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# STARTING SOON...



## IS YOUR ESTATE PLAN READY FOR THE FUTURE?

**NOVEMBER 2024**

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

# WELCOME - HOUSEKEEPING

- We are sharing our webcam; please note your lines are muted
- Type questions in the Q&A button on the bottom of your screen
- Today's 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 following the  
program



## THE COLUMBIA MEMORIAL HEALTH FOUNDATION

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### **Jim Armstrong**

Chair, CMH Foundation

Vice President, Senior Wealth Advisor,  
Hudson Financial, A Subdivision of 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.

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# OUR TEAM OF ATTORNEYS



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## **Serving New York State Residents Through Offices in:**

Albany, New York City, Ronkonkoma, Garden City, Hudson, Lake Placid, Utica; Clark, NJ

# AGENDA

- Election Aftermath: the Impact
- The Importance of Estate Planning
- “Core Four” Documents Everyone Needs
- Trust Planning
- Asset Protection for Long Term Care
  - Planning for IRAs and the Secure Act
- Putting your Plan into Action



# THE RED WAVE HAS HIT THE SHORE

The Trifecta

President + Senate + The House

What does it mean for Planners?

- ▶ Unprecedented control of one party over all 3 branches of the government and over the party itself
- ▶ The Trump agenda will include Tax Cuts, Tariffs and More

# ECONOMIC FALL-OUT?

**Current National Debt** – nearly \$36 Trillion

**Deficit** – \$1.9 Trillion

**Interest** @ 3.329% = \$1.16 Trillion  
for 2024



*"The nonpartisan Congressional Budget Office estimates that extending the Trump tax cuts for the next 10 years would add \$4.6 trillion to the deficit." – CNBC, Nov. 11*

# IDENTIFY YOUR PLANNING 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)**

**WILL**

# POWER OF ATTORNEY



Appoint individuals to transact business and financial matters in your name

- Co-agents, alternates – Who?
  - Agent must sign - Oath
  - Comprehensive Powers Including Gifting - Key
- Durable, Springing
- Incorrect POA = Court

# HEALTH CARE PROXY / LIVING WILL



- Designates an agent to make health care decisions 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/)

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# 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
- Can establish “testamentary” trusts to protect your beneficiaries, reduce or eliminate estate taxes and provide for your heirs

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



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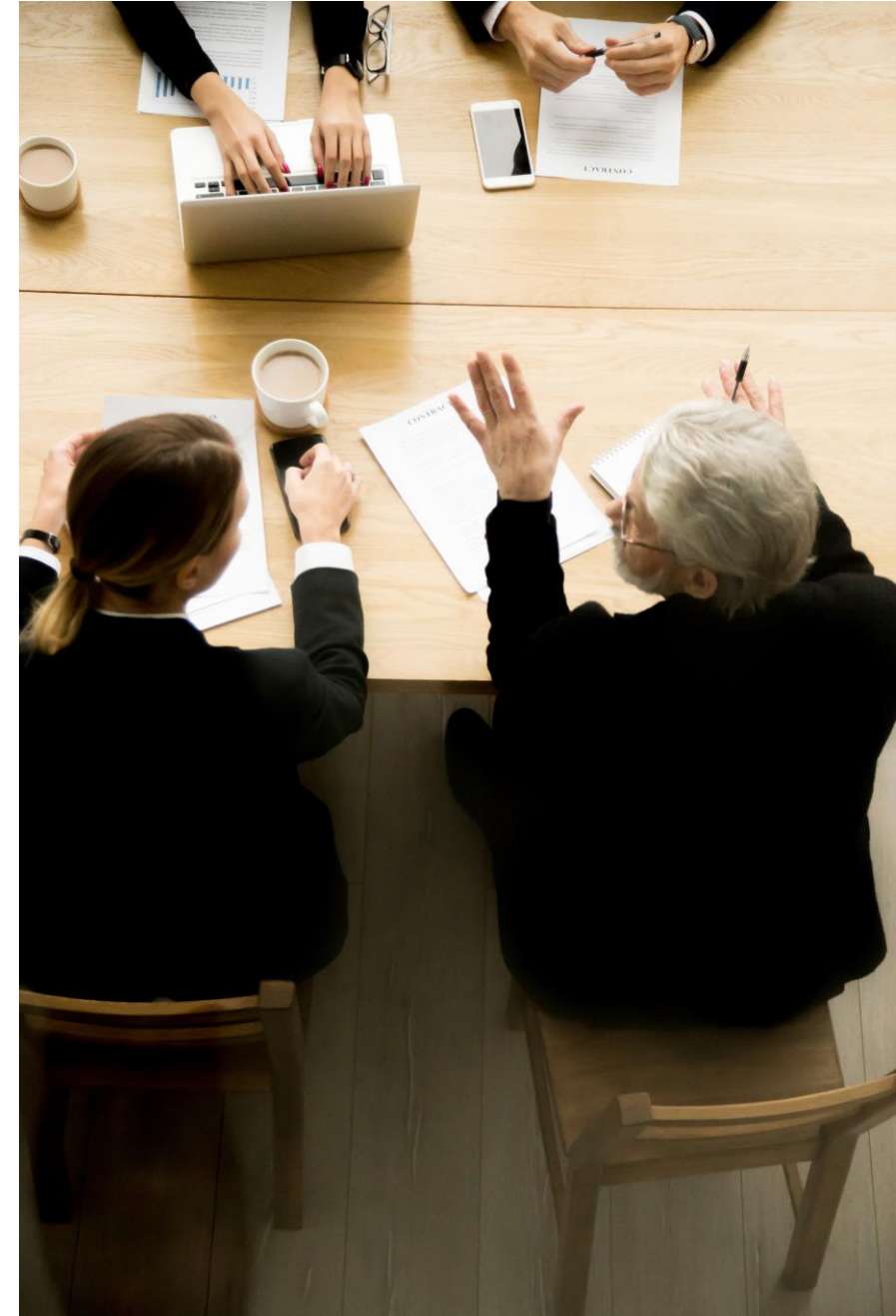
## **CASE IN POINT: CELEBRITIES WHO PASSED WITHOUT A WILL**

