

---

# STARTING SOON...



## IS YOUR ESTATE PLAN BUTTONED UP?

SEPTEMBER 2023

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 button on the bottom of your screen
- Presentation is posted under the heading “Estate and Trust Planning” at [www.pierrolaw.com/resources](http://www.pierrolaw.com/resources)
- Please fill out the survey with your feedback



## THE COLUMBIA MEMORIAL HEALTH FOUNDATION

---

**Jim Armstrong**

Chair, CMH Foundation

Vice President, Senior Wealth Advisor,  
Pioneer Wealth Management

**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.

[giveCMH.org](https://giveCMH.org)



# Our Team Of Attorneys



Louis Pierro



Aaron Connor



Peter Strauss



Caryn Keppler



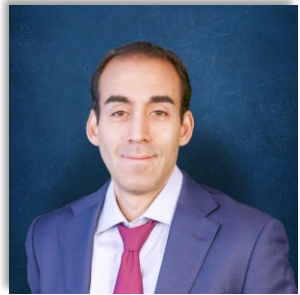
Richard Rothberg



Frank Hemming, III



Ingrid Johnson



Anthony Khatchoui



Arkley Mastro



Robert Bosman



Michael Mullaney



Theresa Skaine



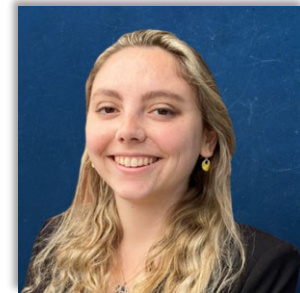
Carolyn Glynn



Kristen Peck



Jacob Verchereau



Bethany Van Pelt

## Serving New York State Residents Through Offices in:

Albany, New York City, Ronkonkoma, Garden City, Hudson, Lake Placid, Utica  
Also licensed in New Jersey, Connecticut, Massachusetts and Florida

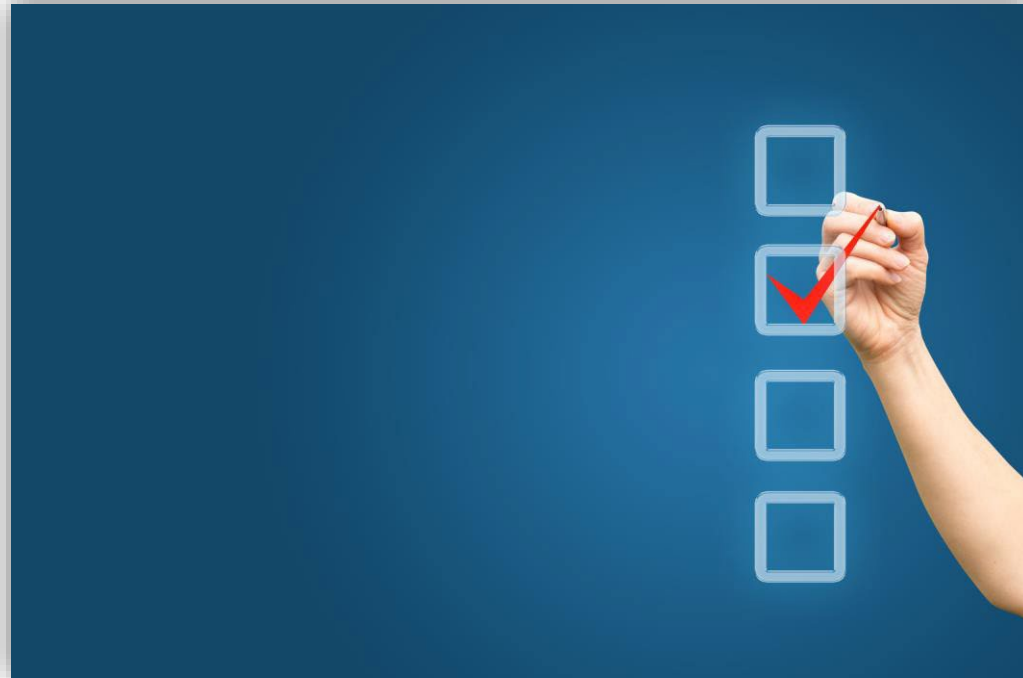


# BUTTONED UP AGENDA:

- Why Plan?
- The “Core Four” Documents Everyone Needs
- Living Trusts and Trust Planning
- Asset Protection for Long Term Care
- Putting your Plan into Action



