

Anyone Can Make A Lasting Impact On The Lives Of Others

A Planned Giving Online Webinar

PRESENTED BY

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MGDLaw
ESTATE & WEALTH PLANNING

PREPARED FOR

Peace Haven

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This webinar presentation is intended to stimulate thought and discussion, and to provide those attending the webinar with useful ideas and guidance in the areas of estate planning and administration. The materials and the comments made by the presenters during the webinar or otherwise does not constitute and should not be treated as legal advice regarding the use of any particular estate planning or other technique, device or any of the tax or other consequences associated with them. Although we have made every effort to ensure the accuracy of the webinar presentation, neither MGD Law, LLC nor the lawyers, Beverly J. Greenley and Lisa D. McLaughlin, assume any responsibility for any individual's reliance on the written or oral information presented in association with this webinar. Each webinar attendee should seek legal counsel before applying a particular fact pattern in order to determine the tax or other consequences of using any particular device, technique or suggestion shared today.

Beverly J. Greenley



With decades of experience as an estate attorney and former professor of law and taxation, Beverly has amassed a wealth of practical experience in estate planning, income taxation, estate and gift taxation, generation-skipping taxation, probate, and trust administration. She has taught courses on the income taxation of estates, trusts, corporations, partnerships and individuals, as well as estate and gift taxation. Through it all, she has made it her mission to make law understandable for non-lawyers. Beverly currently serves on the Peace Haven Board of Trustees.

Lisa D. McLaughlin



Lisa has 40 years of experience in complex estate and trust planning for multi-generational families, wealth planning, and probate and trust administration. Lisa devotes much of her practice to charitable, nonprofit, and tax-exempt entity law, so she is particularly well suited to provide advice regarding governance for charitable trusts, nonprofit corporations, private foundations, endowments, and planned giving programs. Lisa currently serves as a Trustee and Chair of the Board of the Missouri Historical Society, a Director of YouthBridge Community Foundation, and a Trustee of the Missouri United Methodist Foundation.

This webinar will cover:

- Estate planning for all size estates designed to make sure your property is distributed to your loved ones and favorite charities economically and without the expense and time of probate.
- How to protect property distributed to minors and others needing supervision.
- How to plan distribution of IRAs and other retirement property in view of the new tax laws.
- How to support your favorite charities using tax advantaged strategies.

A woman with dark, curly hair is smiling and holding a large white rectangular sign in front of her chest. She is wearing a colorful floral skirt with pink, orange, and yellow flowers on a light green background, and black flat shoes. The background is a solid light blue.

**Who needs
estate planning?**



Who needs Estate Planning?

You May Think the Term
“Estate Planning”
Doesn’t Apply to You.
Well, Think Again.

People make a big mistake when they think, *“I don’t need to do planning because I don’t have that much.”*

Everybody has something, and without exception, everybody needs a Will.





The need for an estate plan has nothing to do with whether you are worth millions of dollars or have just a few hundred dollars.

Everyone has something to pass on.

Your Estate Plan Can...

- Provide for your family
 - With a continuous cash flow for you and your spouse for the rest of your lives
 - With life insurance and other property for children and others
 - With avoiding gift and estate tax (Transfer Taxes)
 - With funds to pay unavoidable estate taxes
- Provide a method to give to your favorite charities

Everyone needs an estate plan, regardless of wealth.

You have three objectives regarding your assets:

- Preserving
- Managing
- Distributing



Your estate includes:

- Your home and other real estate
- Tangible personal property like cars and furniture
- Intangible property like bank accounts, investments, pensions, IRAs and other benefits.



You can name
specific
bequests of
jewelry or
personal
effects.



You can
make gifts
to causes,
institutions,
and
charities
that are
meaningful
to you.



Incapacity

- Guardianship
- Conservatorship of property
 - Multiple lawyers and fees
 - Must be declared mentally incompetent
 - Court proceedings are open to the public
 - Annual court accounting required
 - Court approval required for all financial and property transactions

Divorce, Remarriage and Blended Families

- Most divorced or widowed persons remarry (importance of pre-nuptial agreement).
- Divorce of children can result in Son-in-law/daughter-in-law running off with family assets.
- Protect your children and grandchildren from possibly losing their inheritance from you.

Spendthrift Beneficiaries

- Protect heirs from financial inexperience.
- Protect heirs from creditors, bankruptcy and crooks.

Some Heirs Need Incentive to Achieve

- Inheritance can undermine incentive to achieve.
- Protect Heirs from disincentives.
- Provide for appropriate carrots and sticks.

Family Members with Special Needs

- Developmental disabilities
- Chronic mental illness
- Dementia and Alzheimer's
- Provide for adequate care
- Preserve eligibility for public assistance, such as Medicaid, Social Security Disability, etc.

Family Business Succession

- Ownership succession
- Management succession
- Liquidity crisis
- Tax valuation problems
- Estate equalization

Managing Assets

Who would you have step in and manage your affairs if you were disabled or deceased?
It is critical that you choose the right person.



A properly thought-out estate plan answers these and many other questions.



Many estate planning issues have little to do with money and a great deal to do with control.

Basic Questions Are:

- What property do you own?
- What are you going to do with your property?
- What legal vehicles (documents) should you use to accomplish your goals at lower cost to you and your beneficiaries?

Before we address these questions...

What happens if you do nothing?