- Prince
- Bob Marley
- Michael Jackson
- Amy Winehouse
- Picasso
- Jimi Hendrix
- John Denver
- James Gandolfini

# 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?



# 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!!!!***



# 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**

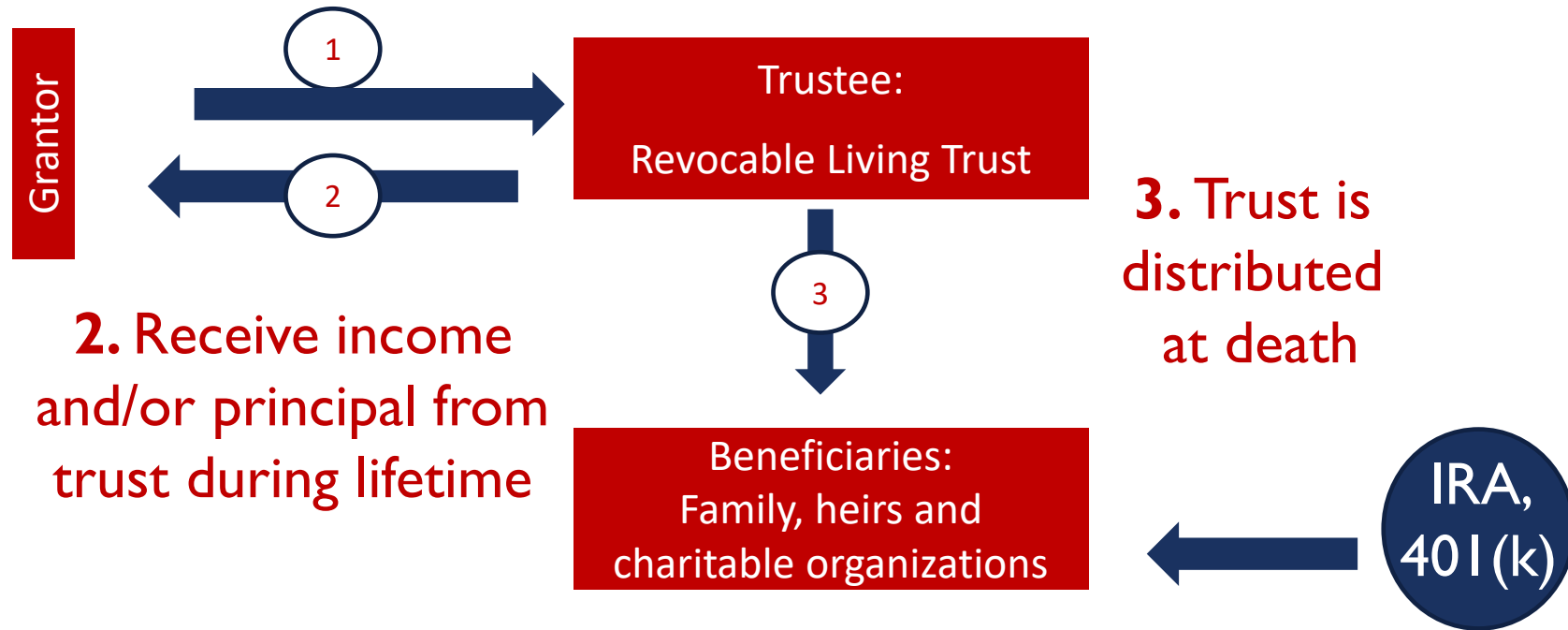
# REVOCABLE LIVING TRUST



- 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:**  
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:

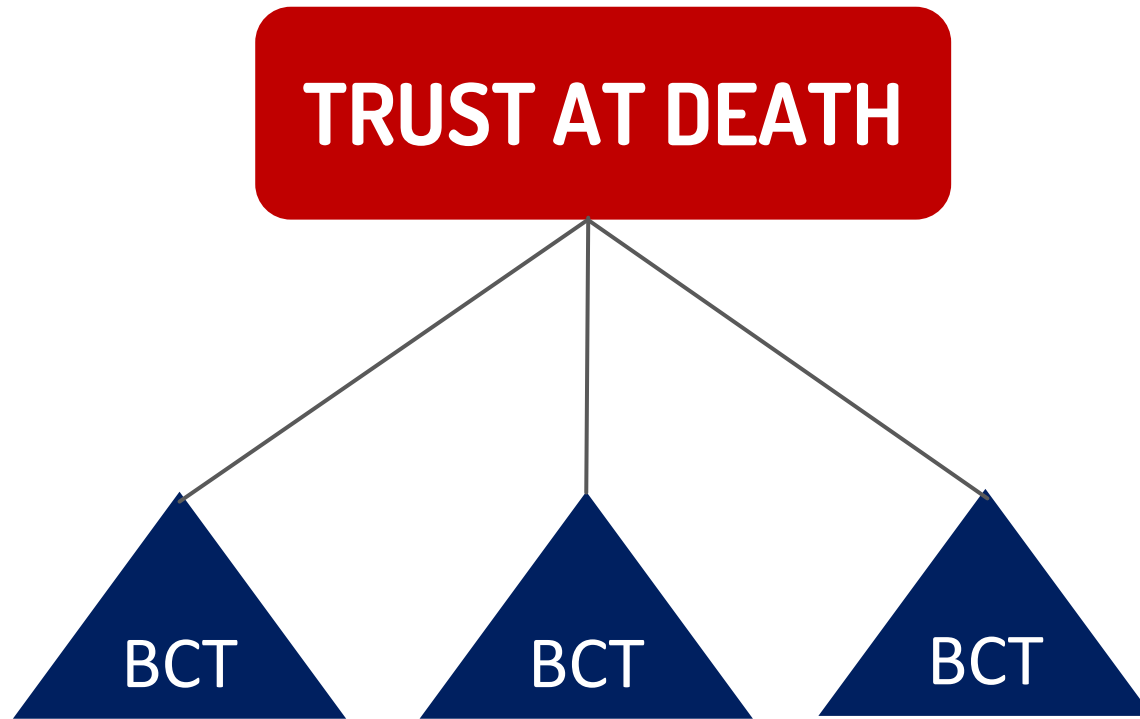
You've worked and saved, and when you're gone, is your family's wealth protected from divorcing spouses, lawsuits, bankruptcy, Medicaid and estate tax?

## Solution:

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



# BENEFICIARY CONTROLLED TRUSTS



**Trusts for Children and  
Grandchildren**

- Beneficiary can be trustee = Control of Assets
- Can use assets for themselves and their families
- Outside the reach of creditors
- Guarantees the family's legacy - assets stay in the bloodline



# FEDERAL ESTATE AND GIFT TAX



Tax Cuts and Jobs Act May Sunset:

The law creating enhanced estate, gift and generation-skipping transfer tax exemptions is scheduled to sunset on December 31, 2025

- ▶ Exemption would be cut in half - \$13.99 million for 2025  
~ \$ 7 million for 2026
- ▶ Tax rate increases from 40% to 45%
- ▶ Remember: Portability exists for Estate and Gift Tax Exemption, but not Generation Skipping Transfer Tax

# NEW YORK ESTATE TAX

- ▶ **\$6.94 mil. in 2024** (estimate \$7.2 mil. for 2025)
- ▶ **NO Gift Tax or GSTT** in New York – no need to file a return for lifetime gifts
- ▶ **Gifts within 3 yrs. of death**, however, are subject to a “claw back”
- ▶ **WARNING:** Once the estate value exceeds the exemption by 5% (\$7,287,000), the entire exemption is lost (The “Cliff”) and every dollar is taxed!
- ▶ **Timely gifting** in New York remains potent!