# A Brief Poll





# Failing to Plan = COURT

Ensure your family won't "inherit" a legal mess

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



# GOALS



**Appoint the Right Individuals** to handle various management functions for you during life and after death, including alternates

**Protect and Preserve Assets** from nursing homes, creditors, taxes and probate

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



# CORE FOUR – THE FOUNDATION

THE CORE  
ESTATE  
PLANNING  
DOCUMENTS

POWER OF ATTORNEY (POA)

HEALTH CARE PROXY (HCP)

DISPOSITION OF REMAINS  
APPOINTMENT (DORA)

LAST WILL AND TESTAMENT

# POWER OF ATTORNEY



Appoints an individual to conduct your business and financial matters on your behalf

- Who Do You Choose?
  - Co-agents Joint or Separate?
  - Alternates
  - Agents must sign an oath
- Durable, Springing
- Invalid POA = Court
  - Allow further estate planning
- Comprehensive Powers Including Gifting - Key

# HEALTH CARE PROXY / LIVING WILL



- Designates an agent to act if you are incapacitated
- Expresses your wishes regarding end-of-life decisions – incorporate in a single document
- DNR, MOLST
- Download our Health Care Decision Making Guide at:  
[www.pierrolaw.com/resources/](http://www.pierrolaw.com/resources/)

---

# DISPOSITION OF REMAINS APPOINTMENT (DORA)

- 
- Appoints a person as your Agent to carry out your burial or cremation wishes
  - Includes special instructions on the form – as detailed as you wish
  - Gives comfort and guidance at a difficult time

# WILL

- Directs distribution of your property at death
- Designates Executors and Trustees to administer your assets after your death
- Appoints a Guardian to care for your minor children
- Establishes “testamentary” trusts to protect your beneficiaries, reduce or eliminate estate taxes and provide for your heirs

**CAUTION: Every Will Requires Probate  
(Court)**



# WILL

## Cons:

- ✗ Probate required = cost + delays
- ✗ Only takes effect after death
- ✗ No provision for incapacity
- ✗ No privacy – court papers filed in probate are public record
- ✗ Extra costly safeguards if any beneficiary is a minor or disabled person

VS.

