
STARTING SOON...



CMH FOUNDATION: ESTATE PLANNING UPDATE 2022

JANUARY 20, 2022

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
- Please fill out the survey that will appear in a new browser at the end of this program or in a follow up email



THE COLUMBIA MEMORIAL HEALTH FOUNDATION

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Vice Chair, CMH Foundation

Managing Partner, Hudson Financial LLC

Barbara Klassen

Executive Director, CMH 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.

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OUR ATTORNEYS



Louis Pierro



Aaron Connor



Peter Strauss



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Anthony Khatchoui



Frank Hemming



Harvey Schneider



Theresa Skaine



Hanna Dameron



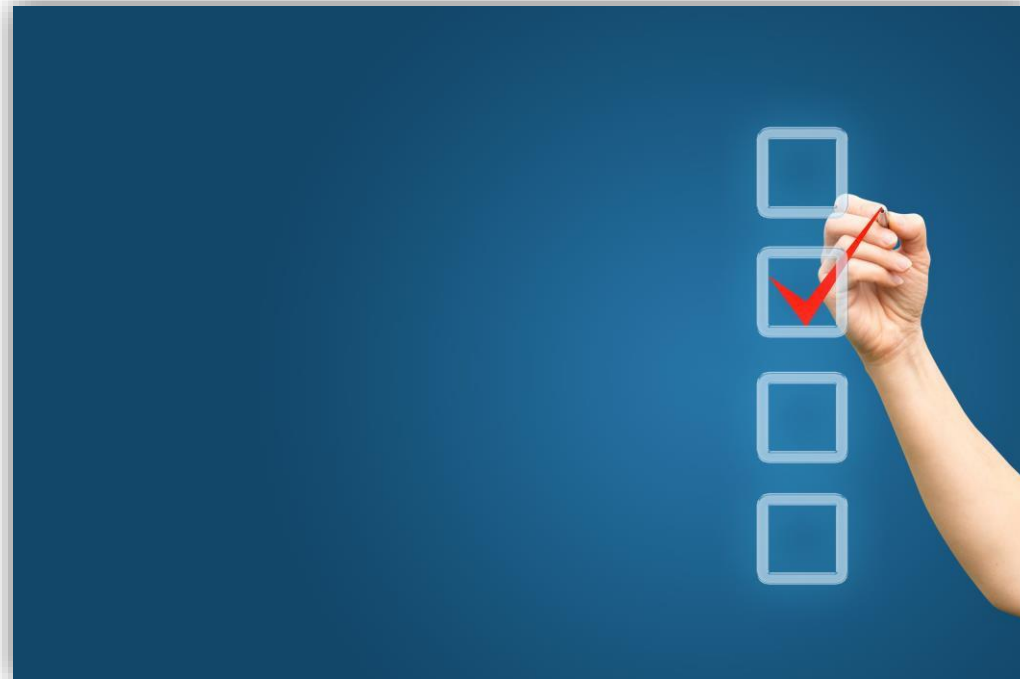
Kristin Peck

AGENDA

- The Importance of Estate Planning
- “Core Four” Documents and Beyond
- Trust Planning
- 2021-2022 Changes to the Law
- Charitable Giving
- Long Term Care Planning
- Putting your Plan into Action



A Brief Poll



VIRTUAL ESTATE PLANNING

- *Consult with your attorney by phone, video conference or in-person
- *Review docs virtually with audio and video
- *Doc. Execution must be 'in-person'



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?