# TAX CUTS AND JOBS ACT (TCJA) – SUNSET PROVISIONS FOR INCOME TAX



**In general – there is support to extend all the TCJA provisions with some modifications.**

- Individual-related Tax Provisions
  - Tax Rates – keep current rate structure
  - Standard deduction, personal exemption
    - Keep current higher standard deduction without a personal exemption.
- Itemized Deductions
  - Debate on SALT Cap.
  - Mortgage interest debt limit
  - Miscellaneous Itemized Deductions.
  - Pease Limitation



# TAX CUTS AND JOBS ACT– SUNSET PROVISIONS (CONT.)

- Individual-related Tax Provisions
  - **Child Tax Credits** – TCJA structure - \$2,000 per qualifying child (includes refundable portion) and \$500 per dependent that is not a qualifying child, subject to income limitations.
  - **Alternative Minimum Tax** – higher exemptions and phaseout zones under TCJA.
  - **Excess Business Losses** – Sunsets 12/31/2028

# OTHER PROPOSALS

- **Inflation Reduction Act renewable energy credits – many support a full or partial repeal of the credits.**
- **Trump supports:**
  - Elimination of taxability on the following income:
    - Social Security
    - Gratuities
    - Overtime
  - Additional deduction for Auto Loan Interest
  - Tax credit for family caregivers





# **THE FUNDAMENTALS STILL APPLY – TRUST TECHNIQUES TO USE TODAY**

- Revocable Living Trusts
- Medicaid Asset Protection Trusts (MAPT)
- Spousal Lifetime Access Trusts (SLAT)
- Charitable Remainder Trust (CRT)

# OPPORTUNITIES TO PLAN

**Should clients make outright gifts?**

**> \$18,000/person/year (\$19,000 in 2025)**

- ▶ **CONS of larger gifts:**
  - ▶ Loss of control and access to the gifted assets
  - ▶ Income is taxed to the beneficiaries
  - ▶ Assets have carry over basis
  - ▶ Assets are includible in the beneficiaries' estates
  - ▶ Assets are subject to beneficiaries' creditors (divorcing spouse, etc.)

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# ADVANTAGES OF GIFTING IN TRUST

- ▶ **Should clients make gifts to an irrevocable trust?**

## PROS

- ▶ Can tailor trusts to provide maximum tax and non-tax benefits
- ▶ Grantor trust for income tax purposes
- ▶ Can avoid probate and protect assets
  - ▶ Can reduce or eliminate estate taxes
- ▶ Assets can be safeguarded in trusts for future generations