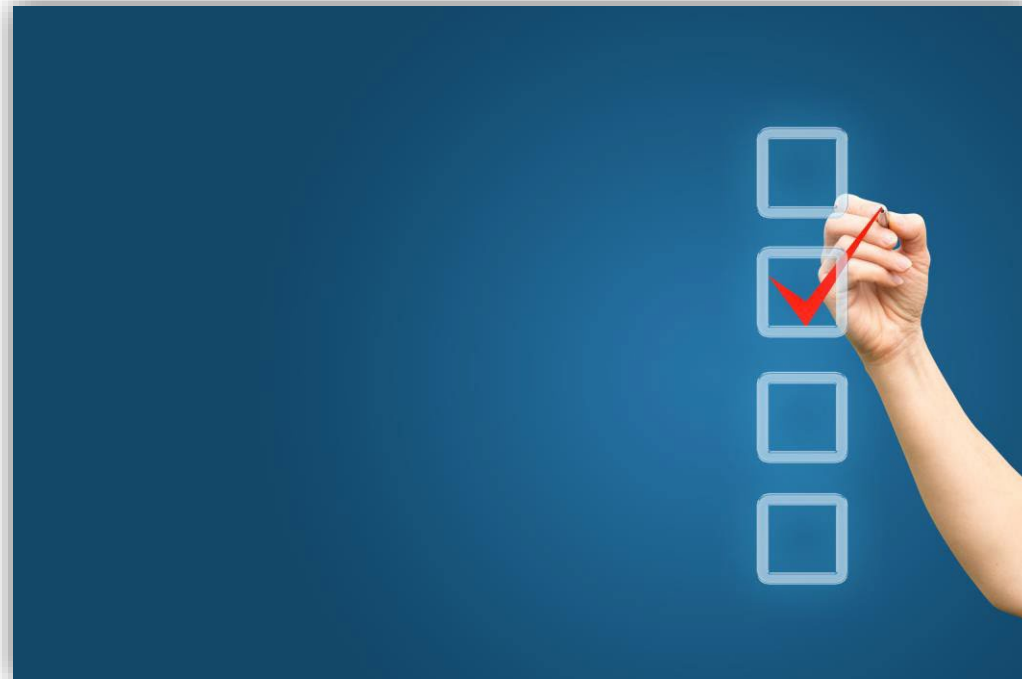
# TRUST

## Pros:

- ✓ No probate required
- ✓ Manages assets during life and after death; 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!!!!***

# A Brief Poll





# TYPES OF TRUSTS

Living vs. Testamentary  
Revocable vs. Irrevocable  
Asset Protection Trusts  
Life Insurance Trusts  
Retirement Plan Trusts  
Special Needs Trusts  
Beneficiary Controlled Trust



The Swiss Army Knife of Estate Planning<sub>16</sub>

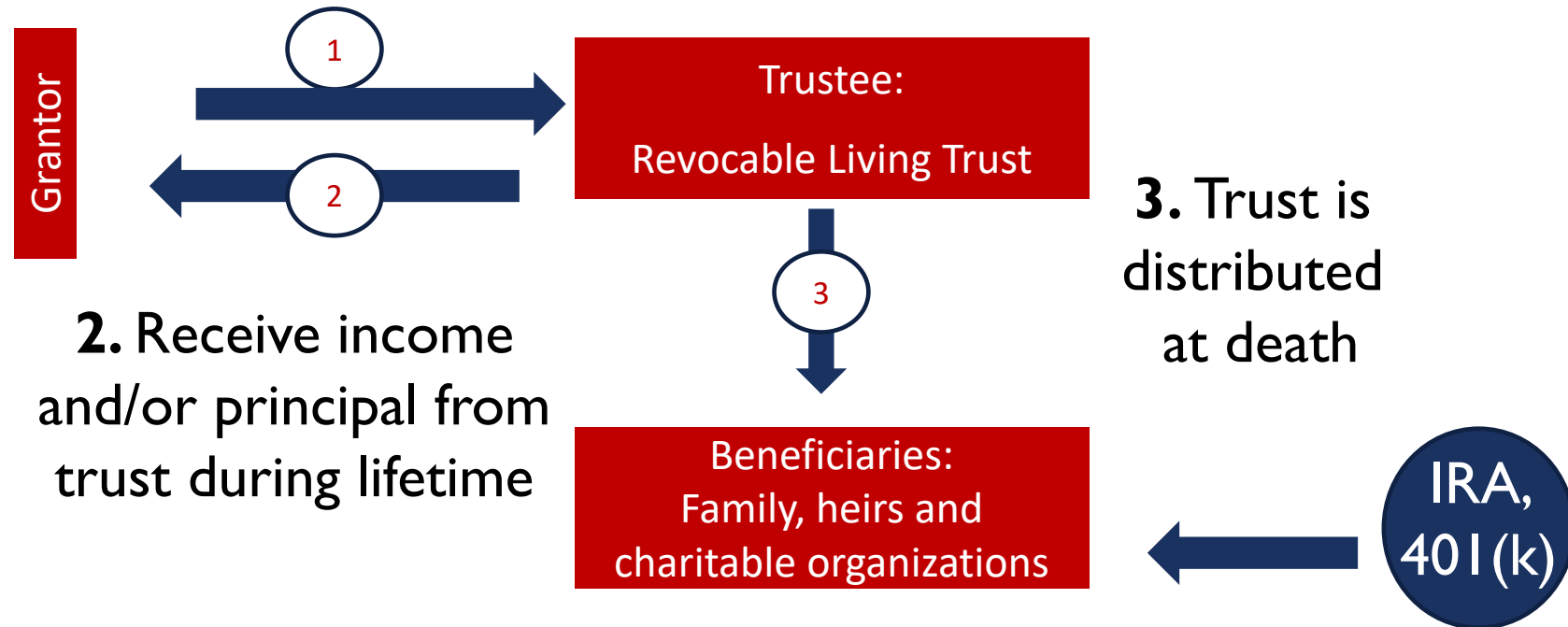
# REVOCABLE LIVING TRUST



- Organizes your assets
- Provides for management and use of assets should you become incapacitated
- Secures all beneficiaries
- Create 'downstream' trusts outside of the Court's reach
- Avoids probate
- **Caution:** Not Medicaid protected – Assets Are Available to Medicaid