2022 RESOLUTIONS



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

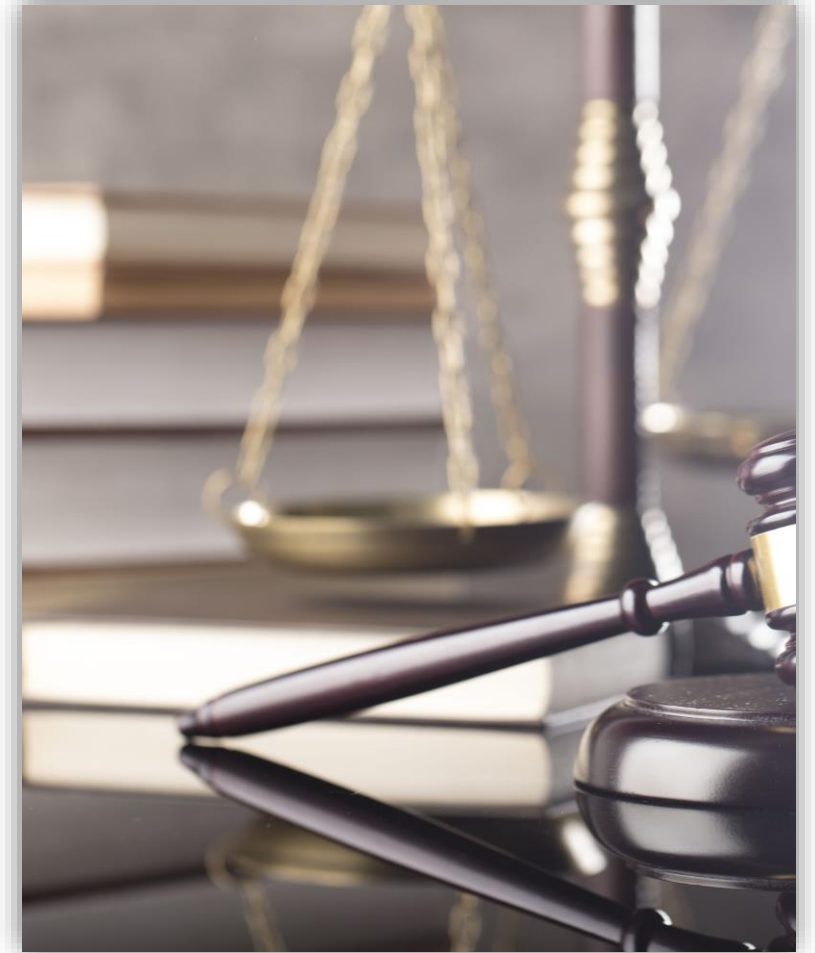
Protect and preserve assets from nursing homes, creditors, taxes and probate

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

Failing to Plan = COURT

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

- Guardianship – Supreme Court
- Probate – Surrogate’s Court
 - Expensive
 - Time consuming
 - Public
 - Who wins?



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
- Download our Health Care Decision Making Guide at www.pierrolaw.com/resources/

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 **define the powers given to your Agent** by including special instructions on the form – as detailed as you wish
 - Families have universally said that having a loved one's directions in their own words gave **comfort and guidance at a difficult time**

WILL



- Direct the distribution of your property
- Establish “testamentary” trusts to protect beneficiaries, reduce or eliminate estate taxes provide for heirs
- Designate an Executor and Trustee
- Appoint a Guardian for your minor children

WILL

VS.

