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# Starting Soon...



## CMH FOUNDATION: ESTATE PLANNING ESSENTIALS

FEBRUARY 25, 2021

PRESENTED BY: LOUIS PIERRO, ESQ., FOUNDING PARTNER  
PIERRO, CONNOR & STRAUSS, LLC

# WELCOME - HOUSEKEEPING

- We are sharing our webcam; please note your lines are muted
- Interactive Program: please have your mouse ready
- Type questions in the Q&A pod on the bottom of your screen
- Presentation is posted at this web page under the heading, “Estate and Trust Planning”  
[www.pierrolaw.com/resources](http://www.pierrolaw.com/resources)



James Armstrong  
Vice Chair

Barbara Klassen  
Executive Director

## THE COLUMBIA MEMORIAL HEALTH FOUNDATION

The CMH Foundation is the philanthropic arm of Columbia Memorial Health, an affiliate of Albany Med. The Foundation secures, manages, and distributes gifts to enhance the mission of CMH, which is to provide the people of our communities with access to safe, high quality, comprehensive healthcare services in a dignified and compassionate manner.



# Our Attorneys



Louis Pierro



Aaron Connor



Peter Strauss



Caryn Keppler



Lorese Phillips



Stefan  
Dunkelgrun



Harvey Schneider



Frank Hemming



Anthony  
Khatchoui



Theresa  
Skaine



Jiah Kim



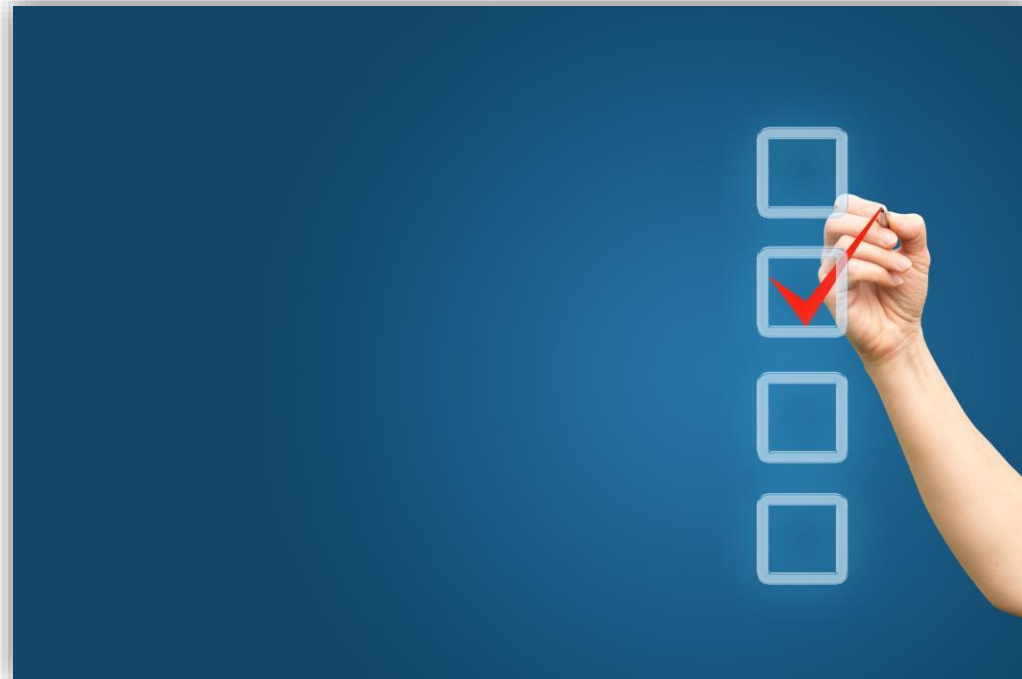
Michael Gadomski

# AGENDA

- The Importance of Estate Planning
- The “Core Four” Documents and Beyond
- Estate Planning during a Pandemic
  - Execute documents without leaving home
- 2020-2021 Changes to the law
- Putting your Plan into Action



# A Brief Poll



# VIRTUAL ESTATE PLANNING

- Essential Services during Covid
- Documents can be executed virtually with audio and video
- No need to leave home





# WHY NOW?

Who will make decisions on my behalf if I am unable?

- Legal
- Financial
- Health care

What happens to my assets if I pass?