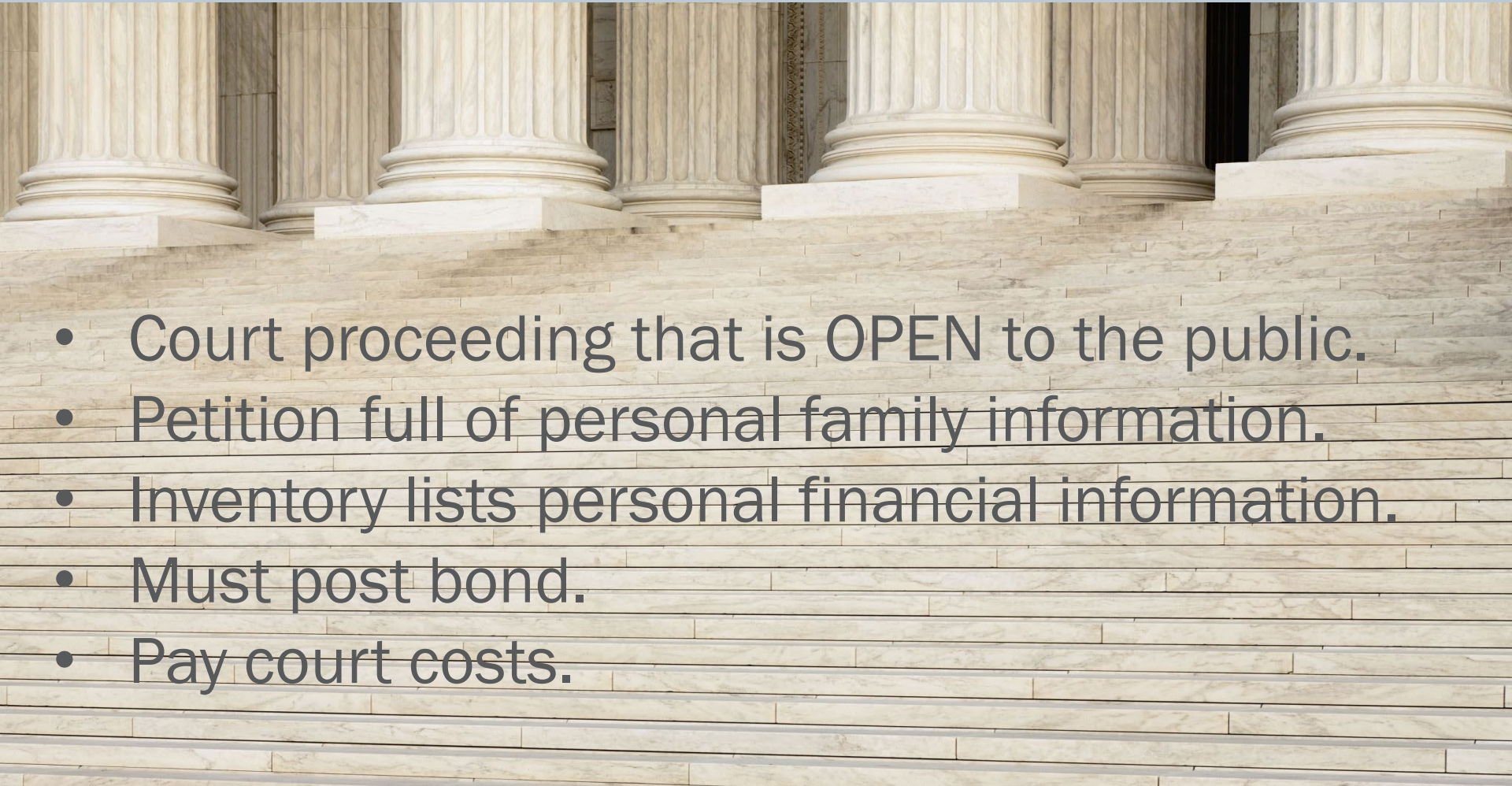


Your property goes
through Probate.

There are basically two kinds of Probate which can create costs, delays, and challenges for your loved ones:

1. Probate at death where the Court appoints a Personal Representative (most common)
2. Probate during life where the Court appoints a Conservator

What is Probate at Death?