TRUST

- ✗ 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

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

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

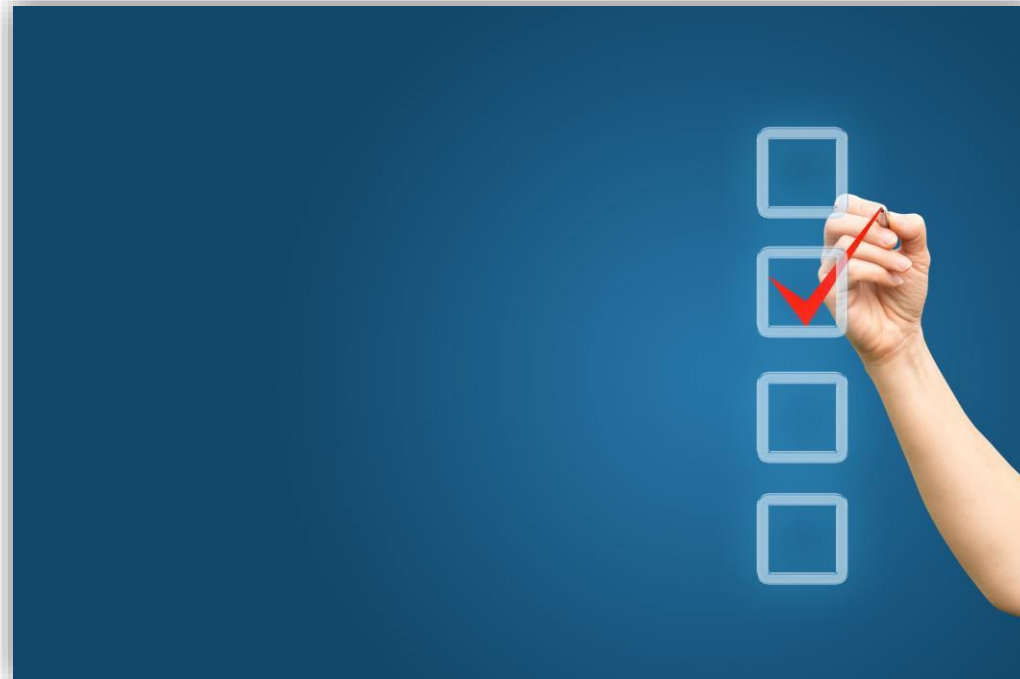
Dynasty Trusts

Asset Protection Trusts

Beneficiary Controlled Trust



A Brief Poll



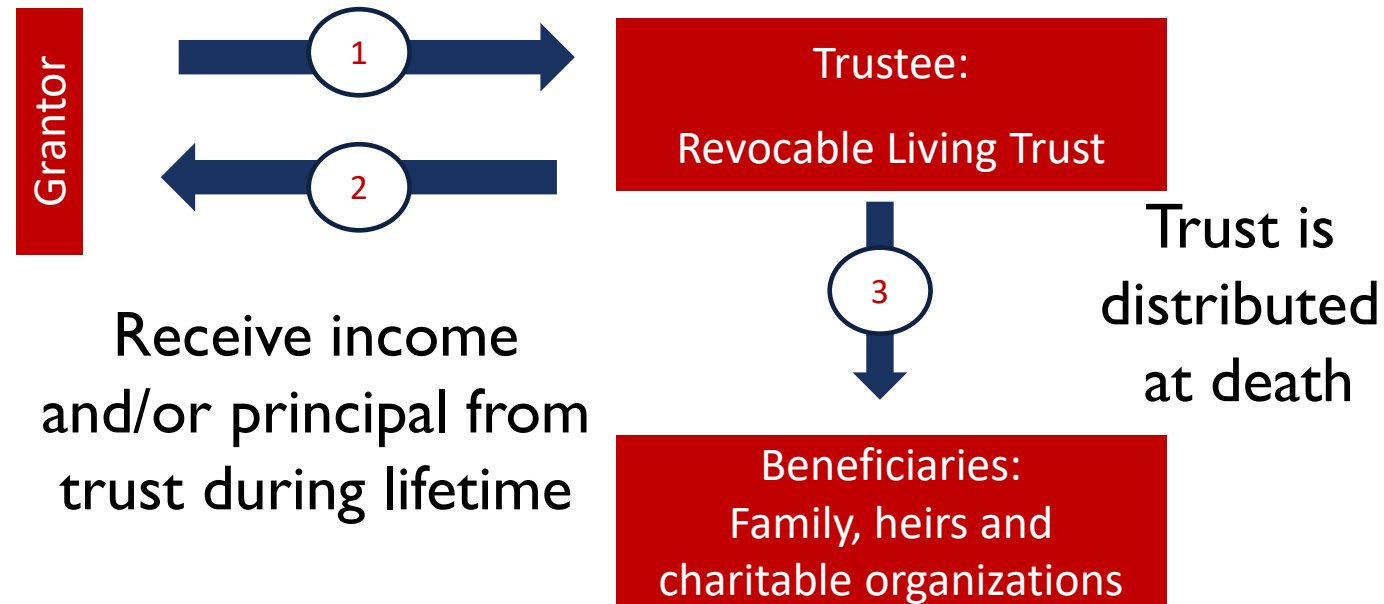
REVOCABLE LIVING TRUST



- 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 –Assets Are Available to Medicaid + Creditors

REVOCABLE TRUST WITH FUNDING

Place all assets in trust (except IRA)



You can be the Grantor, Trustee and Beneficiary!

ENHANCED ESTATE PLANNING – NEXT GEN

Issue:

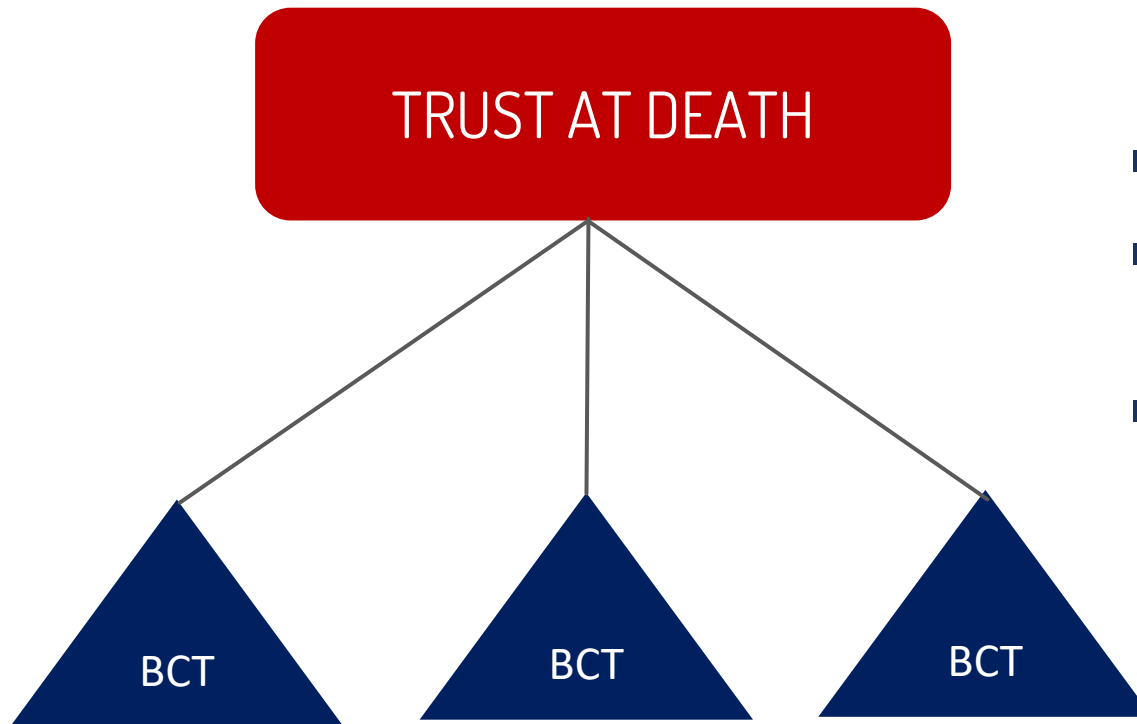
We worked and saved, and when we die we want our family's wealth protected from divorcing spouses, law suits, bankruptcy and Medicaid.

Solution:

Beneficiary Controlled Trusts-
a/k/a “Bloodline Trusts”



BENEFICIARY CONTROLLED TRUSTS



Trusts for Children and Grandchildren

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

ESTATE AND GIFT TAX –INCREASED IN 2022

Federal

- **Gift**ing without filing a gift tax form: \$16,000 per individual
-up from \$15,000
- **Higher Estate Tax Exclusion:** \$12,060,000 per person
 - Up from \$11,700,000
 - Sunset 12/31/25 -> reduction to \$5,000,000)
- Current rate is 40%
 - Sunset 12/31/25 – 45%



NYS 2022 ESTATE AND GIFT TAX

- Estate Tax Exemption = increased to \$6,202,000
 - Up from \$5,930,000
- No Gift Tax
 - Clawback if you die within 3 years – gifted assets are taxable in your estate



COMBINED FEDERAL & NEW YORK INCOME TAX RATES

Maximum Income Tax Rate

- Federal: 37%
- NYS: 9.65 – 10.90% (2021)
- NYC: 3.6%
- Net Investment Inc. Tax: 3.8%
- Combined: 55.3%

Federal Sunset 12/31/25 = 39.6%

Maximum Capital Gains Tax Rate

- Federal: 20% (28% on collectibles)
- NYS: 9.65 – 10.90% (2021)
- NYC: 3.6%
- Net Investment Inc. Tax: 3.8%
- Combined: 38.3%

TAX PLANNING & INTEREST RATES

Lower Rates Favor

- GRATs
- Sales to IDGT
- CLATs
- Private Annuities
- Split-Dollar Life Insurance
- SLATs
- BDITs