# REVOCABLE TRUST WITH FUNDING

1. Place all assets in trust (except IRA's, 401(k)'s, etc.)



**You can be the Grantor, Trustee and Beneficiary!**

# ENHANCED ESTATE PLANNING – NEXT GEN

## Issue:

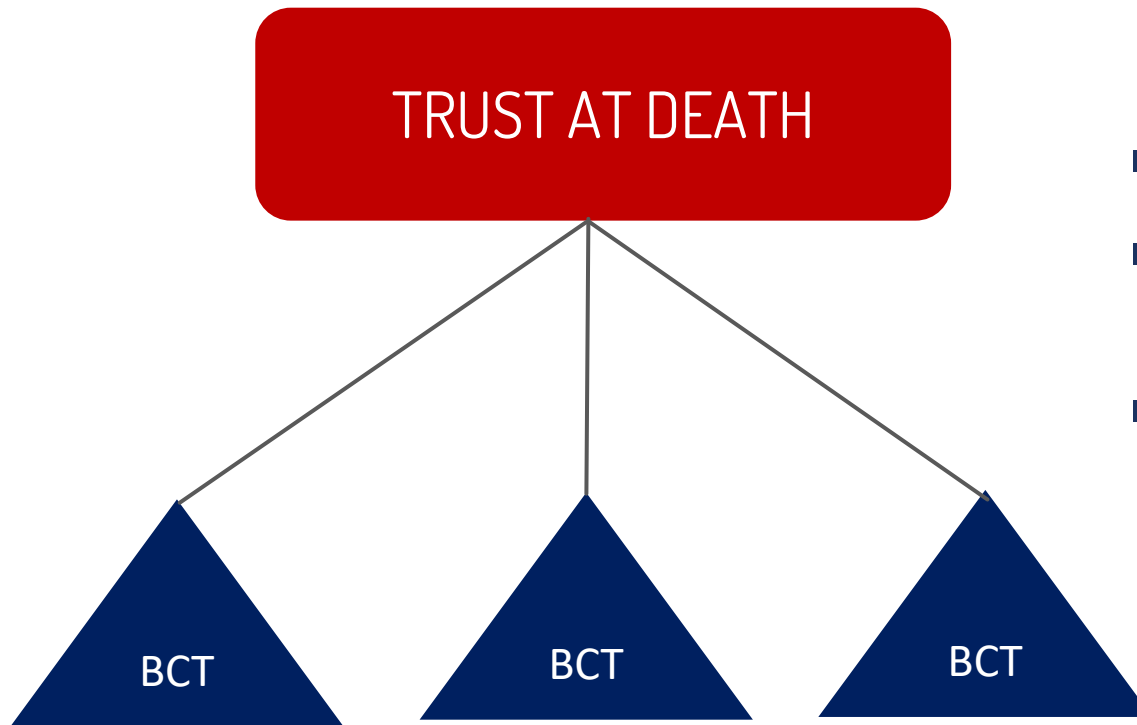
We worked and saved, and when we die, we want our family's wealth protected from divorcing spouses, lawsuits, bankruptcy and Medicaid.

## 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.

# FEDERAL ESTATE AND GIFT TAX –INCREASED IN 2023

- **Gifting** without filing a gift tax form: \$17,000 per individual
- **Higher Gift and Estate Tax Exclusion:** \$12.92 milion per person
  - Sunset 12/31/25 -> reduction to \$5,000,000 (indexed for inflation)
- **Current rate** is 40%
  - Sunset 12/31/25 – 45%



# NYS 2023 ESTATE AND GIFT TAX

- Estate Tax Exemption: \$6,580,000
- No Gift Tax! But...
  - Clawback of any gifts made within 3 years of death – gifted assets are taxable in your estate
- The “Cliff” – if 5% over the limit (\$6,909,000) the exemption disappears!