# GOALS OF ESTATE PLANNING



**Appoint individuals** to handle various management functions during life and after death



**Protect and preserve assets** from creditors, taxes and probate

**Provide a legacy** to secure your family's future by preserving wealth

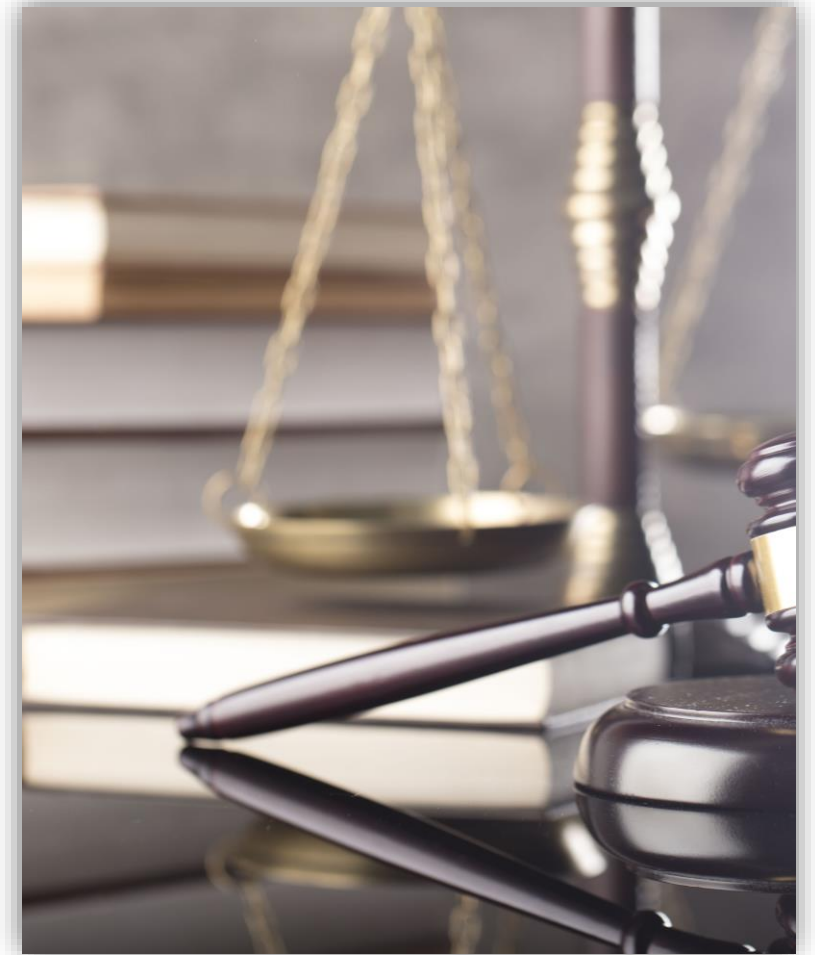
# GOALS OF ESTATE PLANNING

“I resolve to keep me and my family out of court”

- Guardianship
- Probate

## Failing to Plan = Court

- Expensive
- Time consuming
- Public
- Who wins?



- Court process to appoint someone to handle the affairs of a person who is incompetent or incapable of administering his/her affairs
- Need may arise through accident or disease (or from birth)
- Court process is public & highly intrusive
- Not just for the elderly – also the disabled
- Litigation – burden of proof is by clear and convincing evidence

## GUARDIANSHIP



# PROBATE

- Every will must go through Probate – requires Court approval
- If you die without a will, intestacy is more burdensome
- Formal, public process
- Opportunity for challenges and litigation
- Delays exacerbated by Covid

# THE CORE FOUR – THE FOUNDATION

## THE CORE ESTATE PLANNING DOCUMENTS

**POWER OF ATTORNEY (POA)**

**HEALTH CARE PROXY (HCP)**

**DISPOSITION OF REMAINS  
APPOINTMENT (DORA)**

**WILL**

# POWER OF ATTORNEY



Appoint an individual to transact business and financial matters in your name

- Co-agents + alternates – Who?
  - Agent must sign - Oath
  - Statutory Gifts Rider - Key
- Durable, Springing
- Incorrect POA = Court



# HEALTH CARE PROXY / LIVING WILL



- Allows a person to designate a surrogate - the health care agent - by executing a health care proxy
- The health care agent's authority to act begins when the attending physician determines that the patient lacks capacity to make health care decisions
- Living will provides direction to health care agent including end of life decisions.
- DNR, MOLST

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# DISPOSITION OF REMAINS APPOINTMENT (DORA)

- 
- Allows you to appoint a person, known as your Agent, to be responsible for **carrying out your burial or cremation wishes**
  - You can **limit the powers given to your Agent** by including special instructions on the form
  - Families have universally said that having a loved one's directions in their own words gave **comfort and guidance at a difficult time**



- Direct the distribution of your property
- Establish trusts to preserve assets, reduce or eliminate estate taxes and protect your family
- Designate an Executor and Trustee
- Appoint a Guardian for your minor children
- Create testamentary trusts

# TRUST

VS.