Higher Rates Favor

- QRTs
- GRITs
- CRATs
- Graegin Loans
- Farmland Alternative Valuation

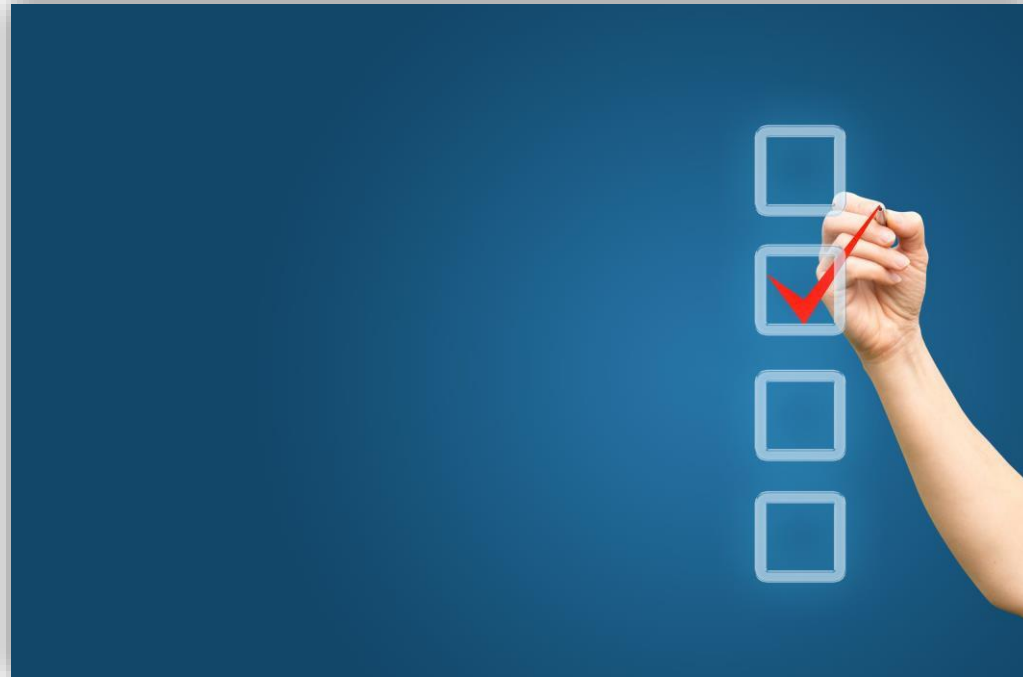
Generally Neutral

- CRUTs
- CLUTs

CHARITABLE & LEGACY PLANNING

**Why Give?
Let's Take a
Poll...**

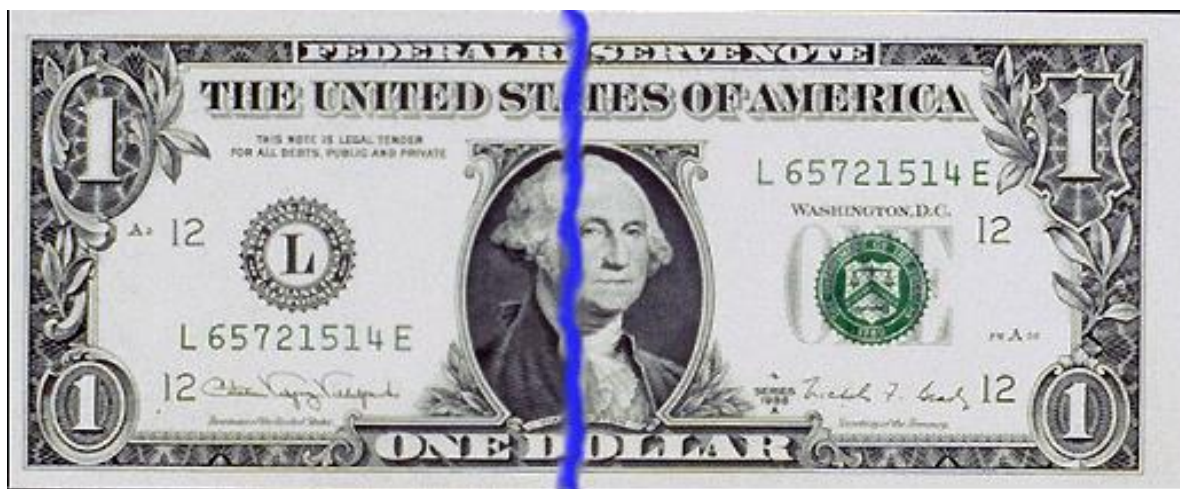
A Brief Poll



100% CONTROL OF WEALTH

**The Part
You Keep**

**The Part
You Can't Keep**



Gift or Tax - The choice is yours.

