

DO ONLY THE RICH HAVE TRUSTS? KEY STRATEGIES USING TRUSTS IN YOUR ESTATE PLAN

INSTRUCTED
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SESSION ONE

- WHAT IS ESTATE PLANNING?
- WHAT ARE THE 6 COMMON TYPES OF ESTATE PLANS?
- WHAT IS A REVOCABLE LIVING TRUST?
- TRUSTS FOR TARGETED & TAILORED AREAS OF ESTATE PLANNING

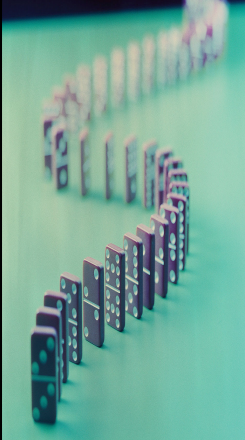
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Not Planning While You're Alive.



- Over One-Half of Virginia residents die without an estate plan;
- Even more have not planned for incapacity or planned for their minor children

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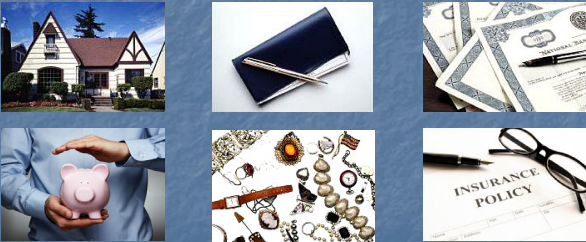


What are the Domino Effects?

- Frustrated & Fractured Beneficiaries;
- Court Battles Over the Care of a Loved One During Incapacity;
- Thousands of Dollars in Court and Possible Litigation Fees;
- Thousands of Dollars paid in Estate Taxes.

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WHAT IS AN ESTATE?



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WHY DO ESTATE PLANNING?

- At Incapacity
 - Control Assets, Medical Decisions
- After Death
 - Control Who Receives Assets
 - Pay Minimum Legal Fees & Taxes
 - Asset Protection

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WHO NEEDS ESTATE PLANNING?



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CASEY KASEM

- Did not plan for Incapacity;
- Over 80 million at stake;
- Daughter from first marriage contested wife's conservatorship.



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JOAN RIVERS

- GOOD ESTATE PLANNING!
- Had a plan for incapacity;
- Allowed her daughter to make decisions.



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COMMON ESTATE PLANS



Will



Doing Nothing



Joint Ownership



Giving Away Assets



Beneficiary Transfers



Revocable Living Trust

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THE DO NOTHING PLAN

- At Death
 - Probate
 - Assets Distributed by State Law
- At Incapacity
 - Court Controls Assets



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Howard Hughes

- Howard Hughes was an eccentric billionaire who died in 1976 at the age of 70. When he died, his will was discovered at the headquarters of the Mormon Church in Salt Lake City. The will, however, was proved to be a forgery in a Nevada court and his estate was divided among his 22 cousins.



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PRINCE

- Had NO ESTATE PLAN;
- Left behind an estimated estate worth \$800 million comprised of his recordings and real estate properties including his recording facility Paisley Park.



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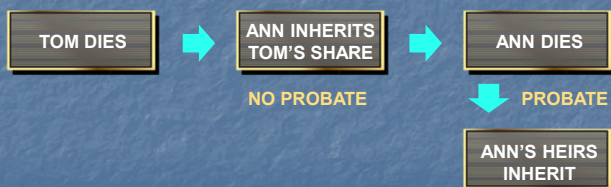
THE JOINT OWNERSHIP PLAN

- Surviving joint owner has full ownership
- Examples:
 - Bank Accounts;
 - Real Estate

