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Estate Planning

Plan for your future!

Presented by: John Bradley, Esq.

The information presented herein is not a comprehensive analysis of the topic presented, and the viewer should consult tax and legal advisors to understand all the ramifications of the topics discussed.

Please be advised that any information provided in this presentation should not be construed by any person as legal, tax or accounting advice. Guercio & Guercio, LLP strongly suggests that you retain the services of qualified tax, accounting and legal counsel for advice on matters presented herein.

Disclaimer

Topics for Today

- Default rules associated with inheritance
- General Concepts governing wills and trusts
- Identifying probate and non-probate assets and distribution
- Advance directives, including wills, health care proxy, and powers of attorney

Who needs
an estate
plan?

Everyone!



What is your estate?

- **Tangible Assets**

- Real Estate
- Cars/Trucks
- Jewelry
- Household possessions

- **Intangible Assets**

- Bank Accounts
- Annuities
- Stocks
- Bonds
- Business Interests
- Life Insurance
- Retirement Plans

What are the goals?

No substitute for a skillfully drafted estate plan because you can:

- ✓ Maintain control over your estate
- ✓ Avoid probate (minimum \$2500.00 in costs).
- ✓ Reduce Estate & Income Taxes
- ✓ Protect Spouse & Children
- ✓ Protect Inheritance from Creditors
- ✓ Provide for Disability Planning
- ✓ Prevent Delays Related to Estate
- ✓ Reduce Disagreement Among Heirs
- ✓ Continuity for Asset Management

Basic Estate Planning Documents:

- Wills
- Trusts (both revocable and irrevocable)
- Financial powers of attorney
- Health care proxy
- Living wills

Some questions:

Who should receive your property?

In what form? Outright? Or in trust (over time)?

Who should be responsible for collecting, administering, and distributing your property?

What if you become incapacitated?

What property does a will cover?

Only Probate Property

Probate Property

In Decedent's Name
(tangible & intangible assets)



Passes through probate

Non-Probate Property

Life Insurance

Joint Property

Retirement Benefits (IRAs or Pensions)

Property in Trusts

T.O.D. Accounts (transfer on death)

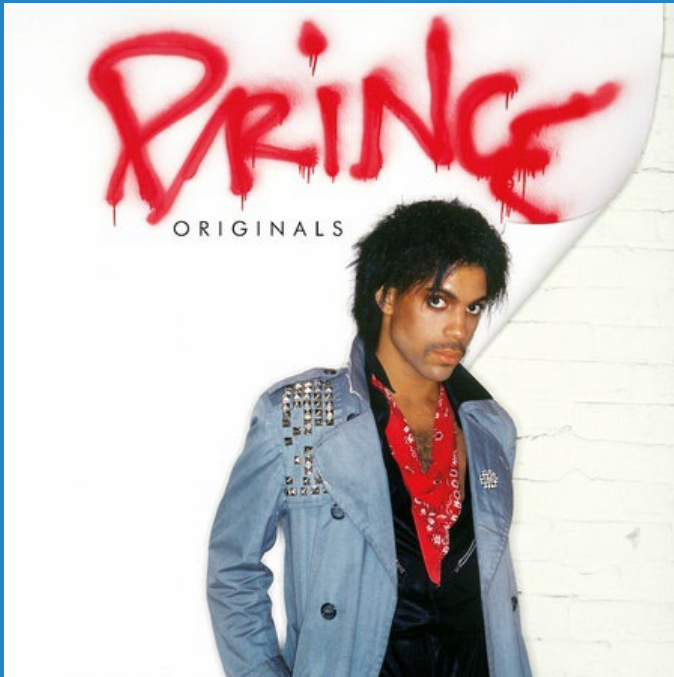
What is Probate?

And Why Do We Try to Avoid it?

Probate is a court supervised process which transfers title of your assets to your heirs upon your death.

Probate is **expensive, time consuming, cumbersome** and will expose the estate to unnecessary costs and credit claims – including possible Medicaid claims. *Probate is completely avoidable!*

What if you don't have a will?