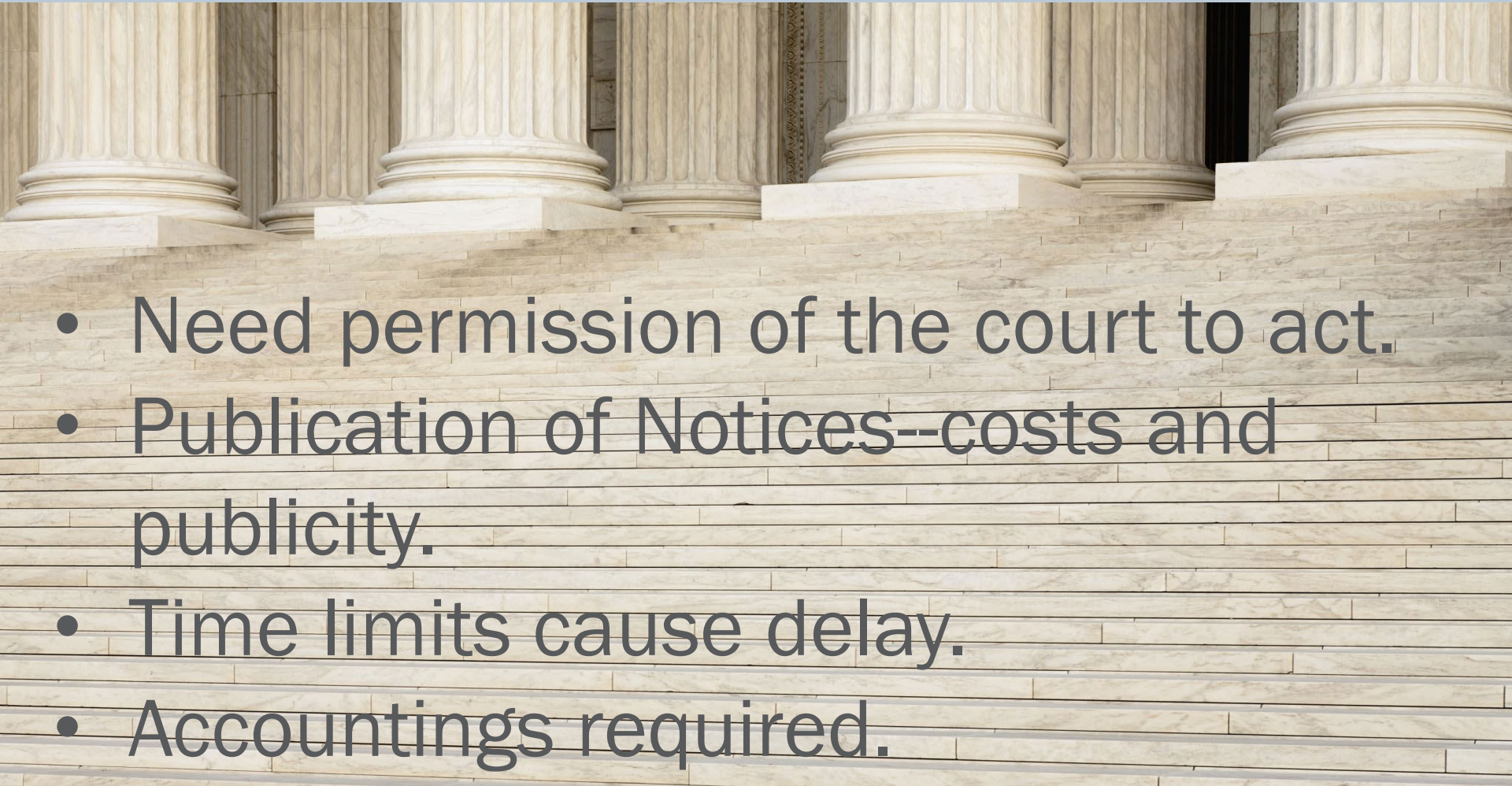
- 
- Court proceeding that is OPEN to the public.
 - Petition full of personal family information.
 - Inventory lists personal financial information.
 - Must post bond.
 - Pay court costs.