# WILL

- ✓ No Probate
- ✓ Manages Assets During Life and provides long term protection
- ✓ Provides for Successor Trustee upon death or incapacity
- ✓ Financial affairs remain private
- ✓ Must be 'funded' to be effective

- ✗ Probate: cost & delays
- ✗ Takes effect after death
- ✗ No provision for incapacity
- ✗ May need a guardian or other planning
- ✗ No privacy – court papers filed in probate are public record
- ✗ Extra costs and delays if any beneficiary is a minor or disabled person

***Major problem with ONLY having a Will: Probate can take several months to several years!!!!***

# TYPES OF TRUSTS

Living vs. Testamentary

Revocable vs. Irrevocable

Life Insurance Trusts

Retirement Plan Trusts

Special Needs Trusts

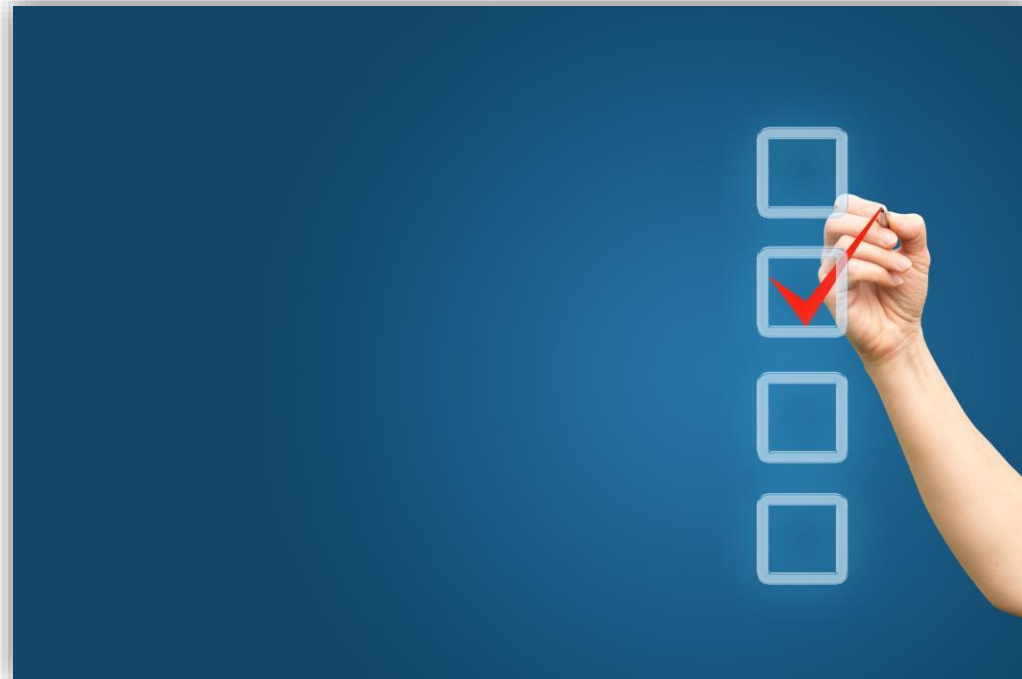