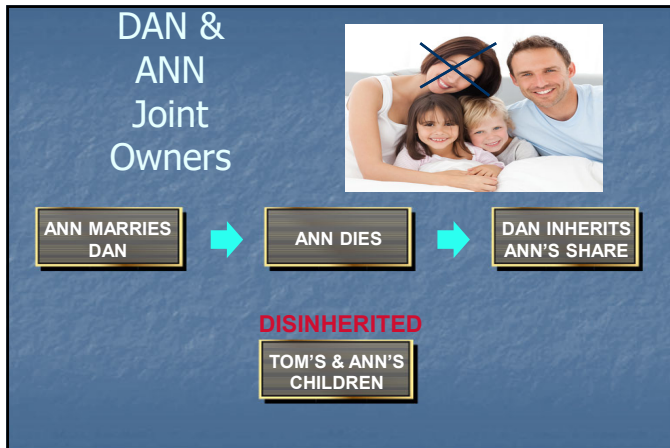


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TOM & ANN Joint Owners



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JOINT OWNERSHIP SUMMARY

1. Only Postpones Probate
2. Unintentional Disinheriting
3. Incapacity = Court Interference
4. Difficult To Remove Co-Owner
5. Lawsuits of Added Owner
6. Debts/Tax Problems of Added Owner

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THE GIVING AWAY ASSETS PLAN

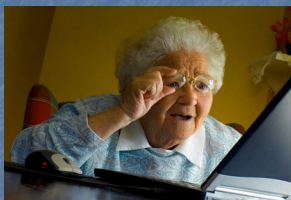
- You Lose Control
- Taxation Problems!!!



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THE GIVING AWAY ASSETS PLAN

- You Cannot Get It Back If You Need It!
 - Kids spend it;
 - The money gets caught up with the child's own debts, lawsuits or divorces.



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THE GIVING AWAY ASSETS PLAN

- Giving the gift of Capital Gains Tax to Your Children.



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STEPPED-UP BASIS



	Lifetime Gifts (Your Basis)
Selling Price	\$ 350,000
Basis	- 25,000
Gain	\$ 325,000
Capital Gains Tax	\$ 68,250

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STEPPED-UP BASIS



	Lifetime Gifts (Your Basis)	Transfers At Death (New, Stepped-Up Basis)
Selling Price	\$ 350,000	\$ 350,000
Basis	- 25,000	- 350,000
Gain	\$ 325,000	\$ 0
Capital Gains Tax	\$ 68,250	\$ 0

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THE BENEFICIARY TRANSFER PLAN

- Problems with Beneficiaries:
 - Incapacitated
 - Dies First or at Same Time
 - Disabled, Institutionalized, Substance Abuse, Divorce, Law Suits
 - A Minor or Irresponsible with Money
 - Does not Factor in Possible Tax Implications



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RELYING ON BENEFICIARY TRANSFERS

- Problems:
 - As time goes on, designations are not changed.
 - Owner becomes incapacitated.
 - Designations are wrongly titled (ex: "My Estate").



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THE LAST WILL AND TESTAMENT PLAN

- Expresses Your Wishes
- Only Controls Assets Titled In Your Name
- Enforced By Probate Court



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THE READING OF THE WILL



<https://www.youtube.com/watch?v=I6pp4sBxZnU>

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WHAT IS PROBATE?

- Legal Process
 - Will Validated
 - Debts Paid
 - Assets Distributed According To Will
- Only Legal Way to Change Title



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PROBATE ILLUSTRATION

- Assets Titled in Just Your Name Go Through Probate

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PROBATE TAKES TIME

- 9 Months - 2 Years

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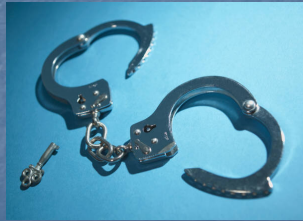
PROBATE IS PUBLIC

- No Privacy
- Easy to Contest

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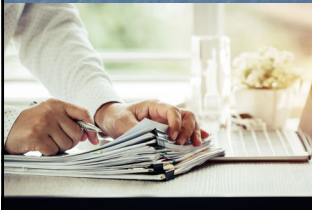
PROBATE PROCESS HAS CONTROL

- How Your Will Is Interpreted
- Cost
- Time
- Privacy



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EXECUTORS OUT OF THE COMMONWEALTH OF VIRGINIA



- VA REQUIRES EXTRA REQUIREMENTS FOR AN OUT OF THE COMMONWEALTH EXECUTOR TO SERVE
 - BOND
 - REPRESENTATIVE AGENT IN VA

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REAL ESTATE LOCATED IN OTHER STATES

- CAN REQUIRE ANCILLARY PROBATE IN EACH ADDITIONAL STATE WHERE THE DECEDENT OWNED PROPERTY.