Probate Fees of Personal Representatives and Attorneys

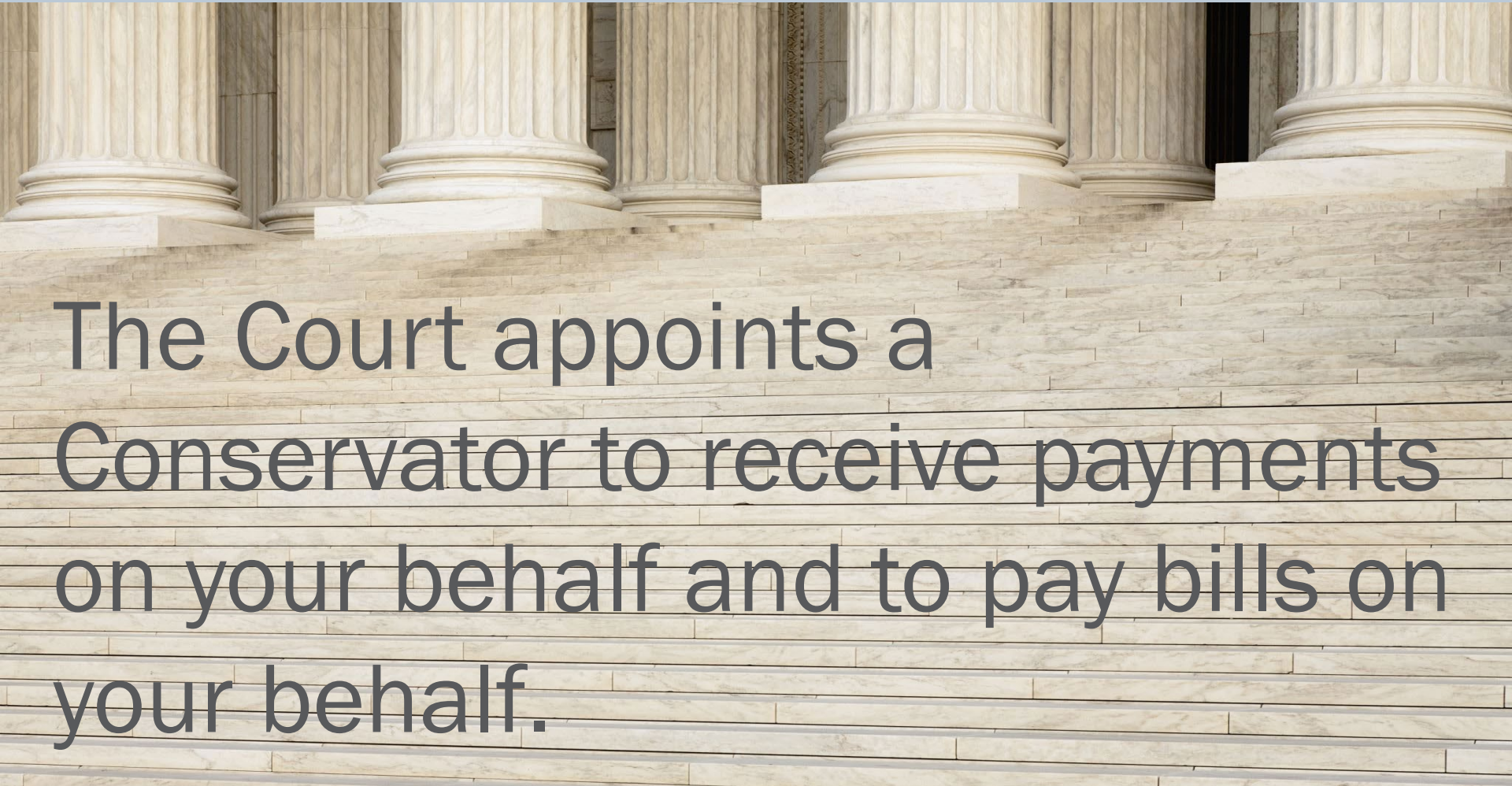


ESTATE SIZE	PERSONAL REPRESENTATIVE	ATTORNEY	TOTAL
\$100,000	\$3,300	\$3,300	\$6,600
\$500,000	\$14,050	\$14,050	\$28,100
\$1,000,000	\$26,550	\$26,550	\$53,100
\$2,000,000	\$46,550	\$46,550	\$93,100
\$5,000,000	\$106,550	\$106,550	\$213,000

What is Probate?

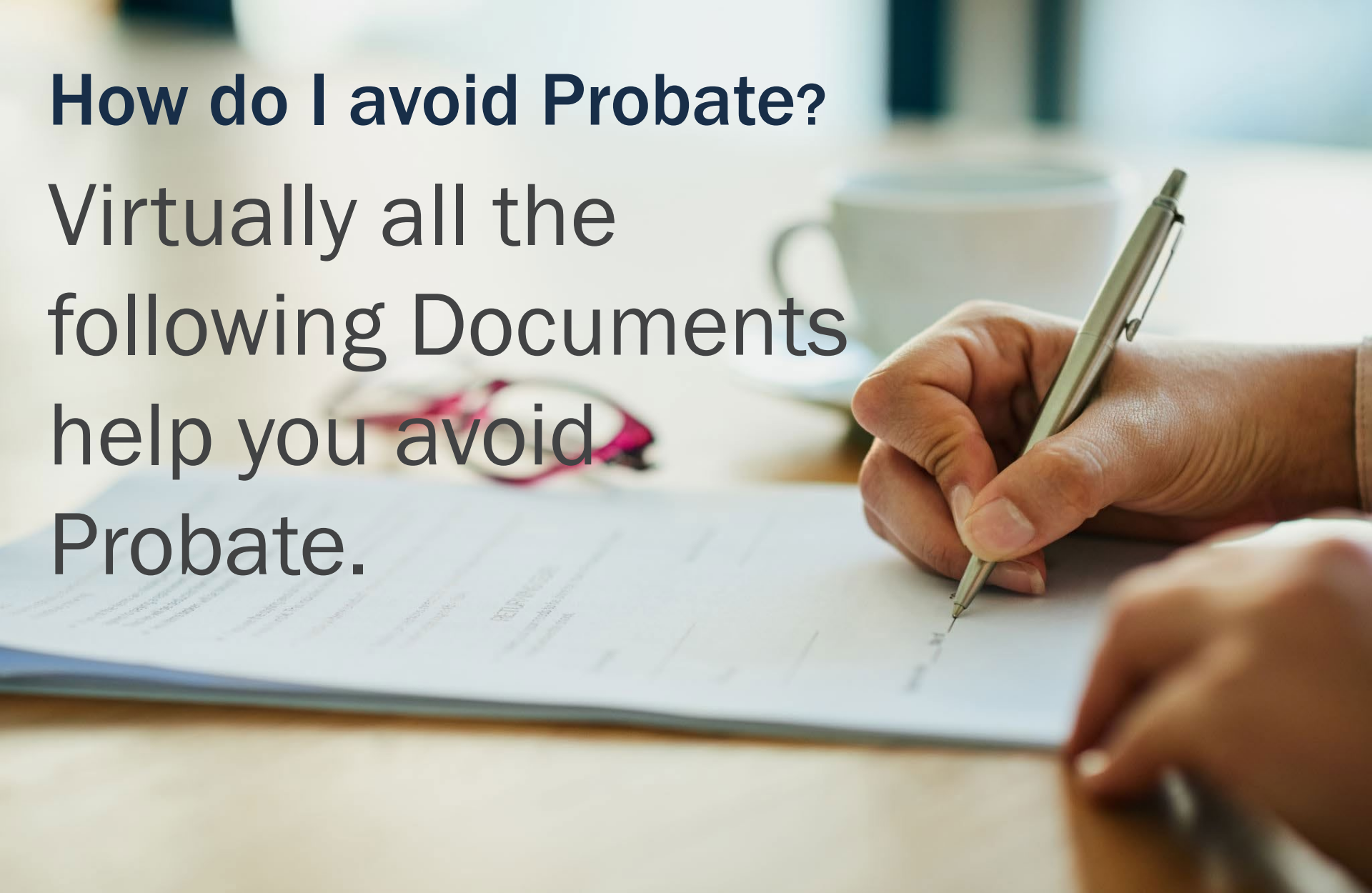
- 
- Need permission of the court to act.
 - Publication of Notices--costs and publicity.
 - Time limits cause delay.
 - Accountings required.

