

# Estate Planning & Pitfalls 101: Solving Estate Issues

**NCRO**

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**PRESENTED BY**

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# TOPICS TO BE COVERED

1. **SO WHAT IS NEW?**
  - a) Estate Tax Update
  - b) SECURE Update
2. **What Documents Should I Have?**
  - a) **Beneficiary Designations**
  - b) Will
  - c) Trust
  - d) Powers of Attorney
  - e) HIPAA Waiver
  - f) Lady Bird/Enhanced Life Estate Deeds
  - g) Prenuptial Agreement?
  - h) What documents should my Parents or Adult Children Have?
3. **What do I need to change?**
  - a) Do you have Eligible Designated Beneficiaries?
  - b) Have you checked your Beneficiary Designations?
  - c) Are you leaving after tax assets to charity?
  - d) Are you intentionally disinheriting a child?
  - e) Did you refinance a property?
  - f) Is your Power of Attorney "springing"?
  - g) Do you have an Estate Tax Issue?
4. **Can I avoid Estate Taxes?**
5. **What is Required for Probate and Trust Administration?**
6. **MetLife Legal Plan**
7. **If Time Permits – Medicaid Update**

# WHAT IS NEW???

2022 Estate Tax Exclusion Amounts:

Single

\$12,060,000

Married

\$24,120,000

## WHAT DOES THIS EVEN MEAN???

**OLD NEWS:** in 2026, the exemption goes down to \$5,490,000 adjusted for inflation.

**REALITY CHECK:** The only way that the exemption will not go down is if Congress Acts

The Regs are Out!?

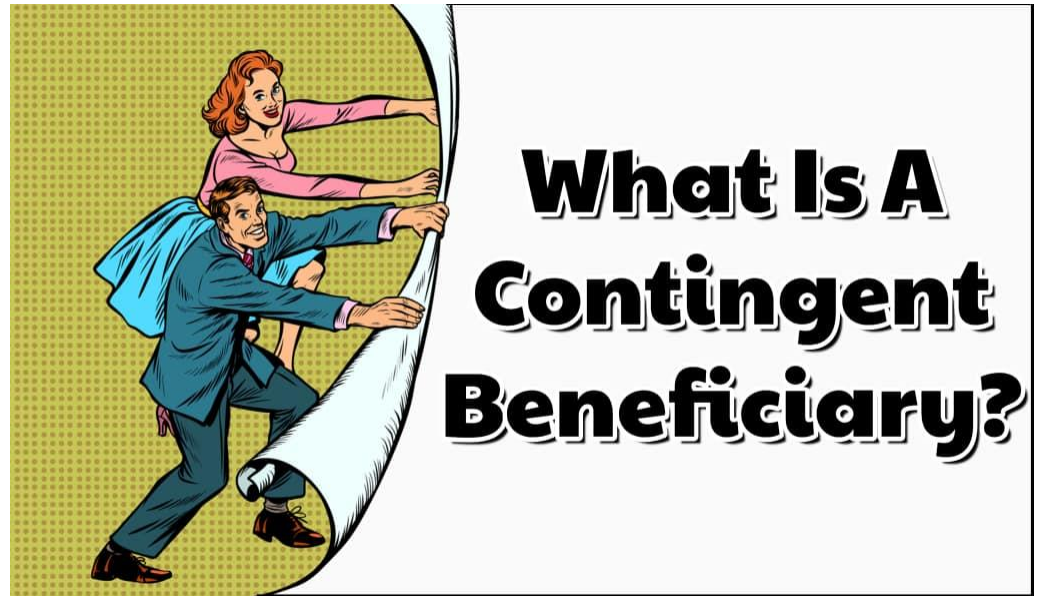


# The SECURE Act

Setting Every Community Up for  
Retirement Enhancement

# TYPICAL BENEFICIARY DESIGNATIONS

- ❖ Life Insurance
- ❖ IRAs/401ks/403bs
- ❖ Bank Accounts
- ❖ HSAs
- ❖ Lady Bird Deeds



# But What If. . . .

- I want to leave money to my children or grandchildren who are minors?
- My children are not all responsible with money?
- One of my kids might divorce?
- I want to leave things to LOTS of different people?
- I want to be clear about who gets my stuff if someone dies before me?
- One of my children or grandchildren has special needs?