SMART CHARITABLE GIVING

- Gift \$100,000 tax free from your IRA or 401(k)
- Gift highly-appreciated stock
- Name CMH Foundation as beneficiary of your IRA
- Charitable Trusts –benefit family and give to charity



INCOME TAX

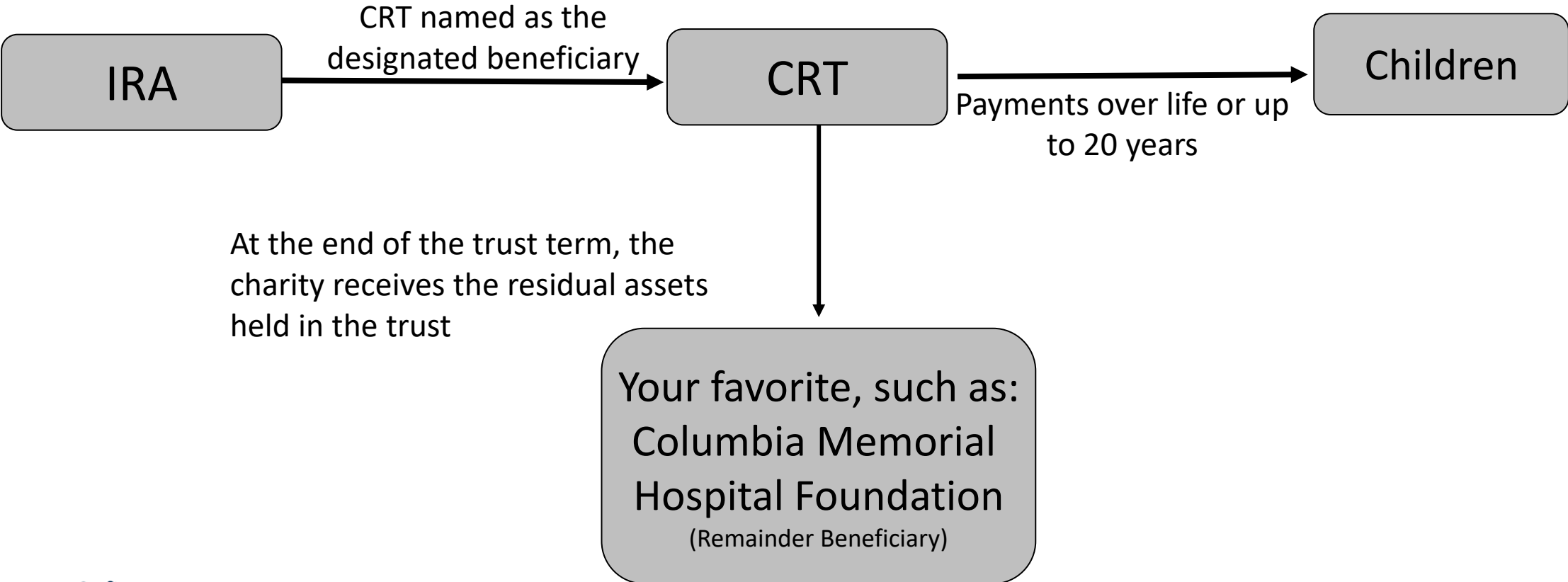
Secure Act – Jan. 1, 2020

Ten Year Rule

10 YEARS

- *Requires IRAs and Qualified Plans to be distributed within 10-years of death*
- *Subjects beneficiary to income tax much sooner and at higher rates than old law*

SECURE Act CHARITABLE REMAINDER TRUSTS



LONG-TERM CARE

#1 Risk to Your Retirement – Nursing Home and Home Care Costs

- Medicaid, Medicare and Social Security are running out of money – Runaway Deficits
- Contrary to popular belief, Medicare does not cover LTC costs!
- Do you own Long-Term Care Insurance?
- Planning for LTC is needed – Insurance or Medicaid?



of Americans age 65 and older will **need long-term care services and support at some point in their lifetime**

MEDICAID LTC SERVICES ARE DIVIDED INTO **TWO CATEGORIES:**

Chronic Care

- Care provided in nursing home
- 5-year lookback
- Transfer penalties= # of mos.
- “Rule of Halves” planning

Community

- *Home health care*
- Assisted living facility
- Medicaid managed long-term care (MLTC), NHTD, CDPAP
- Adult day care
- No lookback under current rules



**Changes Made 10/1/20 – Effective
4/1/22 or 7/1/22**

KEY QUESTIONS ON PAYING FOR LTC

1. Where would you want to live?
2. Who would take care of you?
3. How would you pay for it - \$180K/yr!

Self-
Insuring

Private LTC
Insurance
+ Life
Products

Medicaid



MEDICAID ASSET PROTECTION TRUST (MAPT) (IRREVOCABLE)

CLIENTS

ASSETS



INCOME



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

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)

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

THE IMPORTANCE OF PLANNING EARLY

- Allows for informed planning by a team of professionals
- Ensures freedom of choice
- Provides greater protection of resources
- Gives peace of mind that wishes are being followed



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Are You Prepared?

THANK YOU!

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