Probate during Life is similar.



The Court appoints a Conservator to receive payments on your behalf and to pay bills on your behalf.

How do I avoid Probate?
Virtually all the
following Documents
help you avoid
Probate.



For Estate Planning purposes, we recommend the following documents:

- **Revocable Trust**
(Applies during life and after death)
- **Pour Over Will**
(Applies only after death)

LIFETIME DOCUMENTS

In addition to providing for distribution of your Estate to your loved ones, a good Estate Plan includes the following documents for your lifetime needs, the first two of which also can avoid Probate.

- Financial Durable Power of Attorney
- Health Care Durable Power of Attorney
- Living Will/Advance Directive

TRUSTS

- Designed to Avoid Probate
- Provide Lots of Flexibility



What is a Trust?

A Trust is an Agreement typically between two persons. One of them holds property for the benefit of the other.

1. Normally, you are one of those two persons, and you choose who is the other. You would be called a **Trustor, or Grantor or Settlor**. All refer to the creator of a Trust.
2. The other also can be you. Or you can choose a relative, friend, lawyer, trust company -- any trusted person or entity. Such person or entity is called the **Trustee**.
3. You and your Trustee can agree to most anything.
4. In Estate Planning, the Trustee can see to the distribution of your property to your desired beneficiaries such as you, your spouse, your children, other relatives or friends, or charities.
5. Trusts can be used to avoid the unnecessary and costly expense of the Probate Court and other costs associated with the transferring of title from you to your loved ones or others by a Last Will & Testament or there is no Will.

Revocable Living Trusts

Can be:

- One Trust for each spouse
- One Joint Trust providing for both spouses
- One Trust for a single person

And will help you:

- Avoid Probate
- Protect from Lifetime Disability
- Assure your property will go as you wish, and if married, that the predeceasing spouse's property goes as he/she wishes
- Often designed to save estate taxation

