

# Estate Planning 101

*Presented by Paula Clarkson, J.D., LL.M and Cassidy Russell, Esq.*



# About Merhab Robinson & Clarkson

*Business and Estate Planning*

## Practice Areas

- ❖ Estate Tax Planning
- ❖ Probate & Estate Administration
- ❖ Business Succession Planning
- ❖ Asset Protection
- ❖ Charitable Planning
- ❖ Business Law
- ❖ Entity Formation
- ❖ Employment Law
- ❖ Mergers & Acquisitions
- ❖ Employment Document Audits

# Our Panelists



Paula Clarkson

Paula Clarkson manages Merhab Robinson & Clarkson's Estate Planning practice and has more than 20 years of Estate Planning experience. She is a Certified Specialist in Estate Planning, Probate, and Trust Law as designated by the State Bar of California Board of Legal Specialization and has an LL.M. in Taxation.

Cassidy Russell earned her Juris Doctor from Dale E. Fowler School of Law at Chapman University in 2014 and has been practicing Estate Planning for 8 years. Her areas of specialty include Estate Planning, Trust Administration and Probate and Conservatorships.



Cassidy Russell

# What is Estate Planning?

- Incapacity and end-of-life decisions
- Asset accumulation, preservation, and transfer
- Minor children and beneficiaries
- Income, property, and estate tax reduction
- Leaving a legacy
- Providing peace of mind to yourself and your family in difficult situations