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NOT PLANNING MINOR CHILDREN

- Estate Plan should appoint a Guardian.
- If not, a court -
 - Appoints Guardian
 - Controls Finances
- Child Inherits All At Legal Age instead of an age that you direct.



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THE NOT PLANNING FOR INCAPACITY PLAN

- Will Is No Help
- Court Process
 - Expensive
 - Time Consuming
 - Public
 - Doesn't Replace Probate



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THREE KEY ESTATE DOCUMENTS EVERYONE NEEDS!

- LAST WILL AND TESTAMENT
- DURABLE POWER OF ATTORNEY
- ADVANCE MEDICAL DIRECTIVE



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Supporting Estate Documents

- DURABLE POWER OF ATTORNEY
 - A cookie cutter document does not work anymore.
 - "ACTIVE" vs. "SPRINGING"
- ADVANCE MEDICAL DIRECTIVE
 - Makes an overall declaration that you do not want to be on life-support if terminal.
 - Appoints a medical agent to make medical decisions for you if you cannot.

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Virginia Updates

- The Virginia Durable Power of Attorney Act.
- Recent changes affecting the Advance Medical Directive.



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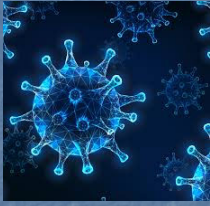
The HIPPA Clause!



- A pre-release of medical information to an appointed medical agent.

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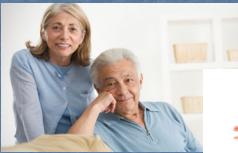
Planning Around CoVid-19



- Durable Power of Attorney – does your document address allowing you agent to pay for new treatments that not covered by Insurance?
- Advance Medical Directive – does your document permit your agent to allow your participation in trail treatments or vaccines which may require medical consent?

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THE REVOCABLE LIVING TRUST PLAN



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	WILL	REVOCABLE LIVING TRUST
Used 100s of Years	Yes	Yes
Names Someone To Handle Final Affairs	Yes	Yes
Names Who You Want To Receive Assets	Yes	Yes
Avoids Probate		Yes
Avoids "Living Probate"		Yes

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History of Trusts

Used to safe guard property during the Crusades in the 11th Century.



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History of Wills

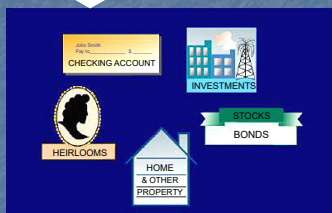
Used to collect taxes



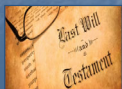
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CHANGE
TITLE TO
YOUR
LIVING
TRUST

THE TRUST BOX



PASSES TO YOUR HEIRS
FREE OF PROBATE




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YOU KEEP CONTROL


- Buy/Sell Assets as Before
- Change/Cancel Any Time
- Trust Contains Your Instructions on How to Handle Estate After Death
- Can also protect your assets from creditors and a Medicaid spend down



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YOU CONTROL INHERITANCE

- All At Once
- Installments
- Income Only
- Held for the Lifetime Benefit of Beneficiary
- Takes care of a beneficiary who is disabled, institutionalized, or immature.



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YOU CONTROL INHERITANCE

- Special Needs
- Supplemental Income
- Medicaid or Disability
- Minors
- Grandchildren



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YOU CONTROL INHERITANCE

- Dynasty Trust:
 - Trusts that last for generations;
 - Protects distributions to beneficiaries from bankruptcy, divorce, law suits and judgment creditors;
 - Passes on from one generation to the other without incurring estate transfer taxes.



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ELIZABETH TAYLOR

- The late, great actress was known for her many marriages, business savvy, and of course, her many successful movies. Elizabeth Taylor should also get kudos, unlike many celebrities, for doing proper estate planning. Despite early reports that Taylor's family may fight over her estate, her estate has been just the opposite: peaceful. No probate filing, no copies of her will published on the web, and no court battles.