Two Revocable Living Trusts for Married Persons

Example Only

\$12,000,000

Spouse 1
Revocable Trust
\$6,000,000

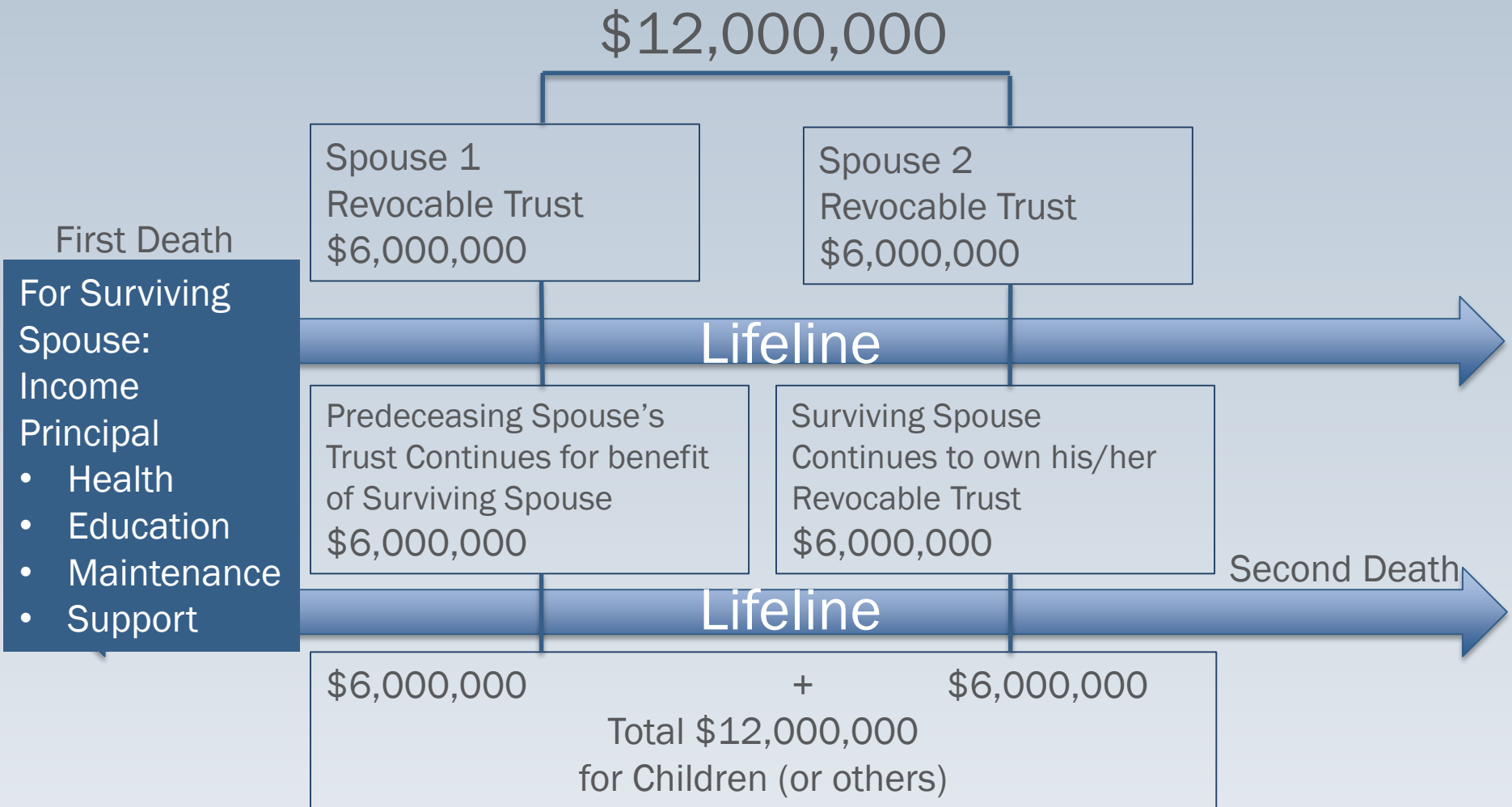
Spouse 2
Revocable Trust
\$6,000,000



Lifeline

During Life, use as wish:
Buy, Sell, Invest, Lease, Mortgage,
Spend, File 1040,
Be the Trustee

Two Revocable Living Trusts for Married Persons



Joint Revocable Living Trust

Example Only

\$3,000,000

One Revocable Trust
\$3,000,000

First Death

Lifeline

For Surviving Spouse:
Income Principal
for any purpose.

Trust Continues for
Surviving Spouse
\$3,000,000

Surviving Spouse
may have the
power to change
the Trust.

Second Death


Lifeline

Total \$3,000,000
for Children
(or others, maybe determined by Surviving Spouse)

Joint Revocable Living Trust

- Avoids Probate
- Protects from Lifetime Disability
- Can, but may not, assure Predeceasing Spouse's wishes will be followed at death of Surviving Spouse

Revocable Living Trust

The background of the slide is a dense collage of various clock faces and mechanical gears. The clocks vary in style, including antique wooden ones, modern white ones with black numbers, and some with Roman numerals. The gears are metallic and interlocking, creating a complex, mechanical pattern. The overall color palette is muted, with a lot of browns, greys, and blues.

A Successor Trustee
steps in your place
when you no longer
wish to serve or you
pass away.



Title is King in Avoiding Probate

Property to be Transferred to Your Revocable Trust

Almost all your property needs to be categorized into the following types of property and transferred from your name into your Revocable Trust:

1. Real Estate
2. Tangible Personal Property
3. Intangible Personal Property

(But NOT IRAs and other retirement assets unless special Retirement Trust provisions are included in your Revocable Trust.)

Property to be Transferred to Your Revocable Trust

Examples of Real Property:

- Land and/or House on Land, Condos, Etc.

Examples of Tangible Personal Property:

- Car, Watch, Jewelry, Furniture, Tools, Etc.

Examples of Intangible Personal Property:

- Stocks, Bonds and/or Mutual Funds

Should you
Still have a
Will?



YES!



If you have a Revocable Trust,
you need a “Pour Over” Will.

Very well-meaning and thorough people promise to transfer their property to their Revocable Trust. But...



Very well-meaning and thorough people promise to transfer their property to their Trust. But...

- \$50,000 Check Story
- Inheritance comes your way during life but is distributed after your passing
- Refunds from IRS, Health Insurance, Property Insurance, Facility Refunds, Returned Purchases
- Found Grandmother's gift of Disney Stock in Certificate form that you put in a drawer years ago
- Need Personal Representative to deal with Insurance Companies (especially Life Insurance Companies)

We've discussed:

- A Revocable Trust
- A Pour Over Will

There is a **Testamentary Will** used without a Revocable Trust.

- Allows you to dispose of your property in case your non-probate solutions do not work.
(We will discuss non-probate ideas shortly.)

If you could no longer manage your money because of mental health issues or other illness, who would make financial decisions for you?



Financial Durable Power of Attorney

- Everyone needs one.
- Especially Important if you do not have a Revocable Trust.



You name one or more Agents
(Also known as Attorneys-In-Fact)
to act for you if you are not able or are unavailable to act.

Your Attorney in Fact under your Financial Durable Power of Attorney would

- **Invest your Assets** such as buy or sell stocks in your brokerage account.
- **Pay Your Bills** such as access your checking and savings accounts.
- **Care for Your Home** or buy or sell one.
- **Deal with Your Business, Your Car, and Other Assets.**
- **Handle your Financial Matters** such as taxes, creditors, sue or handle lawsuits against you, arrange for payment of nursing in care facilities, etc.

Health Care Documents

If you could no longer manage your health because of illness, who would make health care decisions for you?



Health Care Power of Attorney

This document designates someone who can make health care decisions on your behalf. This person is your Agent or Attorney-In-Fact.

Your Health Care Attorney-In-Fact would

- Attend to your Health Needs.
- Follow your instructions per your Health Care Power of Attorney, including the type of treatment you specify.

Health Care Power of Attorney

Our versions of the Health Care Power of Attorney enable you to choose the type of Health Care you want.

