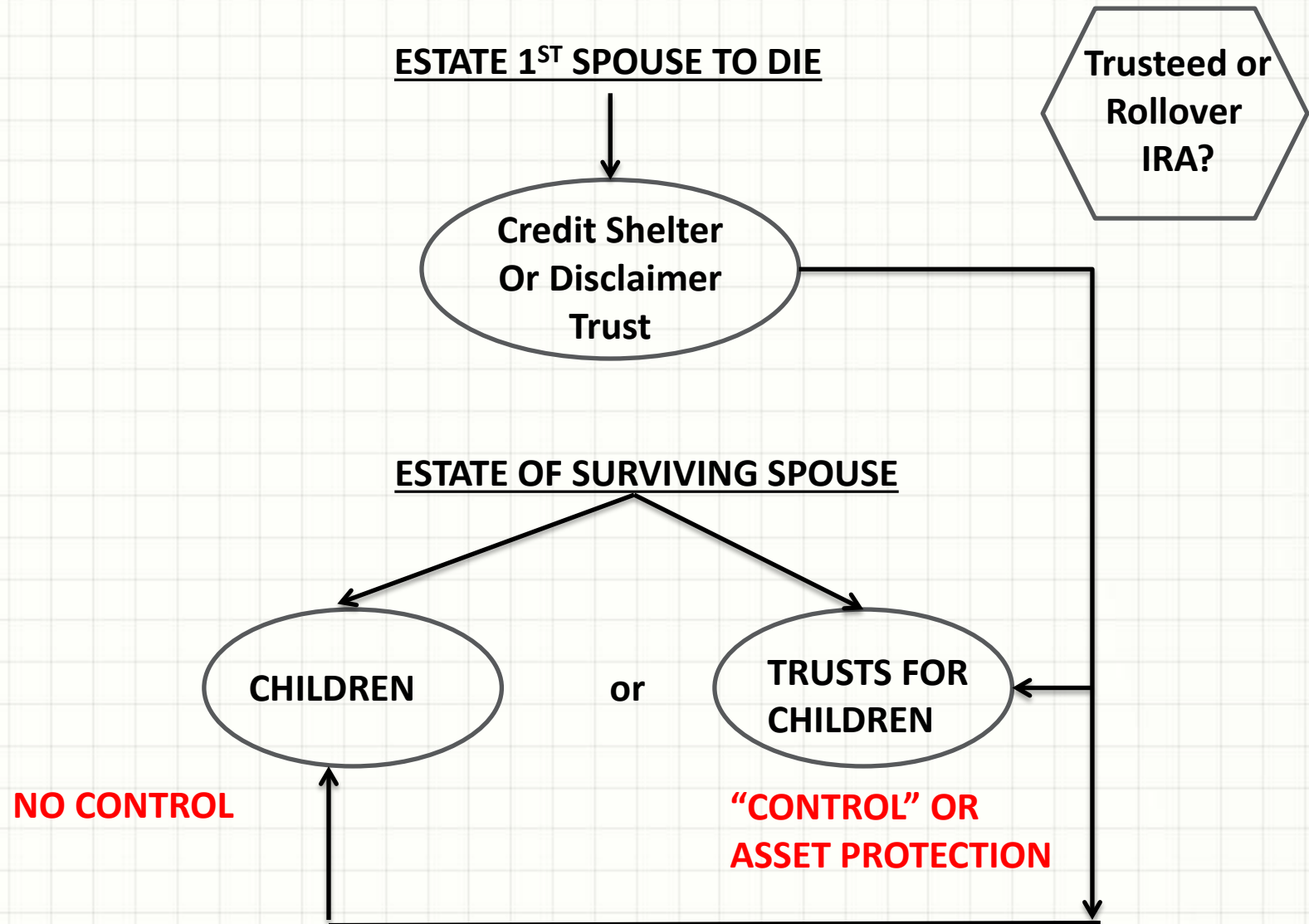
ESTATE PLANNING FLOWCHART #1

No Estate Planning



ESTATE PLANNING FLOWCHART #2

Estate Planning



When To Check Your Estate Plan

- Births and deaths
- Moves between states
- Marriages
- Changes in your assets
- Divorces
- Business changes
- Inheritance
- Tax law changes



Keep Money In The Family

- **“There are two systems of taxation in our country; one for the informed and one for the uninformed.”**

(Judge Honorable Learned Hand - Appeals Court Justice)