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LIVING TRUST SUMMARY

- Avoids Probate at Death
- Prevents Court Control of Assets at Incapacity
- Provides Maximum Privacy
- Quick Distribution of Assets to Beneficiaries
- Assets Can Stay in Trust
- Prevents Unintentional Disinheriting
- Reduces or Eliminates Estate Taxes

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Consider Estate Taxes?



Congress increased the estate tax exemption amount rate approximately \$12.6 million for a single person and approximately \$24 million for a married couple.

STILL IMPORTANT TO PLAN AROUND THE POSSIBLE FUTURE CHANGES OF THE ESTATE TAX AT THE FEDERAL AND STATE LEVELS!

** NEW RATES SCHEDULED TO EXPIRE IN JANUARY 2026

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THE SECURE ACT

H.R. 1994 – Sec. 401

Modification of

Required Minimum Distribution
Rules

for Designated Beneficiaries

**Requires all IRAs and
Qualified Plans to be
distributed within 10-years of
death**



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THE SECURE ACT

- Exceptions to the 10 Year Rule
 - Surviving Spouse
 - The decedent's **Children** under the age of majority
(not grandchildren or any other children)
 - Disabled
 - Chronically ill
 - Individual not more than ten years younger than the decedent

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THE SECURE ACT

- WHAT DOES THE 10 YEAR RULE MEAN TO YOU?
 - Need to update Trust Documents;
 - Consider FUTURE TAX LAWS!
 - Roth transitions;
 - Life Insurance;
 - Splitting Distributions to Beneficiaries



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Other Forms of Trusts

- CHARITABLE TRUSTS
- IRA TRUSTS
- PET TRUSTS
- GUN TRUSTS
- INSTALMENT SALES TRUST™



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Making Charitable Bequests In Your Estate Plan

- Option 1: Direct Gifts;
- Option 2: Direct Gifts With Specific Purposes;
- Option 3: Donor Advised Funds
- Option 4: Charitable Trusts:
 - Created either during life or after death.



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Charitable Remainder Trust

- Place money into a trust and receive income for life with the remaining trust balance to go to Charities;
 - Provides immediate tax deduction;
 - Estate Tax savings



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IRA Trusts

- Provides Asset Protection to Heirs;
- Ensures That Heirs Will Pay Out Deferred Taxes in a Prudent and Tax Efficient Manner;
- Can Protect the IRA Left to a Surviving Spouse Against Future Re-Marriage.



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Gun Trusts

- A must have if you are passing on Class 3 Firearms to your beneficiaries;
- Streamlines Various Governmental Regulations of Firearms



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Pet Trusts

Hotel heiress Leona Helmsley, who died in 2007, made her Maltese her biggest heir, leaving a \$12 million trust fund for the pooch in a will that disinherited two of her grandchildren. A judge later knocked the pup's inheritance down to \$2 million, and Trouble took the money and retired, flying by private jet to the Helmsley Sandcastle hotel in Sarasota, Fla. The hotel's general manager cared for the dog and spent hundreds of thousands on her care annually, including \$1,200 on food, \$8,000 on grooming and \$100,000 for full-time security



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Capital Gains Tax With Estate Planning

- Upon the sale of your home, the IRS taxes the gain (15% to 21%) of the value of the property from the date that you purchased it to the date that you sell it.
 - If personal residence = \$250,000 exemption if single / \$500,000 exemption if married.



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Capital Gains Tax With Estate Planning

- What happens if you have a second home or investment property and sell it? NO EXEMPTION!



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Capital Gains Tax With Estate Planning

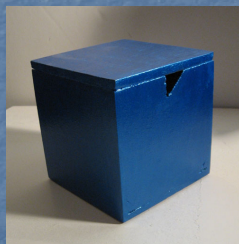
- Options:
 - 1031 Exchange – buying an other property of a “like kind.”
 - Installment Sale - Installment sales require the buyer to make regular payments, or installments, on an annual basis, plus interest if installment payments are to be made in subsequent taxation years.



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Capital Gains Tax With Estate Planning

- Installment Sales Trust™:
 - ✓ Real Estate is placed into a trust prior to sale;
 - ✓ A Trustee sells the property;
 - ✓ The sale proceeds remain in the trust and a note is made payable to the seller;
 - ✓ The seller only pays capital gains on the payout amount established by the note deferring the tax over time.



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END SESSION ONE