## You need an Estate Plan

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The  
Documents in  
a Typical  
Estate Plan

Will

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Revocable Living Trust, joint or individual

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Assignment to Trust

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List of Personal Property

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Enhanced Life Estate Deeds

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General Durable Power of Attorney

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Patient Advocate Designation (Medical Power of Attorney)

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HIPAA Waiver

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Funeral Representative Designation

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Delegation of Parental Authority

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Appointment of Guardian

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Trusts are really complicated

Only Millionaires need Trusts right?

I have a Will so my family won't go through probate!



# But What If. . . .

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**AND I WANT TO AVOID PROBATE!**

**You need a Trust**

# Are TWO Trusts better than ONE?



- Are you and your both the parents of all the same kids?
- Do you own all of your assets jointly?
- Does either of you expect to inherit?
- Do you have more than \$6,000,000 combined?
- Do you have any special needs beneficiaries?

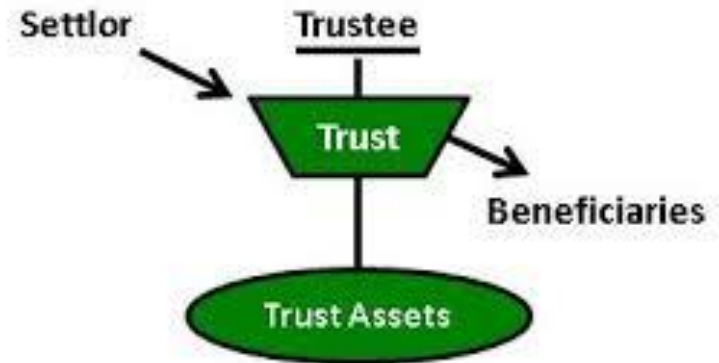


# SPECIAL NEEDS TRUST

- Stand Alone Trusts
- Revocable or Irrevocable
- Part of a Grandparent or Parent's Revocable Trust
- Elements common to either form:
- Purely Discretionary payments
- No payments directed for the Beneficiary's health, support or maintenance
- All assets from parent, or other person - not the disabled person's assets
- Trust Protector
- Termination Provisions

OR MAYBE YOU JUST NEED ABLE – Achieving a Better Life Experience Act

# Assignment to Trust



## List of Personal Property

I hereby give my collection of sea shells to Nancy  
Janet  
Mary  
The Belle Isle Aquarium.

*Fanny Bany*  
August 10, 2022

WHAT IS A  
"LADY BIRD"  
DEED?



# POWERS OF ATTORNEY

1. DURABLE POWER OF ATTORNEY

2. LIVING WILL?

3. PATIENT ADVOCATE DESIGNATION

4. HIPAA

(Health Insurance Portability and Accountability Act of 1996)

5. FUNERAL REPRESENTATIVE

# Appointment of Guardian and Delegation of Parental Authority



# TOUGH DECISIONS

Who should be in charge of your estate?

Would you want to raise your grandchildren?

What if???

Who should make medical decisions for you?

Who are your beneficiaries?

Who are your disaster beneficiaries?

Second Marriage Beneficiary Choices



# PRENUPTIAL AGREEMENTS



- Keeping separate assets separate
- Reassuring adult children
- Reducing uncertainty

**BUT**, it won't help if your spouse needs Medicaid.

# What do my parents need?

1. Financial Power of Attorney
2. Lady Bird Deed
3. Beneficiary Designations
4. Trust?
5. Medical Power of Attorney
6. Funeral Designation
7. Will

## IF ONE OF YOUR PARENTS HAS A "NEW" SPOUSE

- HIPAA Waiver is more important
- Is there a Prenupt?
- What will everyone's roles be?

# What do my adult kids need?

- HIPAA Waiver
- Financial Power of Attorney
- Medical Power of Attorney
- Appointment of Guardian for their kids
- Delegation of Parental Authority

# What Do I Need to Change?

Back to SECURE:

Do you have Eligible Designated Beneficiaries as your IRA beneficiaries?

- Someone not more than 10 years younger than you?
- Your own minor child?
- A disabled or chronically ill beneficiary?
- A spouse

If so, that person is now a PREFERRED BENEFICIARY

Everyone else is limited to a 10 year stretch



**HAVE YOU CHECKED YOUR BENEFICIARY DESIGNATIONS?**

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# CHECK YOUR DOCUMENTS IF:

Did you refinance?



Do you want to leave assets to charity?



Do you want to disinherit a child?



Have you updated your documents since 2012?