# What is an Estate?

Let's start with the basics

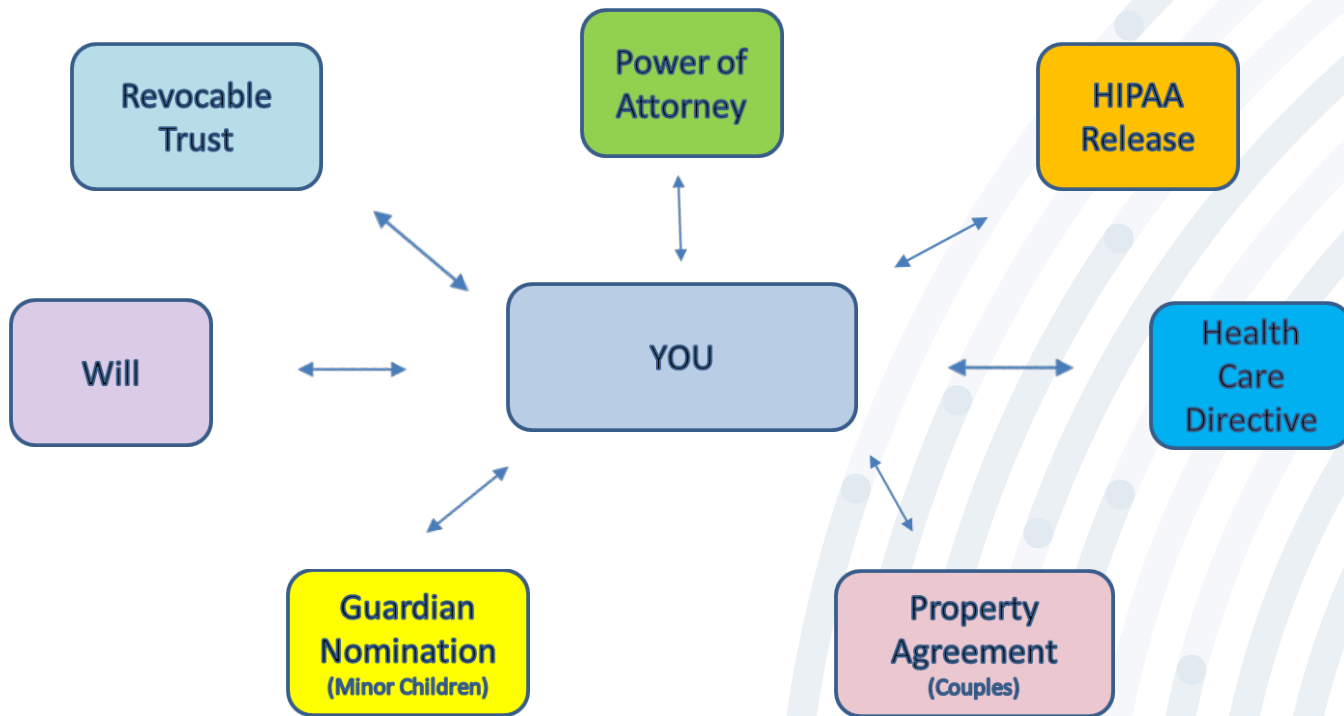
LIFE INSURANCE

BUSINESS INTERESTS



- 401(k) / IRAs / other retirement accounts
- Bank Accounts
- Investments

# Elements of an Estate Plan



# Protecting Yourself

## Health Care

- Planning for and appointing loved ones to make healthcare decisions for you when you are unable to do so
- Making your healthcare and end-of-life decisions known

## Financially

- Planning for and appointing loved ones to make financial decisions when you are unable to do so

# Luckily...

## The State of California

has graciously set up a plan  
for those who have no  
estate plan.





# How the Court Gets Involved

During your lifetime:

- **Conservatorship**

A protector is appointed by a judge to protect and manage the financial affairs and/or the person's daily life due to physical or mental limitations or old age

- **Guardianship**

For minors



# How the Court Gets Involved

After death:

- **Probate** is a court procedure where:
  - Assets exceed \$184,500 and don't pass another way (life insurance, 401(k), IRA, POD)
  - Will is proven to be valid or invalid
  - Process for administering a decedent's estate
  - Collection and distribution of assets
  - Creditors and debts paid



# Why Avoid Probate?

- **TIME LAG.** In California, the average time to complete a probate and distribute assets to heirs lasts 1 ½ to 2 years.
- **NO PRIVACY.** Probate is a court-supervised proceeding. Thus, everything is public record.
- **COSTLY.** Attorney's fees are mandated by statute and are a percentage of the estate value. *Probate costs often deplete 5% of the estate.*
- **EMOTIONAL.** Not an easy process at a time of loss for grieving family members.

# Ways to Transfer Property at Death

## Operation of Law

For the benefit of...

In Trust for

Joint Tenancy

Community Property

## Matter of Contract

Employee Benefits

Beneficiary Designations

# The Pitfalls of Joint Tenancy

Although Joint Tenancy may avoid a probate on the first death, it creates many other concerns, such as:

- Probate on last or simultaneous death
- Lack of control over distribution
- Financial liability shared with other joint tenants
- Inadvertent disinheritance
- Potential gift tax implications
- Does not avoid a conservatorship
- Only  $\frac{1}{2}$  step-up in basis on first death

# What is an Advanced Health Care Directive and HIPAA Release?



- Nominates your choice for medical decision-making
- States your wishes for pain relief, life support, donations of organs, and burial
- Allows the release of medical information

# What is a Power of Attorney?

- Nominates your choice for financial decision-making (usually the same as your Executor and Trustee)
- Covers assets held outside of Trust
  - Joint Tenancy Accounts
  - Taxes
  - Social Security Payments
  - Medical/Medi-Care
  - Safe Deposit Boxes

# Choosing a Guardian for Minor Children

- **Create a short list of potential people:**
  - Parents, siblings, cousins, godparents, friends
- **Consider your values and priorities:**
  - School, religion, location
- **Match your short list with your values**





# What is a Will?

- Transfers your assets at death and nominates Executor
- No plan = **Probate**
- Will only = **Probate**
- Will and Trust = **Avoids probate if trust is funded**

# Do you need more in your plan? ★

## Maybe not:

- Assets less than \$184,500
- **Young Adults:** Foundational Plan of Advanced Health Care Directive, Power of Attorney, and HIPAA Release
- **Older Adults:** Foundational Plan of Advanced Health Care Directive, Power of Attorney, and HIPAA

## Yes:

- Minor children
- Assets greater than \$184,500
- Beneficiary with special needs
- Beneficiaries other than those provided by state

# What is a Living Trust?

- Arrangement you create during life to provide for the financial management of your assets during your incapacity and after your death
- Arrangement where:
  - **Trustee:** (generally you) holds legal title for benefit of **beneficiary** (you)
- Trust specifies what happens to property during your life and after you die

# PROTECTING YOUR CHILDREN AND PROVIDING FOR YOUR BENEFICIARIES

A photograph of a happy family of four. A woman on the left is smiling, wearing a light-colored sweater. A man in the center is smiling, wearing a teal t-shirt. A woman on the right is smiling and holding a young child with curly hair. A young girl is in the foreground, smiling. The background is a clear blue sky with some light clouds.

