

Basic Estate Planning

An Introduction to Legal Concepts Strategies and Tools



Presented by

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Workshop Goals

- Understand the planning process
- Identify key concepts, issues and mechanics
- Property and ownership interests
- Planning for death and aftermath
- Wills, Trusts, Gifts, Guardians, Conservators
- Planning for incapacity
- Advance directives, asset management
- Family First

Traditional Estate Planning

- **Death:**
 - Arranging for the orderly transfer of your property and assets following death
 - Probate and alternatives
- **Lifetime:**
 - Preparing for possible temporary or long term disability, incapacity or unavailability
- **Ongoing:**
 - Build wealth
 - Minimize taxes
 - Qualify for public & private benefits
 - Address special needs & changing family relationships

Estate Planning: Where To Start?

- Start the discussion -- Workshop
- Identify current assets and debts
- Clarify objectives
- Choose professional advisors
- Design the plan
- Implement and review the plan periodically
- Know your options and terms of art
- Ongoing process

Estate Planning Basics: What Is An Estate?

- **Gross Estate:** Total value of all property and belongings, real, personal and intangible
- **Probate Estate:** Property and assets owned at the time of death and subject to the distribution and direction of the court
- **Taxable Estate:** Gross estate, minus debts, taxes, probate and administration costs, certain deductions

Property:

Ways To Hold It And Control It

- Individual and Absolute Ownership
- Co-Ownership
- Joint Tenancy with Rights of Survivorship
- Tenancy in Common
- Tenancy by the Entireties
- Community Property
- How are these types of property treated?

Ways to Title and Control Your Property and Assets



Control Who Receives Your Assets



Controlled by:

Your Will or Iowa Law



Beneficiaries:

**Named in your Will or By
Intestate Succession**

Control Who Receives Your Assets



Controlled by:

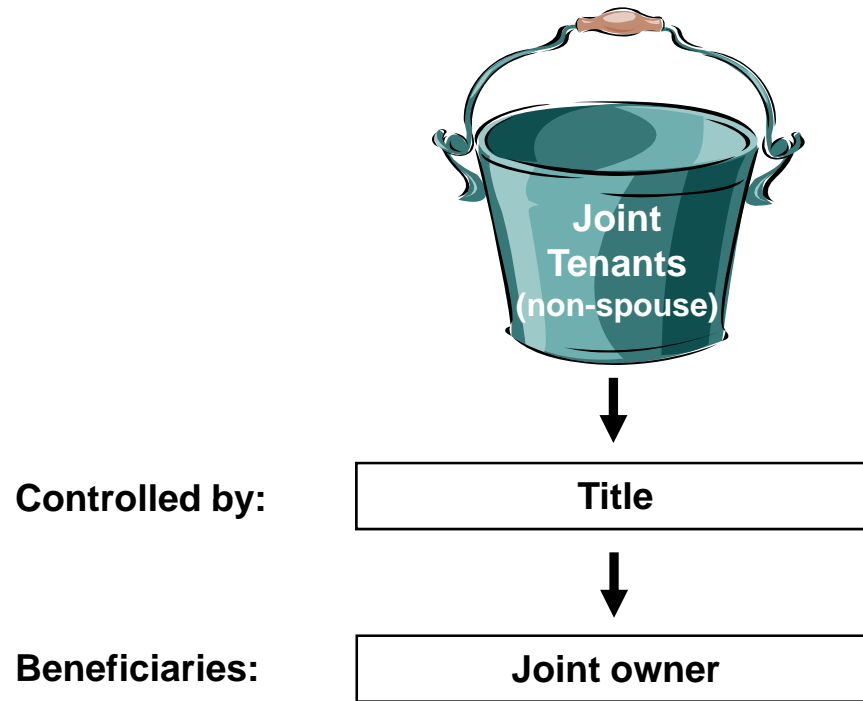
Title/State Law



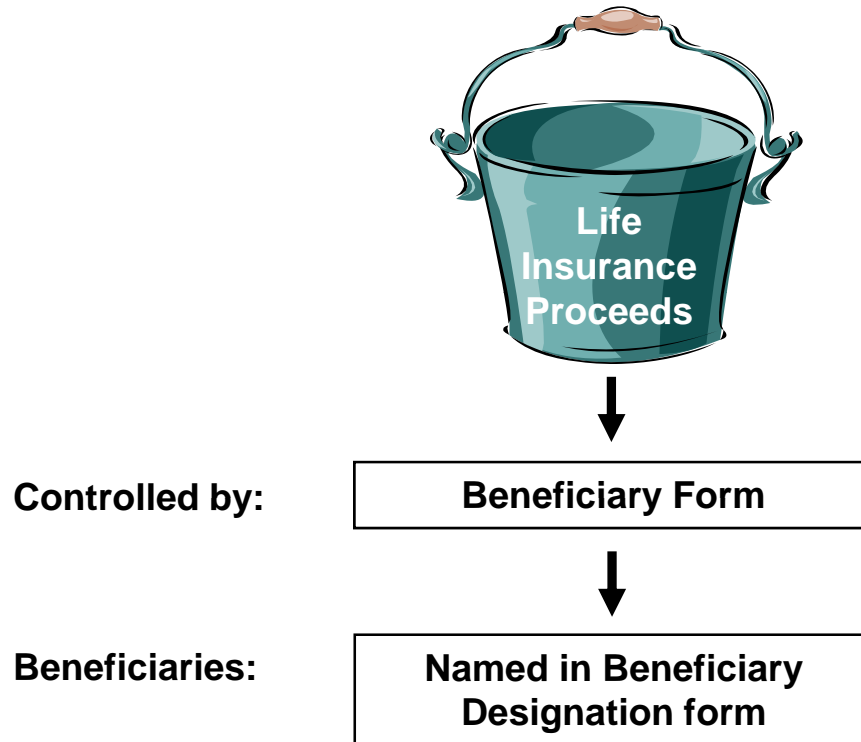
Beneficiaries:

**1/2 passes via your Will
1/2 belongs to spouse**

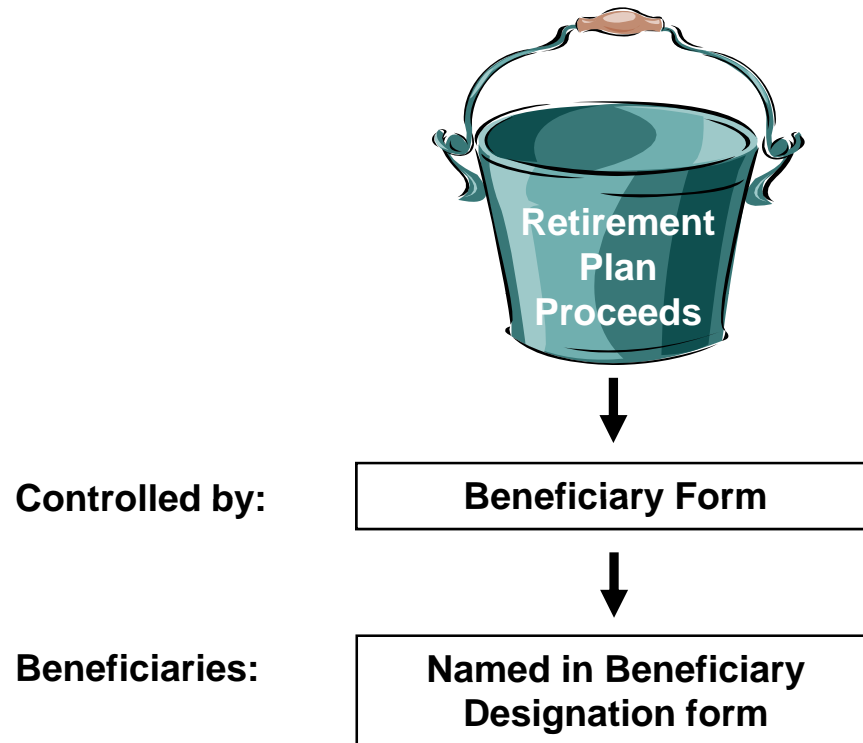
Control Who Receives Your Assets



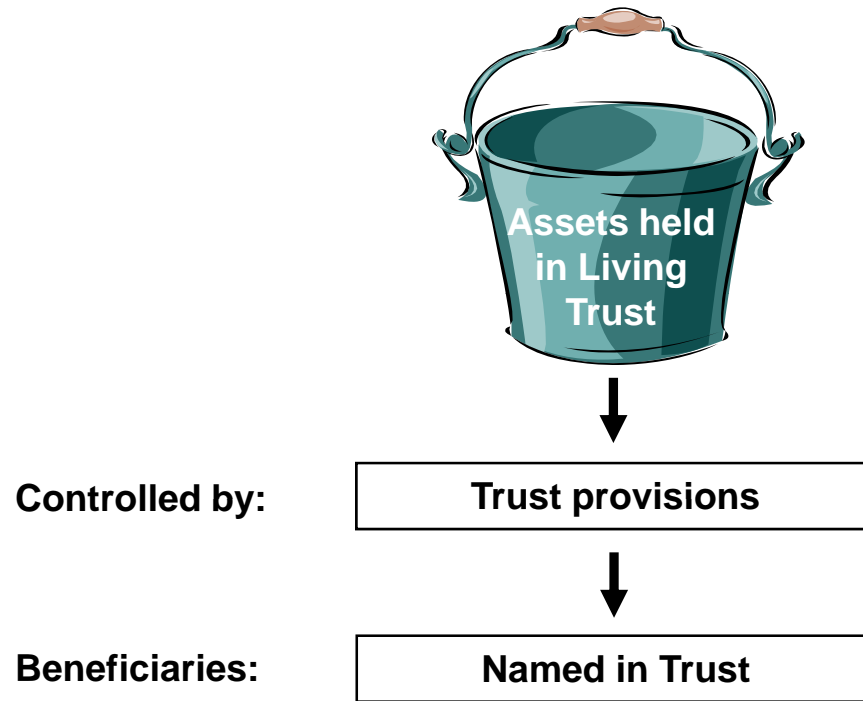
Control Who Receives Your Assets



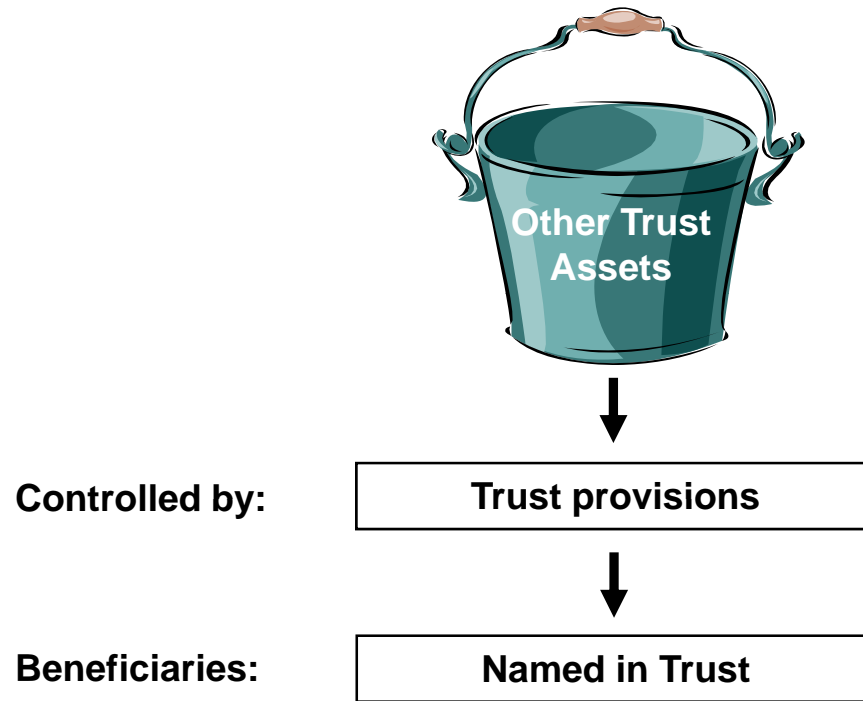
Control Who Receives Your Assets



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Control Who Receives Your Assets



Last Will and Testament

- Cornerstone of most family estate plans
- Directs payment of lawful debts, taxes, expenses
- Directs distribution of property
- Names a personal representative (executor)
- Could nominate a guardian and conservator for child(ren) under age 18
- Could include a trust (testamentary)
- Could include funeral or burial plans

What is A Trust?