# 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



# THE NURSING HOME? OR YOUR HOME?



## Chronic Care Medicaid

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



## Community Medicaid

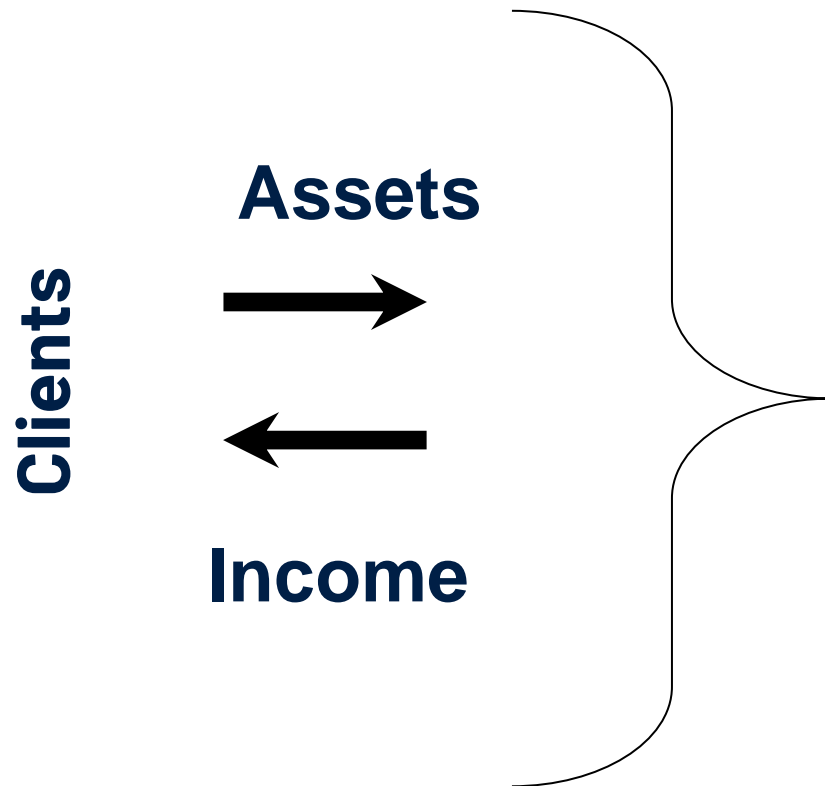
- **Home health care**
- Assisted living facility
- Medicaid managed long-term care
- Adult day care
- **No lookback under current rules**

# MEDICAID INCOME & ASSET ELIGIBILITY

INCOME / MONTH			ASSET LIMIT	
YEAR	SINGLES	COUPLES	SINGLES	COUPLES
2024	\$1,751	\$2,371	\$31,175	\$42,312

- Community Spouse Income Allowance: \$ 2,853.50
- Community Spouse Resource Allowance \$74,820 up to a max. of \$154,140
- Institutionalized Spouse Income Allowance \$50

# MEDICAID ASSET PROTECTION TRUST (MAPT)



- Trustee – manages trust assets
- Beneficiaries
  - Client – income for life and right to use real property
  - Heirs = Remaindermen - inherit when trust ends
    - Can be in a BCT

# MAPT

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

## Medicaid Asset Protection Trust

- Income is yours if you want it
- Principal can NOT be given back to you directly, but
- Principal can be given to children or other beneficiaries

# MAPT

## KEEP OUT

Cash

Bank Acct.

IRA, 401(k)

## Security Features

- Choose initial Trustee, can change at any time
- Choose initial beneficiaries, can change at any time
- With the consent of all beneficiaries, in New York the trust can be “amended or revoked”

# 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 for your family





# THE SECURE ACT

- Raises the starting age for Required Minimum Distributions (RMDs) **to 73**
- Mandatory 10-year payout for all qualified retirement accounts
  - 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**