We have 3 versions of our Health Care Power of Attorney document. You can make your choice of which version best fits your needs or we can help you design a document specific to the care you desire.

Health Care Choices

- One document allows for reliance on Christian Science alone for healing all ills and physical needs; we add an Affidavit & Release document to protect your Agent.
- Another document allows for reliance on medical help alone for healing.
- The third document allows for reliance on both Christian Science and medical help as determined by your Agent; we add an Affidavit and Release.

You can make your choice. You, your Attorney-In-Fact, and your health care provider need be the only ones who know your choice.

Prayer will reveal which choice is best for you.

Living Will

This document expresses one's intent not to be hooked up to medical machinery and authorizes removal of such machinery if it has earlier been used.

Living Will

This document clearly states your wishes about life sustaining treatments. Some people want a Living Will and some don't. It is thought by some that a Living Will can relieve your loved ones of guilt should they be put in a position to make this decision. It is also a legal release for hospitals and doctors.

Non-Trust Solutions

Easy to do. Not very costly.



Beneficiary Deed for Real Estate

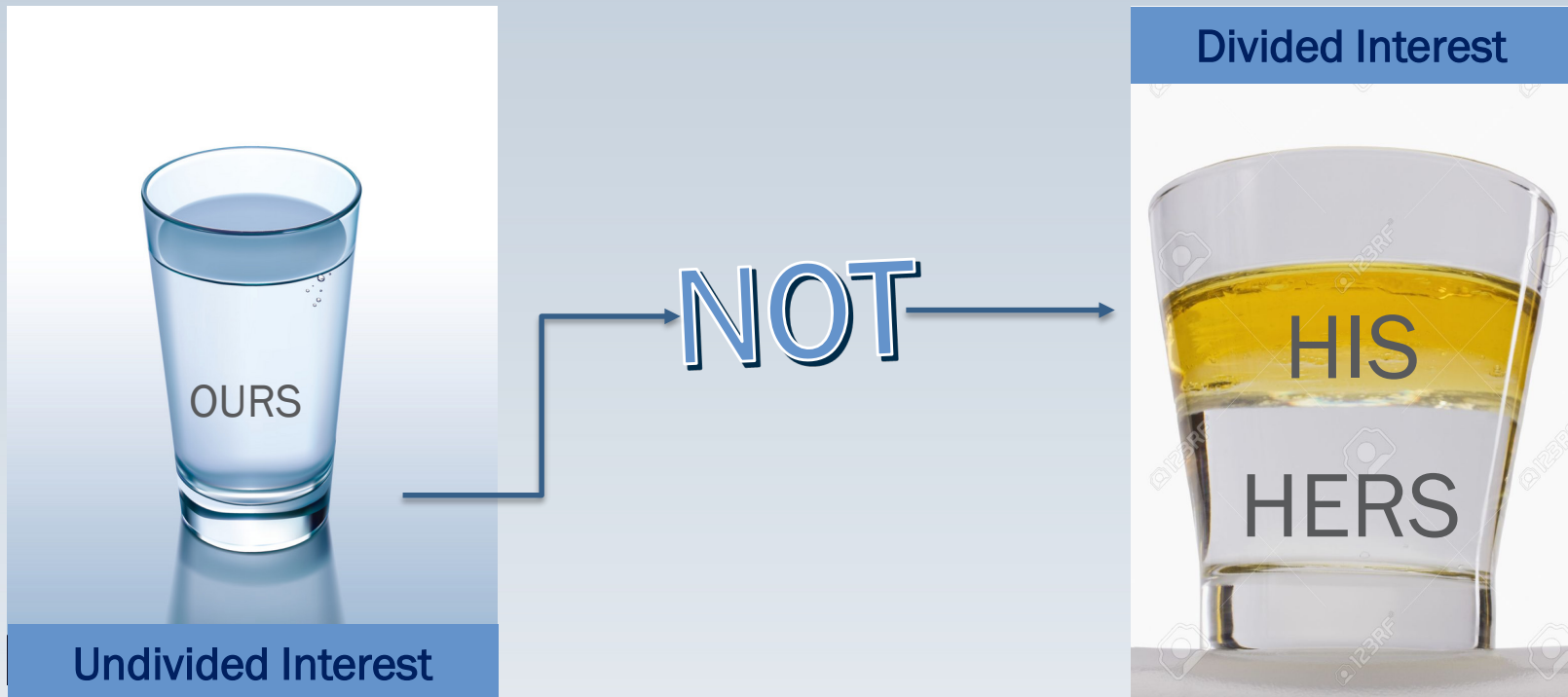
- Form of non-probate transfer that applies to Missouri and Illinois R. E.
- BUT... state laws govern and not all states provide for beneficiary deeds.
- Beneficiary deed is revocable and changeable during life.
- Title transfers at death without probate if beneficiary(ies) survive you.

Pay on Death (POD) & Transfer on Death (TOD)

- Non-probate transfer designations under Missouri statutes and Illinois statutes.
- Not available in all states.
- May only be used with certain types of titled properties.
- Often used for bank accounts, car titles, and stock or other brokerage accounts.
- If done properly, title transfers automatically at death without probate if designee(s) is/are living.

Tenancy by the Entireties

- Applies to married couples only
- Each spouse owns an undivided interest in the entire property.