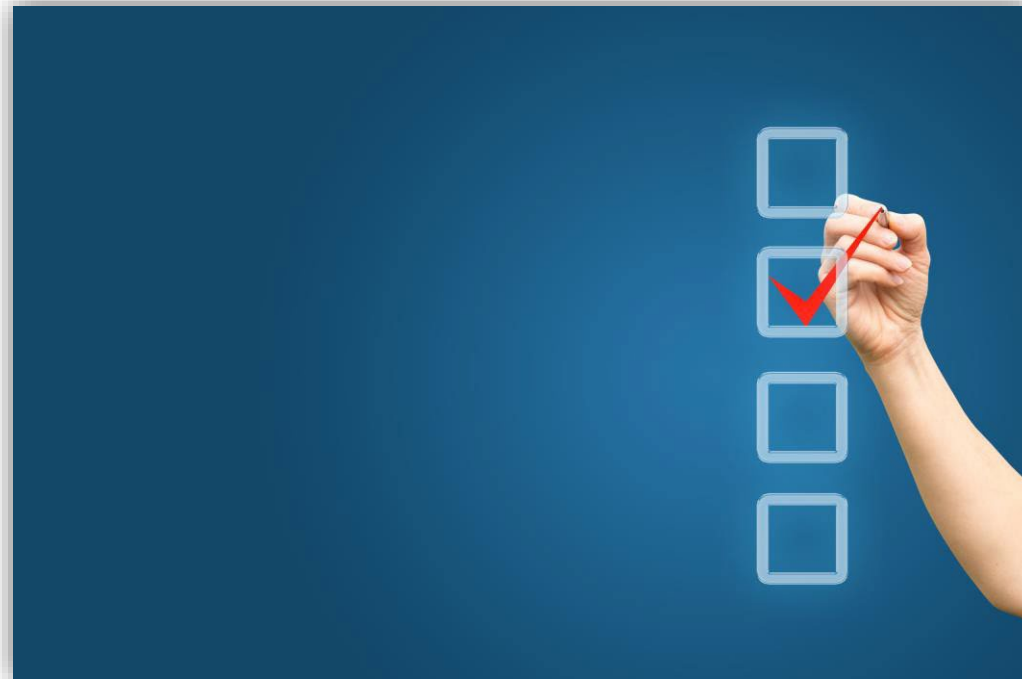
# THE SECURE ACT – 2.0 SIGNED DECEMBER '22



10 YEARS

- Raises the starting age for Required Minimum Distributions (RMDs) **from 72 to 73** with a mandatory 10-year payout for all qualified retirement accounts, including IRA's, 401(k)s, 403(b)s, etc. (Exceptions for spouse, disabled or chronically ill individual)
- Careful consideration must be given to naming trusts as beneficiaries
- Trust Protectors can be used to add flexibility
- All existing Trusts should be reviewed to avoid unintended consequences