# 100% CONTROL OF WEALTH

The Part  
You Keep

The Part  
You Can't Keep



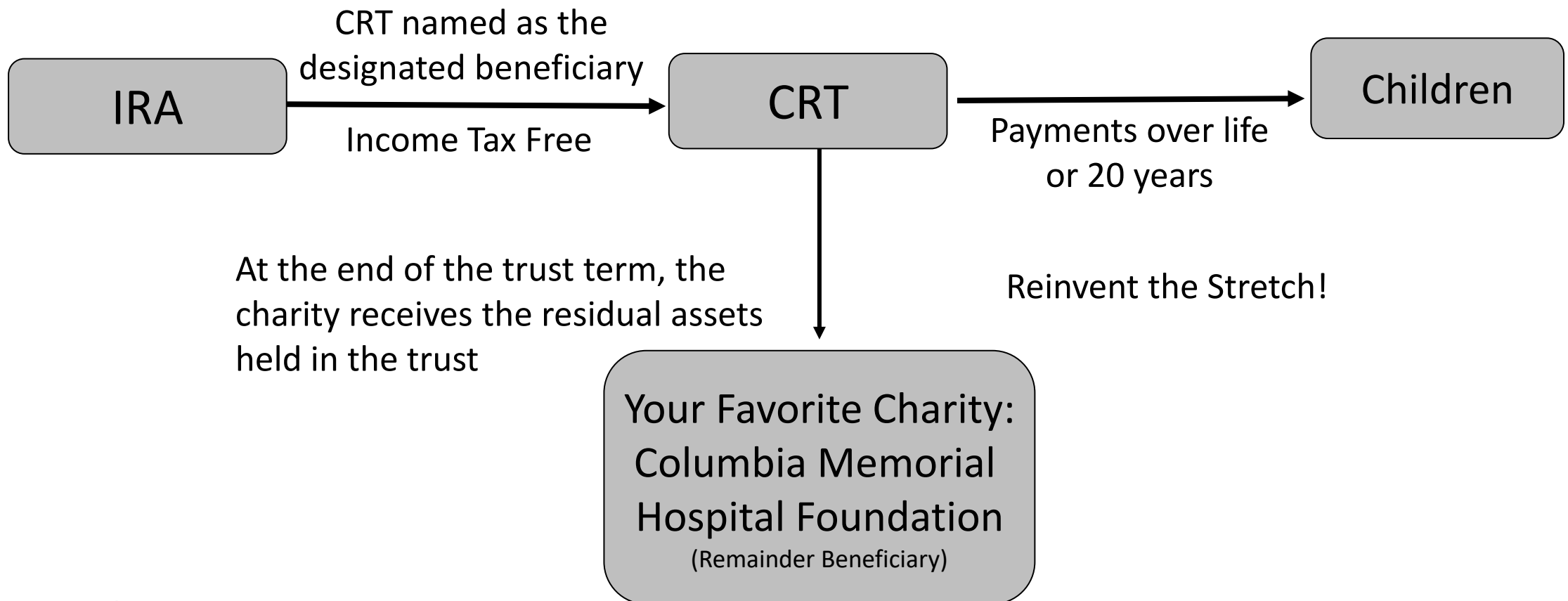
*Gift or Tax - The choice is yours.*

# SMART CHARITABLE GIVING

- Gift \$100,000 tax free from your IRA if 70½ (\$105,000 in 2025)
- Gift highly-appreciated stock (avoid capital gains tax)
- Name CMH Foundation as beneficiary of your IRA (avoids income and estate tax) – leave “nontaxable assets” to heirs
- Charitable Trusts –benefit family and give to charity – powerful tools (income, capital gains + estate tax)



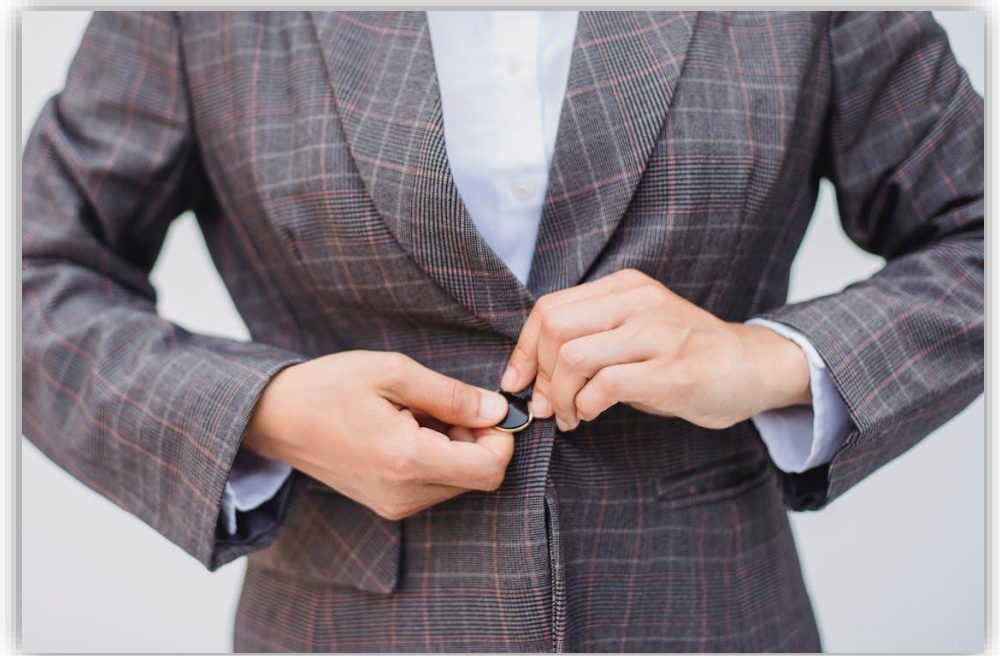
# SECURE Act Planning: CHARITABLE REMAINDER TRUSTS



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# HOW CAN YOU MAKE SURE YOUR PLAN IS READY FOR THE FUTURE?

- Complete a questionnaire – secure online portal
- Schedule a complimentary consultation with an estate planning attorney



# PIERRO, CONNOR & STRAUSS



- Consultations in person, virtually or by phone

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**THANK  
YOU!**

**PLEASE  
COMPLETE  
THE SURVEY**

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