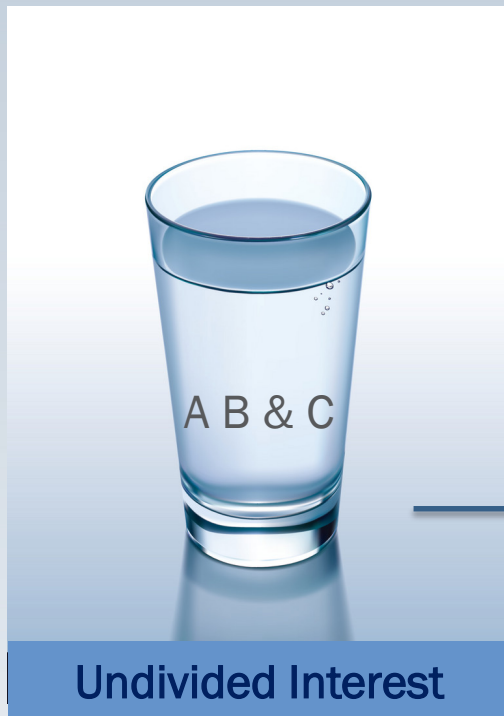
Tenancy by the Entireties

- Not partitionable (not divisible into separate properties) without consent of both spouses.
- Upon death, deceased's interest includable in estate, but not taxable (due to marital deduction).
- Not subject to creditors of only one spouse.
- At death, title transfers automatically to surviving spouse without Probate.

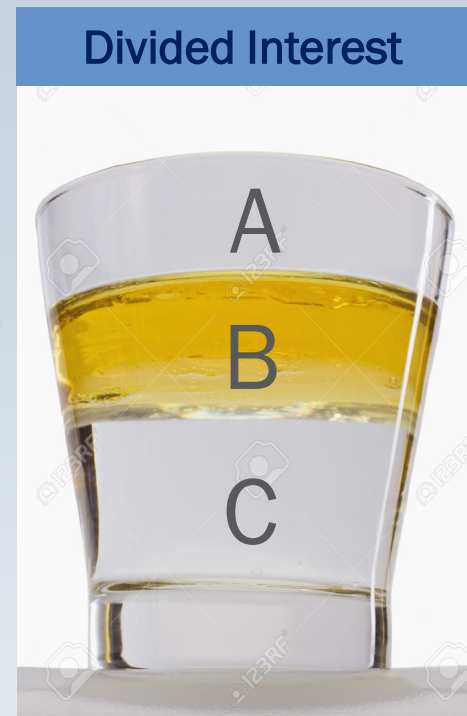
Joint Tenants

- Each immediately owns undivided fractional interest in property; must be equal fractions.

If A B & C Own Property



NOT



Joint Tenants

- Can be divided by a partition lawsuit.
- Creditor may reach undivided fractional interest of A, B or C.
- At death, title automatically transfers to surviving joint tenant(s), if any living.
- If owners are not spouses, presumption arises that entire property is taxable in estate of first to die.

Disadvantages of Non-Trust Solutions

- May disinherit children.
- If joint owner predeceases you, your interest goes to probate unless more joint owners living.
- Beneficiary can be a minor requiring probate conservatorship.
- Beneficiary becomes disabled, also requiring a conservatorship.
- Spouse of joint owner must sign deeds, mortgages, gifts, etc.

IRAs Under the New Law

- Required Minimum Distributions must start in the year you attain age 72.
- Under current law, a surviving spouse named as the beneficiary of their spouse's IRA can receive his/her benefits over the survivor's lifetime.
- Since all benefits are income taxable, extending the time over many years typically saves taxes.

New Law IRAs (cont.)

- Until recently, non-spouse individuals named as beneficiaries of a decedent's IRA could receive inherited benefits over their life expectancy.
- Now, virtually all others must take their benefits in 10 years from the IRA owner's death (can be 11 years depending on date of death)
- Exceptions apply for students and persons with disabilities.

IRAs for Charity

- Naming a **Qualified Charity** as a beneficiary at death is a very tax effective way of giving to charity, as the charity is exempt from income taxes.
- Typically, it may be better to use your IRA for charitable donations instead of your Revocable Trust or Will and use your Trust or Will to benefit loved ones who typically will pay smaller income tax on distributions to them from your trust or estate.

Charitable Donations from IRAs during Life

- Persons who are age 72 may make distributions to **Qualified Charities** and reduce the income tax on their Required Minimum Distributions.
- There is no Itemized Deduction for the contribution, however, not having to pay tax on RMD equal to contribution is often more beneficial.

Other Charitable Planning Methods

- Outright Gift or Bequest of Cash or Securities to Charity
- Remainder Gift in Residence or Farm to Charity
- Donor Advised Fund (commercial vs. charity sponsored)
- Charitable Remainder Trust (CRAT, CRUT)
- Charitable Lead Trust
- Private Foundation (entity may be a charitable trust or a nonprofit corporation)

SUMMARY

Basic legal documentation for effecting transfers of title to your property to your loved ones typically include your choice of a package of the following legal vehicles:

1. Revocable Trust and Pour Over Will OR
2. Testamentary Will (goes through Probate) AND
3. Financial Durable Power of Attorney
4. Health Care Durable Power of Attorney
5. Living Will

We are happy to provide a one-hour conference about which tools may be best for you. There is no obligation on your part. We just want to help you if we can.



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Beverly J. Greenley

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