# SPRINGING DURABLE POWER OF ATTORNEY

We, URA CLIENT and IMA CLIENT, of Farmington Hills, County of Oakland of Michigan, hereby appoint, ISA CLIENT of \_\_\_\_\_, Farmington Hills, Michigan as our attorney-in-fact (herein called Agent), with the following powers to be exercised in our names and for our benefit:

## 1. **Springing Durable Powers**

This Power of Attorney shall only be effective upon our disability, and only in the event we are unable to act under the General Durable Power of Attorneys previously given to each other. For this purpose disability shall be determined by a written certification or certifications of two persons duly licensed to practice medicine in the State of Michigan or in such other state as we shall be then present, that each of them has examined us and determined that we are incapable of acting on our own behalf. Such incapacity shall be deemed to cease upon delivery of a similar certification or certifications to our Agent that the incapacity has ceased. Any third party dealing with our Agent may rely upon a copy of any such certification or certifications as to our disability in dealing with our Agent and shall not be required to make an independent determination of disability. Any such third person may further rely on a statement by our Agent that the disability has not ceased in dealing with our Agent.

## 2. **General Grant of Power**

To exercise or perform any act, power, duty, right, or obligation whatsoever that we now have or may hereafter acquire, relating to any person, matter, transaction, or property, real or personal, tangible or intangible, now owned or hereafter acquired by us, including, without limitation, the following specifically enumerated powers. We grant to our Agent full power and authority to do everything necessary in exercising any of the powers herein granted as fully as we might or could do if personally present, with full power of substitution or revocation, hereby ratifying and confirming all that our Agent shall lawfully do or cause to be done by virtue of this Power of Attorney and the powers herein granted;