# A Brief Poll



---

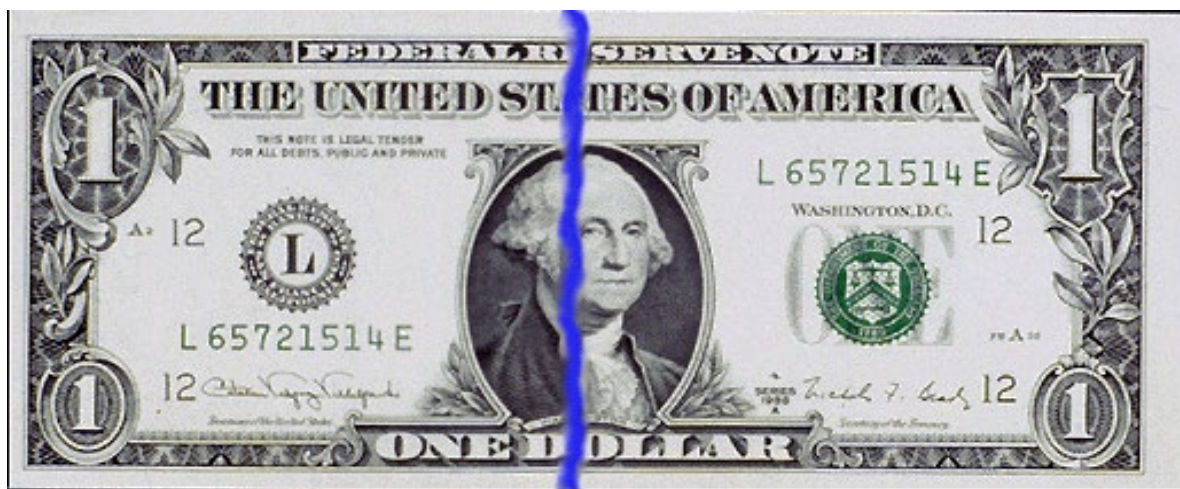
# **CHARITABLE & LEGACY PLANNING**

**Why Give?**

# 100% CONTROL OF WEALTH

**The Part  
You Keep**

**The Part  
You Can't Keep**



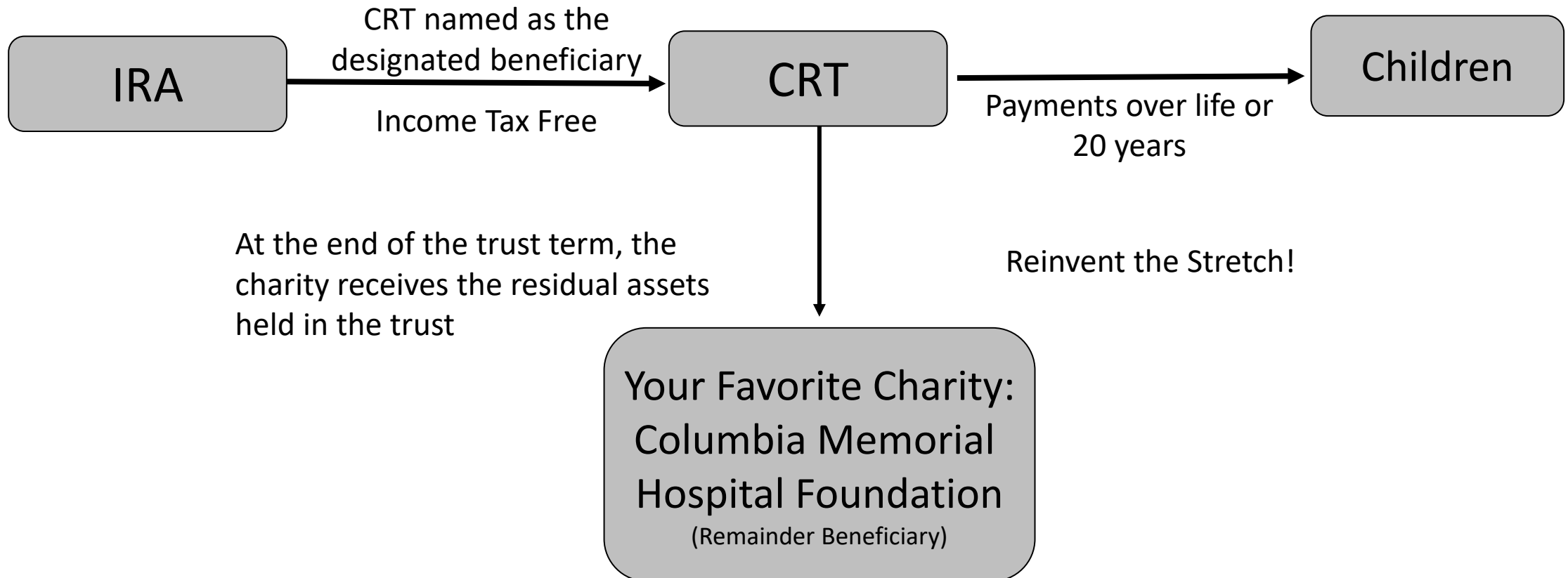
***Gift or Tax - The choice is yours.***