- Legal entity that owns property and provides for management, distribution and control
- Created by a written trust agreement:
 - Grantor/Settlor creates and/or funds the trust
 - Trustee manages the trust assets
 - Beneficiaries have rights to property under specific trust agreement
- Can be included in a Will and effective upon death
- Can be created and administered during lifetime
- Can be revocable or irrevocable
- Can hold just about any kind or type of property titled in the name of the trust (or the trustee)

What Are The Benefits of A Lifetime Trust?

- Provides versatility and flexibility
- Can protect against incapacity and perhaps avoid probate
- Could avoid the need and cost to open up conservatorship or guardianship
- Allows for professional or family management of trust assets
- Could provide for and safeguard minor children, elderly parents and other beneficiaries
- Could protect assets from future creditors

What Are Some Disadvantages of a Lifetime Trust?

- Time and money to create the trust and transfer and title assets
- To avoid probate, must keep track of assets and keep property in trust (after-acquired property)
- Could experience problems buying or selling trust assets with trust checks – need to show trust agreement and authority
- No court supervision
- Trustee fees & expenses and could involve annual trust tax return
- Improperly drafted could jeopardize public benefits

Planning for Incapacity

Advance Health Care Directives

- Durable Power of Attorney For Health Care Decisions appoints agent to make decisions for you when you are unable to do so
- Living Will instructs doctors what treatments and procedures to withhold, withdraw or administer when you are in a terminal condition and unable to make, communicate or participate in end of life decisions
- DNR (do not resuscitate) order to doctor typically made during each admission to health care facility
- OOH-DNR is a doctor's order to emergency responders to not resuscitate a terminal patient who is not in hospital
- Standby Guardian nominates guardian for person or person's children in the event of disability or specified event
- Next of Kin or Emergency Contact
- Release of Information and HIPAA

Planning For Incapacity

Finances and Property Management

- Jointly owned property and accounts
- Name on accounts
- ATM card
- General Power of Attorney appoints agent to manage all day to day financial, legal and other transactions – immediately, upon written certification of disability, or upon a specified event
- Living Revocable Trust with named successor trustee to take over management upon incapacity or disability
- Standby Conservatorship and/or Guardianship nominates someone to make major life decisions and/or manage property

Document Assembly Checklist

Some suggested items to keep at home in a secure, but accessible file drawer or box

Cancelled checks Insurance policies Copies of wills and trusts Property tax records
Copies of Living Wills Copies of Powers of Attorney Income tax returns

Some suggested items to keep in your bank vault box:

Deeds Marriage certificates Divorce decrees and orders
Birth certificates death certificates Car titles
Original wills, trust documents, powers of attorney Military discharge documents
Stock certificates etc. Detailed inventory of valuable personal property, appraisals and photos
Any other important legal documents, life insurance policies, citizenship papers

Some suggested items to give to your executor, attorney or spouse:

Copies of wills Copies of trust documents Living wills and powers of attorney
Inventory of insurance policies, bank accounts, stocks and bonds
Funeral instructions List of key contacts (lawyer, accountant, insurance agent, banker etc.)
Bank vault access information

Questions and Comments

The Federal Estate Tax Exclusion

The Ever-Changing Estate Credit Equivalent Exclusion

Year of Transfer	Exclusion Amount
2006/07/08	\$2,000,000
2009	\$3,500,000
2010	No Estate Tax
2011	\$1,000,000*
*Unless the law is changed	

Federal Estate Tax Marital Deduction Planning

First to die

Gross Estate	\$5,000,000
Marital Deduction	<u>(\$5,000,000)</u>
Taxable Estate	\$0

Second to die

Gross Estate	\$5,000,000
Sheltered through Unified Credit	<u>(\$2,000,000)</u>
Subject to estate tax	\$3,000,000