Dynasty Trusts

Asset Protection Trusts

Beneficiary Controlled Trust

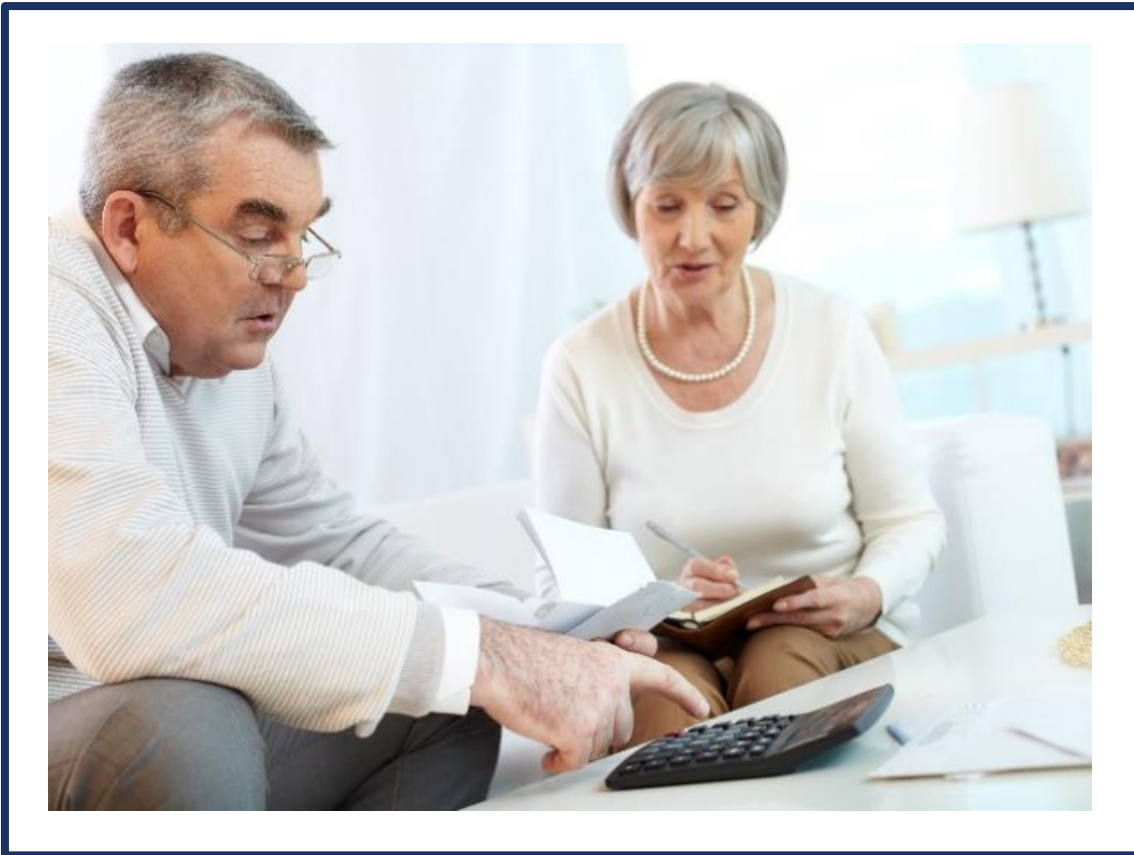


# A Brief Poll





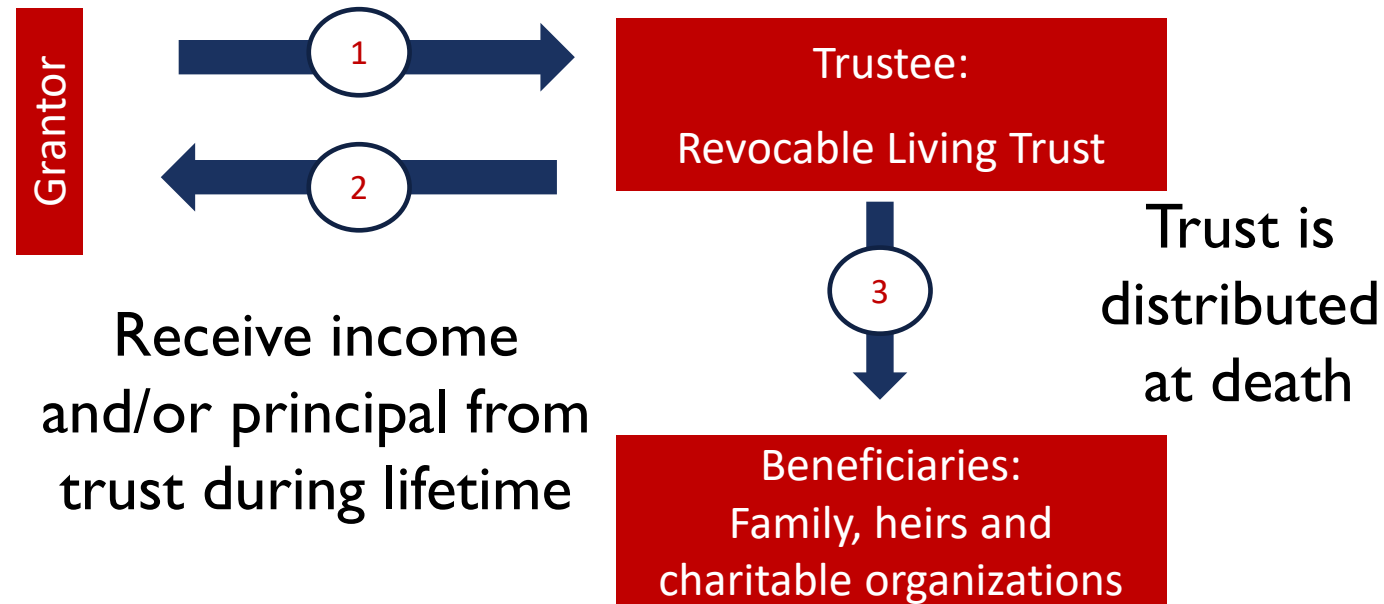
# REVOCABLE LIVING TRUST



- Organize your assets
- Provide for Management and use should you become incapacitated
- Secure beneficiaries
- Create 'downstream' trusts outside of the Court's reach
- Avoid probate
- Not Medicaid protected – Fully Available Assets

# REVOCABLE TRUST WITH FUNDING

Place all assets in trust (except IRA)



You can be the Grantor, Trustee and Beneficiary!

# Medicaid Asset Protection Trust (Irrevocable) (MAPT)

CLIENTS

ASSETS



INCOME



- Trustee – manages trust assets
- Beneficiaries – income & principal
- Income = grantor
- Principal = heirs