# SMART CHARITABLE GIVING

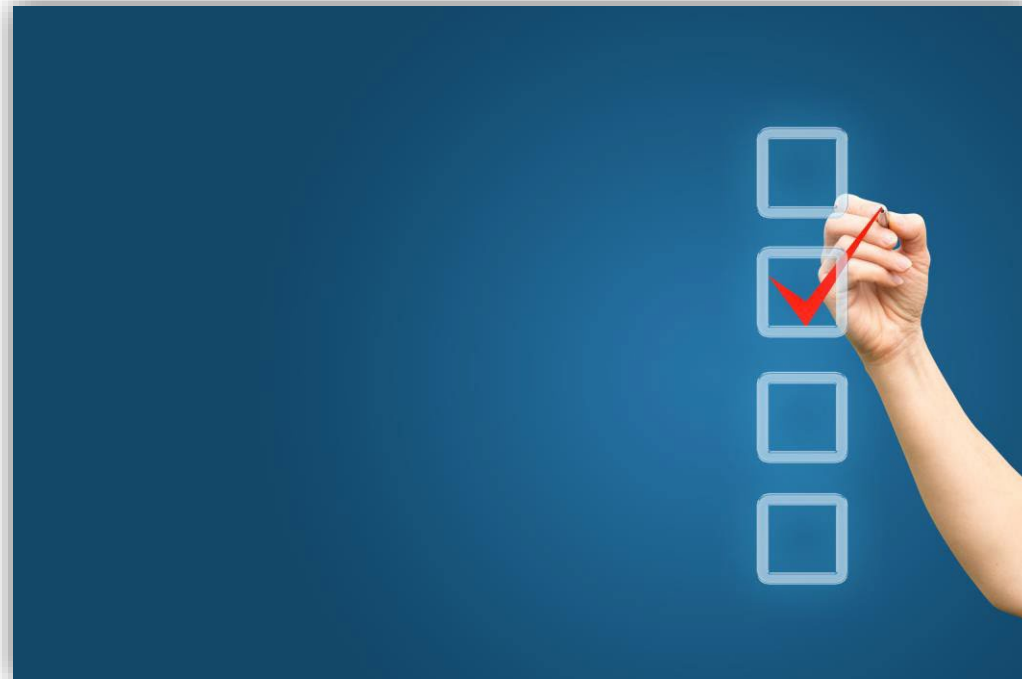
- Gift \$100,000 tax free from your IRA or 401(k) (avoid income tax)
- Gift highly-appreciated stock (avoid capital gains tax)
- Name CMH Foundation as beneficiary of your IRA (income and estate tax)
- Charitable Trusts –benefit family and give to charity – powerful tools (income, capital gains + estate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



# SECURE Act Planning: CHARITABLE REMAINDER TRUSTS



# A Brief Poll





# 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**

# 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 - \$200K/yr!

Self-  
Insuring

Private LTC  
Insurance  
+ Life  
Products

Medicaid



# MEDICARE VS. MEDICAID

Medicare does  
not cover long-  
term care



Medicaid is the only  
government program  
that pays for LTC

# HOME? ...OR THE NURSING HOME?



## Chronic Care Medicaid

- **Nursing home care**
- 5-year lookback
- Transfer penalties = # of mos.



## Community Medicaid

- **Home health care**
- Assisted living facility
- Medicaid managed long-term care
- Adult day care
- **No lookback under current rules**

# GOOD NEWS: MEDICAID INCOME & ASSET LIMITS INCREASED IN 2023

Landmark Medicaid Increases Passed in NYS Budget:

- Same income limit will be used for younger people under Affordable Care Act and for Age 65+, blind & disabled

INCOME / MONTH			ASSET LIMIT	
YEAR	SINGLES	COUPLES	SINGLES	COUPLES
2023	\$1,677 + \$20	\$2,268 + \$20	\$30,182	\$40,821
<b>Difference over 2022</b>	<b>+\$763</b>	<b>+901</b>	<b>+\$13,382</b>	<b>+\$16,821</b>