- Minor children
- Avoid guardianship
- Pass along values
- Beneficiaries with special needs or financial and emotional immaturity
- Special Needs Beneficiaries
- Provide for charities of your choice

**CREATE A LEGACY FOR YEARS TO COME!**

# Estate Planning is also Tax Planning

## Income Tax Planning:

- Capital Gains
- Ordinary Income

## Property Tax

## Estate Tax

- Federal
- State

## Gift Tax



# Estate Tax Considerations

Estate Tax Exemption

**\$13,610,000 per person\***

Maximum Estate Tax Rate

**40%**

Gift Tax Exemption

**\$13,610,000 per person\***

Maximum Gift Tax Exemption

**40%**

GST Exemption

**\$13,610,000 per person \***

GST Tax Rate

**40%**

Basis Step-Up

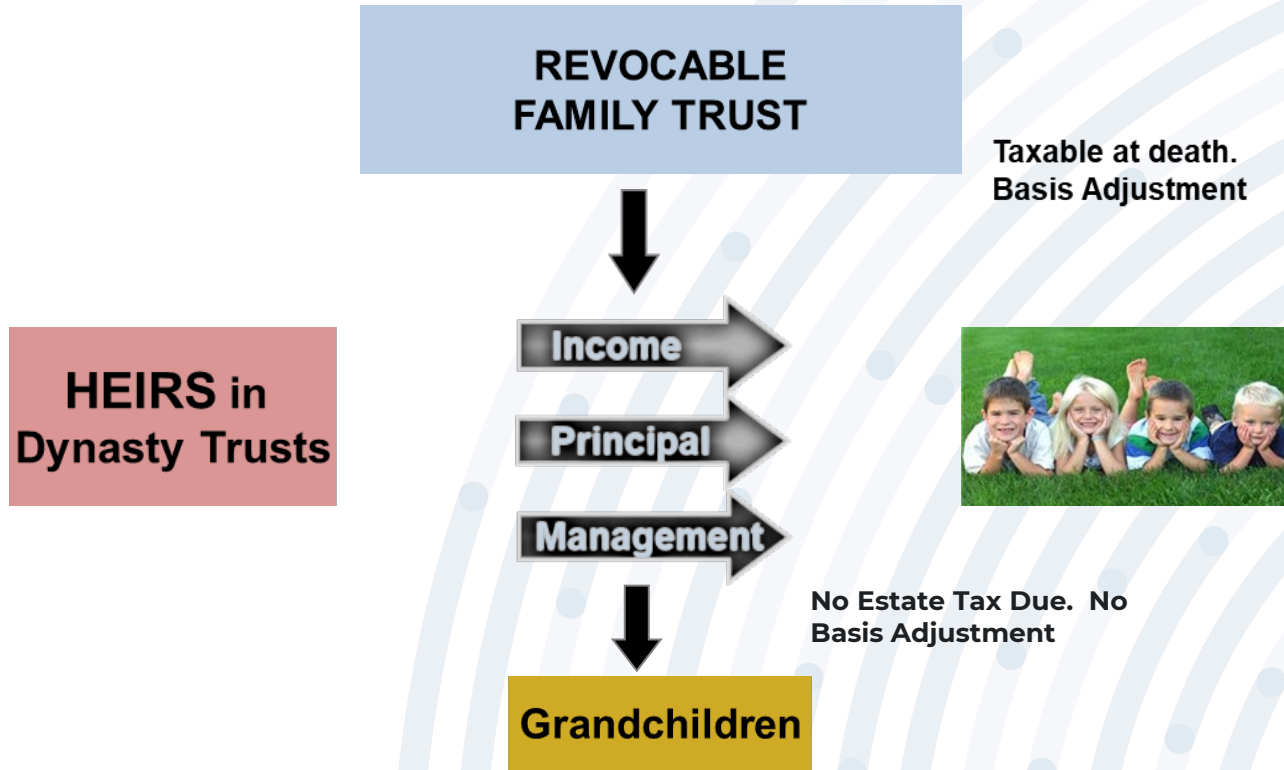
**100%\*\***

Portability