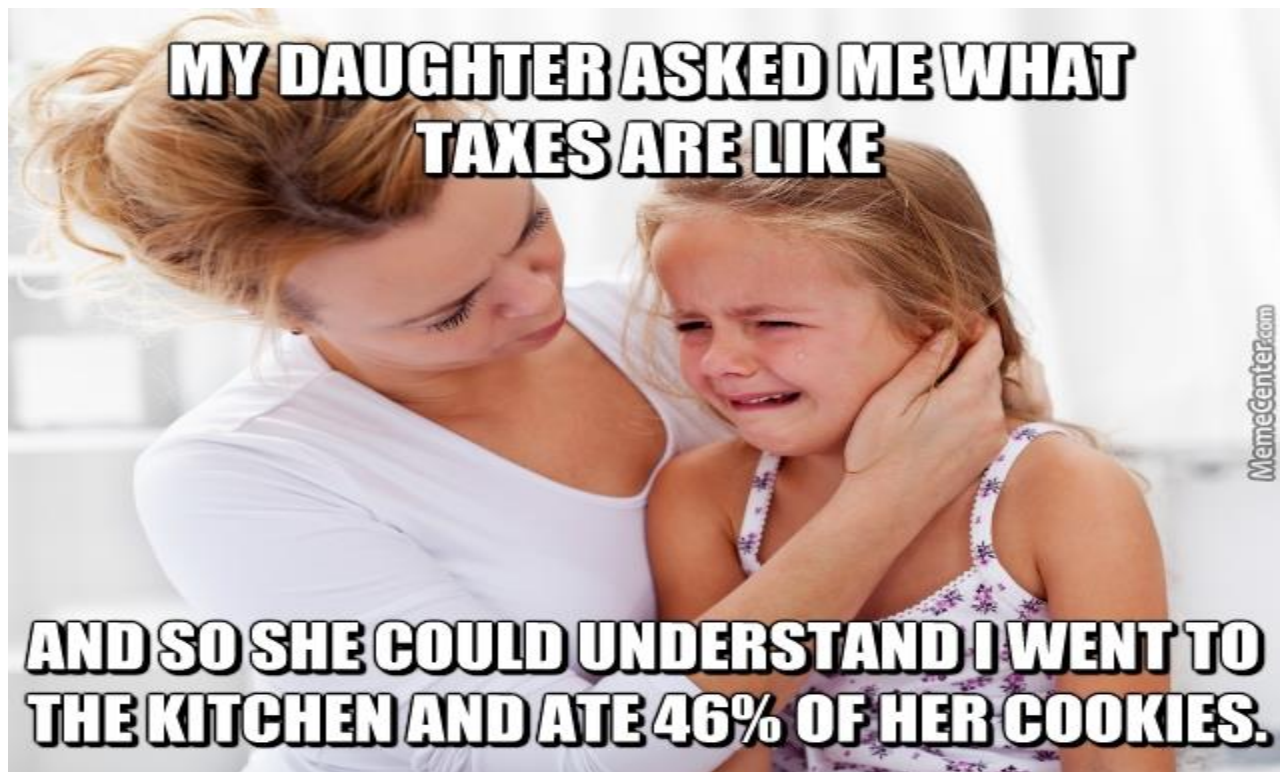
## 3. **Collection Powers**

To forgive, request, sue for, collect, hold all such sums of money debts, dues, commercial paper, checks, drafts, accounts, deposits, legacies, devises, notes, interest, stock certificates, bonds, dividends, certificates of deposit, annuities, pension, profit sharing, retirement, social security, insurance and other contractual benefits and proceeds, all documents of title, all property, real or personal, intangible or tangible property and property rights, and demands whatsoever, now or hereafter owned by, or due, owing, payable or belonging to us, or in which we have or may hereafter acquire an interest; to have and take all lawful means and equitable and legal remedies and proceedings in our name(s) for the collection and recovery thereof, and to adjust, sell, compromise, and agree for the same, and to execute and deliver for us, on our behalf, and in our name(s), all endorsements, releases, receipts, or other sufficient discharges for the same;

## 4. **Real Property Powers**

To bargain, contract, agree for, option, purchase, acquire, improve, maintain, repair, insure, plat, partition, safeguard, lease, demise, grant, bargain, sell, assign, transfer, remise, release, exchange, convey, mortgage and hypothecate real estate,

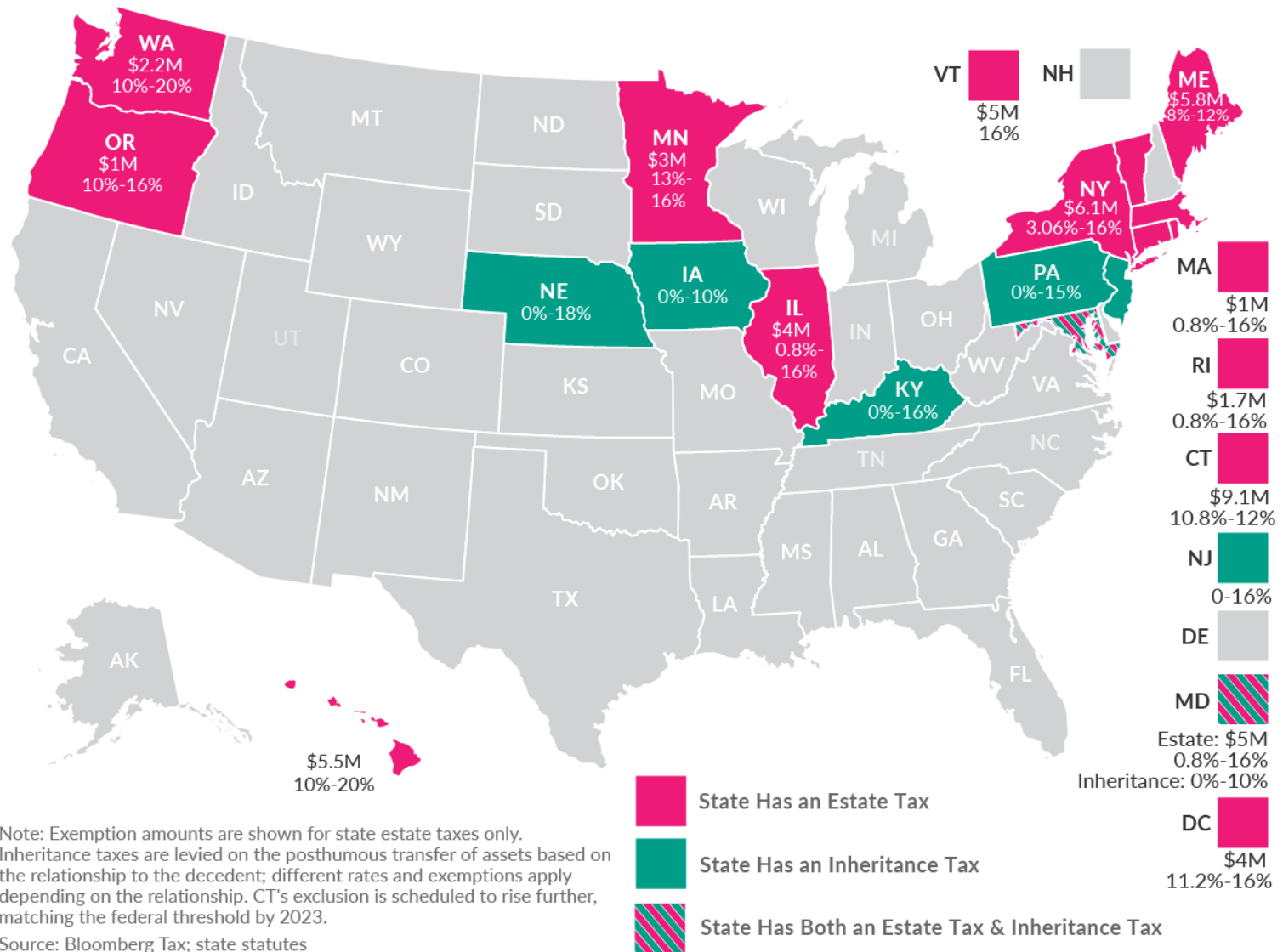
# WAIT – DO I HAVE AN ESTATE TAX ISSUE?