# Medicaid Asset Protection Trust (Irrevocable) (MAPT)

Home  
Bank Accounts  
Stocks & Bonds  
Annuities  
Life Insurance  
Business  
Real Estate

## MAPT

- Income can be paid or accumulated
- Principal can NOT be given back to the Grantor directly
- Principal can be paid to children or others (who can use it for any purpose)

# Medicaid Asset Protection Trust (Irrevocable) (MAPT)

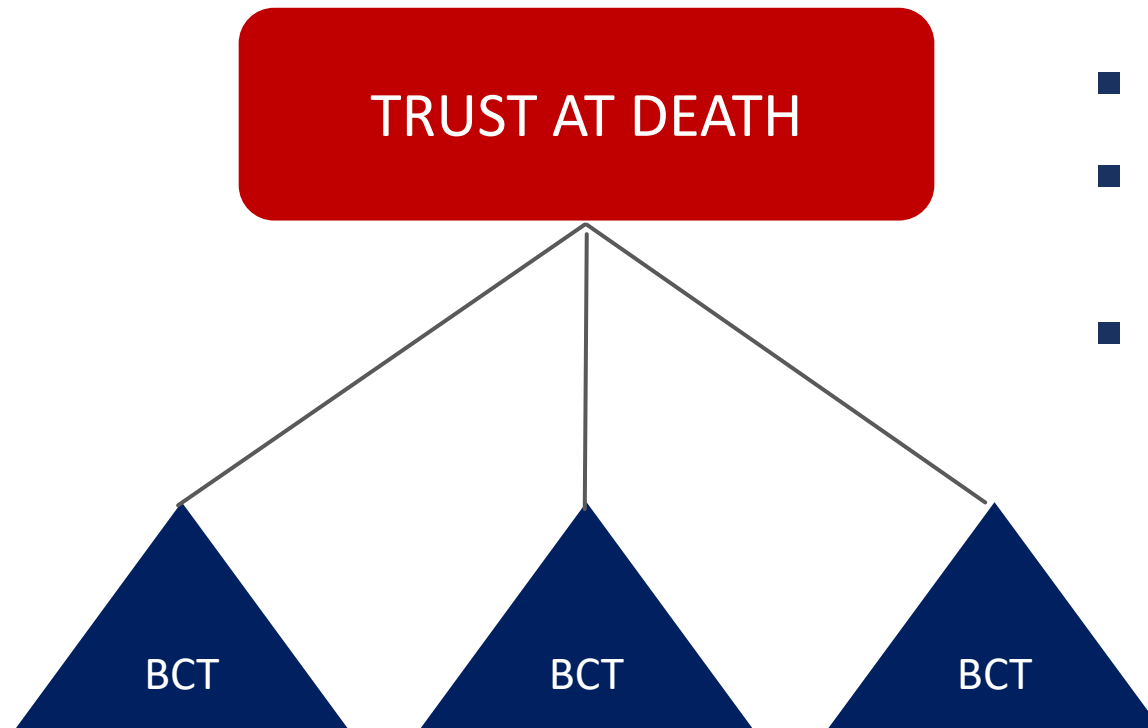
## **KEEP OUT**

Cash  
Bank Acct.  
IRA, 401(k)

### Security Features

- Power to change Trustee
- Power to change beneficiaries
- Can revoke under NY Law with consents

# BENEFICIARY CONTROLLED TRUSTS



- Child can be trustee = Control
- Can use assets for themselves and grandchildren
- Guarantees the family's legacy- assets stay in the bloodline.