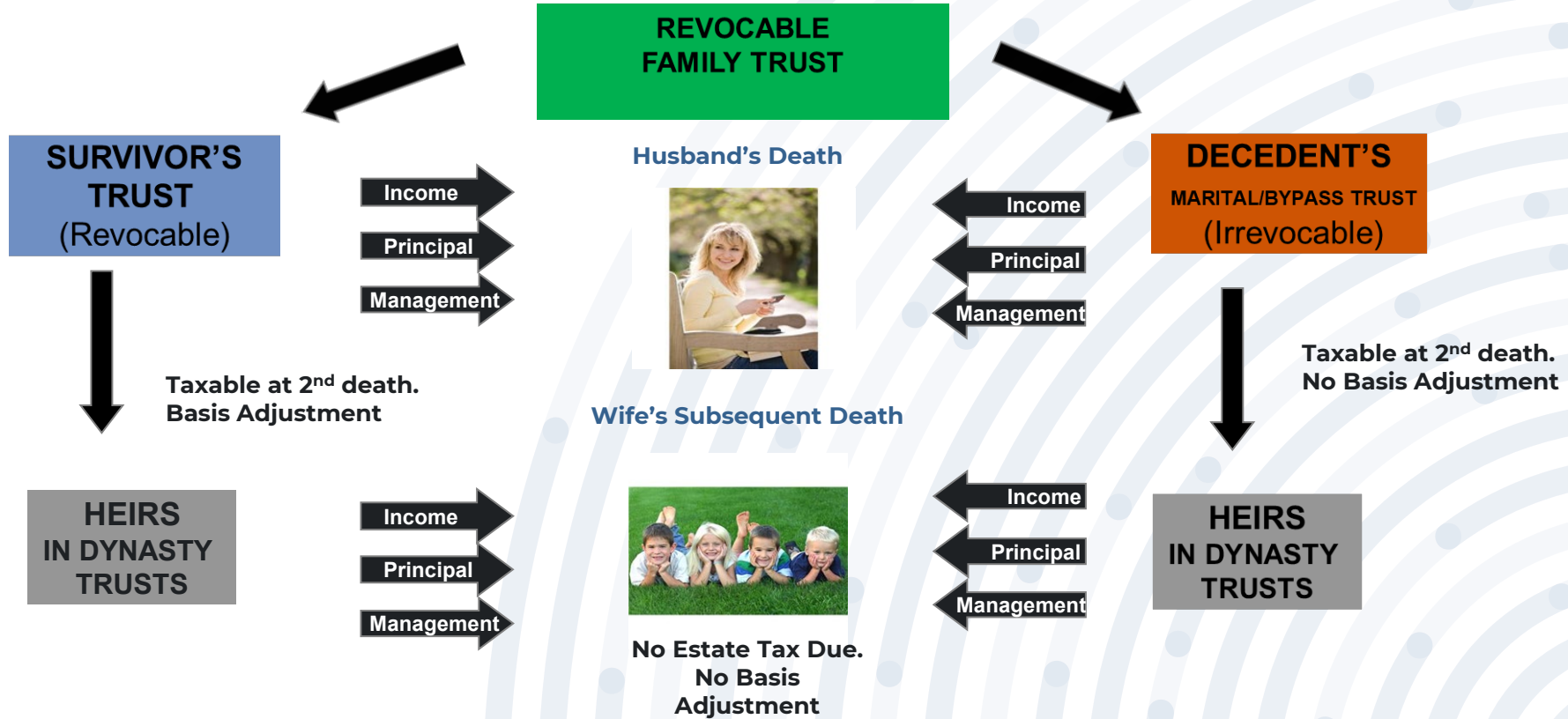
**Available**

\* To be reduced to \$5,000,000 (plus inflation) effective 1/1/2026 unless changed sooner

# Single Person/Married Simple Trust



# A/B or A/C Trust





# Only foolproof way to avoid probate is with a fully funded trust

Re-title investment accounts

Sign new signature cards at bank

Execute deeds to Real Property

Change life insurance and retirement account beneficiary designations

Transfer Stock/  
Bond certificates

Assign personal property



# Thank you!

## Any questions?

If you would like us to speak to an organization you belong to or your business, please let us know. We are always happy to educate people about their rights on estate planning.

# CONTACT US

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