# EXAMPLE: PLANNING FOR LONG-TERM CARE

- Jerry – Hospital Administrator, 58
- Patricia – HR Director, 60
- Live in Hudson
- Two adult children, Gretchen age 30 and Thomas age 28; 1 grandchild, Patrick age 3
- **No** LTC Insurance Coverage





# THEIR ESTATE PLANNING GOALS

1. Create Advance Directives: The Core Four
2. Retire comfortably – Soc. Sec., IRA, Pension, insurance
3. Protect their home and life-savings from Long-Term Care costs
4. Leave a legacy for children and grandchildren
5. Age in their own home and receive care when needed



# ASSETS – JERRY AND PATTY

## Jerry:

- Roth IRA \$225,000
- Stock \$175,000

## Patty:

- NYS Deferred Comp \$250,000
- CDs \$75,000

## Joint:

- Savings & Checking \$125,000
- Hudson Home \$315,000
- Tesla Model 3 Convertible \$51,800



# MEDICAID ASSET PROTECTION TRUST

**Jerry and Patty  
(Grantors)**

- Co-Trustees: Gretchen and Thomas manage trust assets
- Beneficiaries:
  - Jerry and Patty will have income and rights to use real and personal property for life
  - Upon death, Beneficiary-Controlled Trusts will be created for their heirs
  - Heirs: Gretchen, Thomas and their descendants

# TRUST FUNDING- IRREVOCABLE TRUST

Home

\$50K from Cash Accounts

Jerry's Stock Portfolio

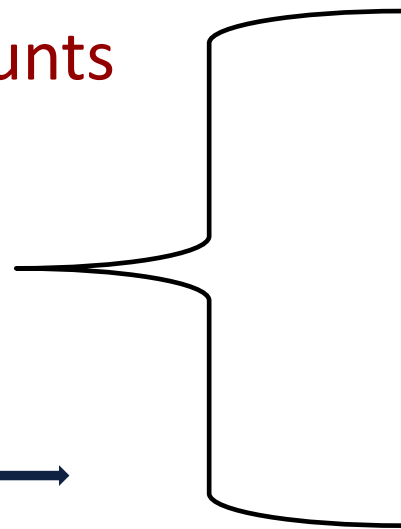
Patty's CDs

Add'l options

Life Insurance

Business

Real Estate



## MAPT

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

# PROTECTING ASSETS WITH SECURITY

## KEEP OUT

75K Cash  
Patty's Def. Comp  
Jerry's Roth IRA

## Security Features

- Power to change Trustees
- Power to change beneficiaries
- Can revoke under NY Law with consent of beneficiaries

# MEDICAID LOOKBACK



Once assets are transferred into the Trust, is there a waiting period to qualify for Medicaid?

Home care	0 years*
Nursing Home care	5 years

\*2.5 years expected NYSDOH -  
implementation in 2025

# PEACE OF MIND

Results If You Plan Now:

- Your home and assets are protected during life
- Long-Term Care costs are covered
- Wishes upon death will be followed without court interference
- Legacy is secure



---

# HOW CAN YOU MAKE SURE YOUR PLAN IS BUTTONED UP?

- Complete the questionnaire provided, and
- Schedule a complimentary consultation





# PIERRO, CONNOR & STRAUSS



- Consultations in person, virtually or by phone

**New York, NY**

260 Madison Avenue

**Garden City / Long Island**

**Westchester**

**Capital Region**

43 British American Blvd.

Latham, NY

**Also serving  
clients in:**

- Lake Placid
- Utica
- Hudson
- MA, FL, NJ, CT



**THANK  
YOU!**

**PLEASE  
COMPLETE THE  
SURVEY AND  
FINAL POLL  
QUESTION**

For the CMH Foundation, contact Barbara Klassen:

[BKlassen@cmh-net.org](mailto:BKlassen@cmh-net.org)

518-828-8362

Louis Pierro, Esq.

Call or email with questions or to request

a free consultation: [info@pierrolaw.com](mailto:info@pierrolaw.com)

518-459-2100



# A Brief Poll