# INTEGRATE YOUR ASSETS

**Neglecting to coordinate real estate, businesses, investments, retirement plans, life insurance, annuities and other assets with your trust is a common error!**

- **OWNERSHIP**
- **BENEFICIARY DESIGNATIONS**
- **TRUST FUNDING KIT**

# TRUST FUNDING KIT



- A. Trust Funding Letter
- B. Certification of Trust
  - Provided to each Financial Institution
- C. Attorney Certified Copy of your Trust
- D. Trust Funding Worksheet

# THE TRUST FUNDING PROCESS

## Revocable

- All Assets included- avoid probate
  - Exceptions – see below\*
- All bank accounts **IN**

## Irrevocable

- Select Assets included
- Annuity Issues- tax treatment
- Some bank accounts **OUT**

## BOTH

- \*IRA, 401(K) – outside trust
- Home Star exemption, capital gains tax issues

**All other assets are treated the same**



# TRUST FUNDING - PCS

- **Tangible Personal Property**

- - Assignment
- - Distribution

## **Real Property**

- - Deeds to Trust

- **Tangible Personal Property**

- Shares – Corporations
- Membership Interests
- LLC's



# MAINTAINING YOUR PLAN



Laws and circumstances are subject to frequent changes



Maintaining your plan is crucial- what are your options?

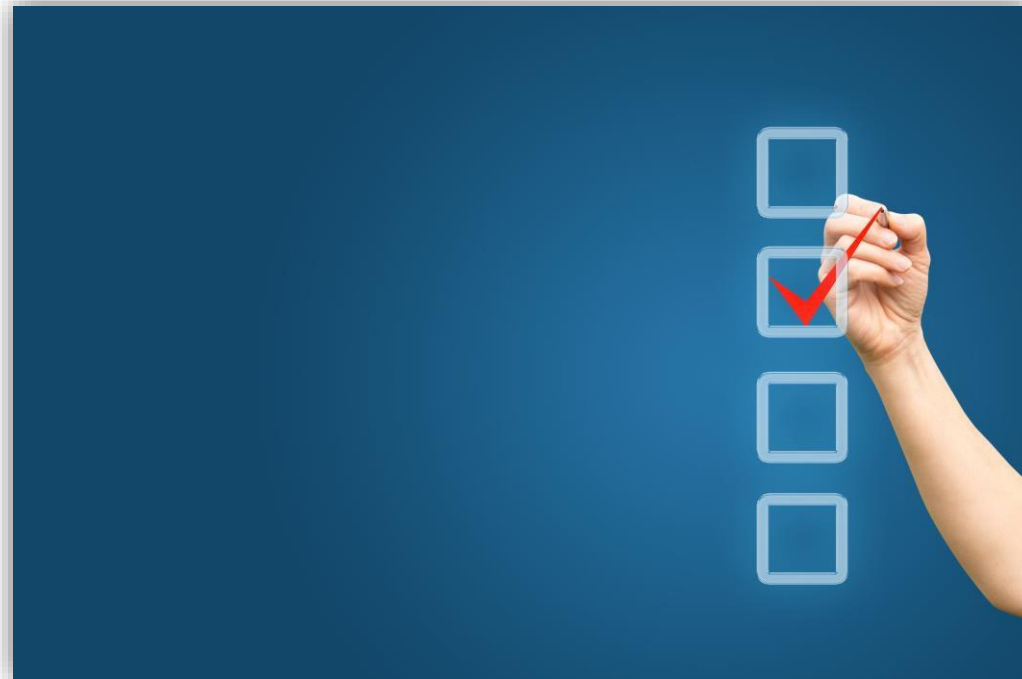


**P.A.L.M.S**



***Professional Advocates Lifetime Maintenance System***

# A Brief Poll





# ADVANCED TAX PLANNING WEBINAR



- 5:30 PM, March 25
- Changes to Income, Capital Gains, Gift, Estate and Inheritance taxes, and Qualified Plans – planning under the SECURE Act (1/2/20)
- Charitable Trusts – creating a win-win-win
- How to plan under the current Trump tax law and avoid proposed Biden changes

**REGISTER: [pierrolaw.com/events](https://pierrolaw.com/events)**

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THANK YOU!

- Call or email us with questions or to
- request a free consultation:
- [info@pierrolaw.com](mailto:info@pierrolaw.com)
- 518-459-2100