# Does Your State Have an Estate or Inheritance Tax?

State Estate & Inheritance Tax Rates & Exemptions in 2022





# Portability

..... And the joy of filing an Estate Tax Return

# The Charity Option



- ❖ RMD Gifts
- ❖ Charity as IRA Beneficiary
- ❖ Donor Advised Funds
- ❖ Charity as Beneficiary in Trust
- ❖ Scholarship Fund
- ❖ CRAT
- ❖ CRUT

## Steps – Probate Administration

- 1) Get the Death Certificate
- 2) Is there a will? If so, find the original
- 3) Get the forms!
- 4) File at the Court
- 5) Send Copies to the HEIRS AT LAW and Devisees
- 6) Publish Notice to Creditors
- 7) Get a tax id number
- 8) Figure out what the assets are
- 9) File the Inventory
- 10) File taxes for decedent and possibly estate
- 11) Prepare accounting
- 12) Distribute Assets
- 13) Close Estate

## Steps for Trust Administration

- 1) Is the Grantor dead or alive? Competent or not?
- 2) **READ THE TRUST. TWICE.**
- 3) Determine who is entitled to notice and accountings

## WHEN THE GRANTOR DIES

- Publish notice to creditors
- Inform more beneficiaries
- Inform the Attorney General?
- Get a Tax ID Number
- Figure out what the Assets Are
- DO WHAT THE TRUST SAYS**
- Make Distributions as Directed
- Consider what should be paid within tax year
- File Tax Returns for the Grantor and the Trust
- Prepare Annual Accountings

# Hyatt Legal Plan a/k/a MetLife Legal

What is covered?

Wills

Trusts (not tax planning)

Powers of Attorney

Deeds for real estate (not rental properties)

Sale of Real Estate by Owner

Prenuptial Agreements

What is "sort of" covered?

- Probate
- Divorce
- Consumer Disputes
- Elder Law

# Basics of Medicaid Financial Eligibility

- A single person who is applying for LTC Medicaid can have the following assets and be financially eligible for Medicaid benefits (2022 figures):
  - \$2,000 in countable assets;
  - Homestead (equity value not greater than \$603,000);
  - Prepaid Funeral (maximum \$13,280);
  - Burial space for the individual and their spouse, children, parents, siblings, & spouses of the parents, siblings, & children;
  - Life insurance policy, with low cash surrender value;
  - Possibly property that can't be sold (joint or undesirable)
  - 1 Vehicle; and
  - Personal property.
- If there is a spouse, the spouse can keep a CSRA

**\*\*THIS IS MICHIGAN SPECIFIC INFORMATION\*\***

During the calendar year 2022, the community spouse may retain \$137,400 or  $\frac{1}{2}$  of the value of countable assets, whichever is less, down to a minimum of \$27,480. The divestment devisor is now \$9,880.

**\*MICHIGAN SPECIFIC INFORMATION\***

Making gifts without consulting with an attorney first is not recommended.



# Planning Options

- 1/2 loaf
- Annuity
- Soley for Benefit Trust
- Court petition
- Gift to disabled child



A meme featuring Leonardo DiCaprio from the movie 'Inception'. He is wearing a black tuxedo with a white shirt and a black bow tie. He is holding a small glass of cognac in his right hand, raised in a toast. He has a slight, knowing smile on his face. The background is dark with out-of-focus lights, suggesting a party or a formal event.

**CHEERS TO YOU**

**AND YOUR NEWLY ESTABLISHED  
ESTATE PLAN!**