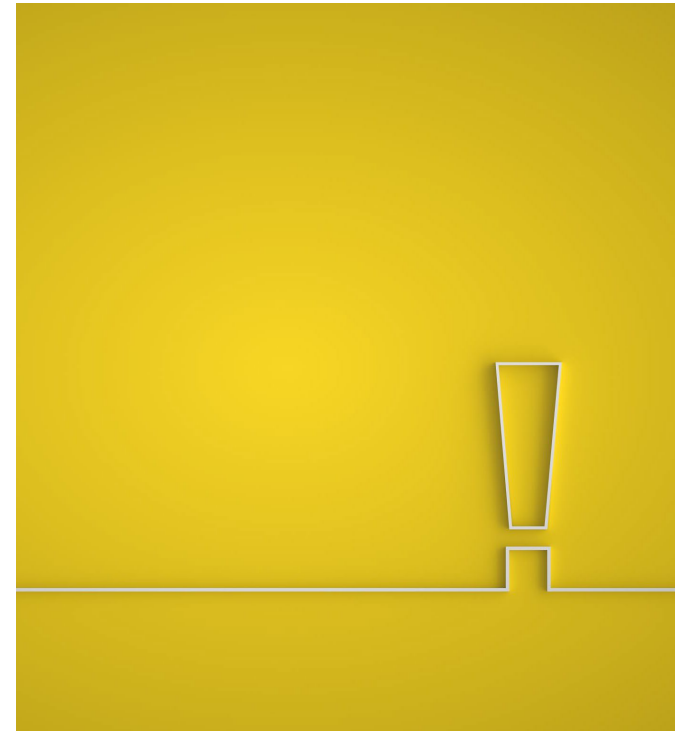


- Intestate
- Why no will?
 - Did not get around to it
 - Did not want to face mortality
 - Did not want to spend \$ or time
 - Could not Decide

Prince did not have a will and left behind a \$156.4 million dollar estate. His sister and 5 other half-siblings made claims over his estate. It took 6 years to resolve.

What happens to your probate property?

- Default rules apply – look at what average decedent would want.
- Priority:
 - Spouse
 - “descendants”
 - Other relatives (collaterals)



Some issues
when you
die intestate:

Who is a spouse?

Who are descendants?

Who “survives” you?

Charities?

Tax apportionment?

Need?

Relationship?



Can't direct what happens to non-probate property.

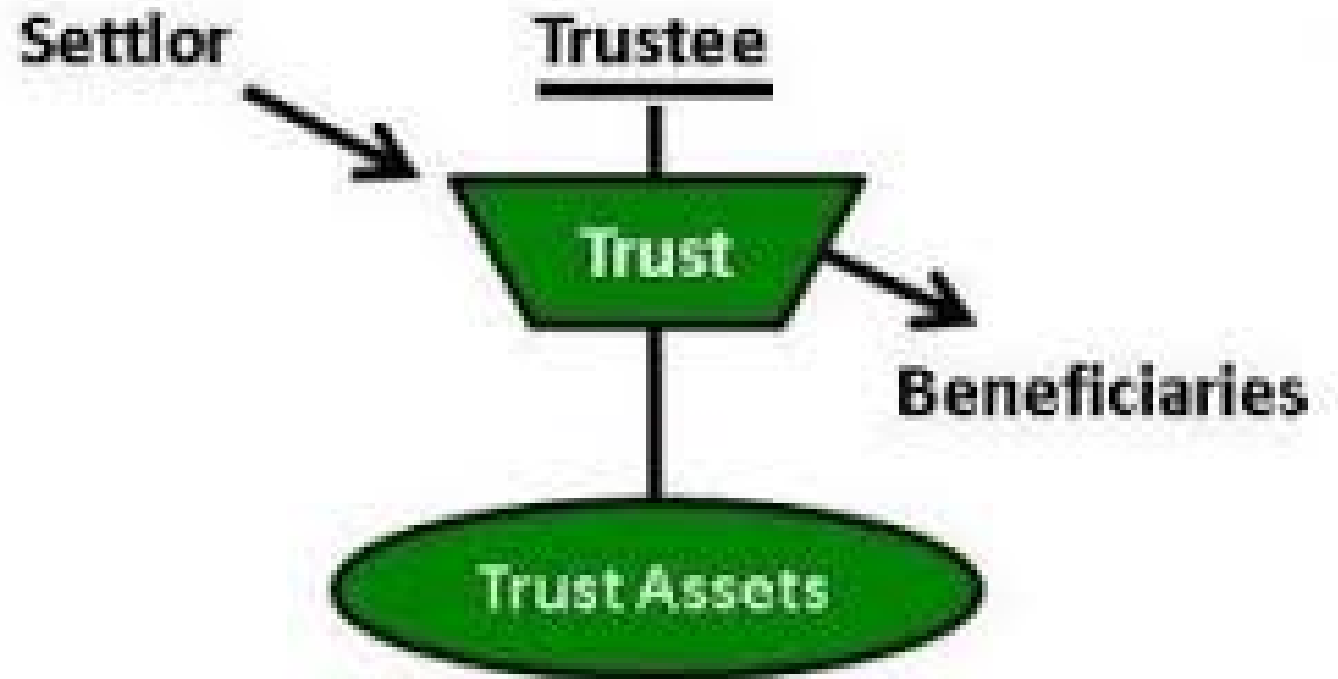


Important to examine and update your beneficiary designations, account titles, and deeds regularly so they do what you want them to do!

What can't your will do?

What is a trust?

- A legal arrangement where one party (the trustor/settlor) transfers assets to another party (the trustee) for the benefit of a third party (the beneficiary).





Private

Testamentary

Revocable (a.k.a. living
or inter vivos)

Irrevocable



Charitable



Business

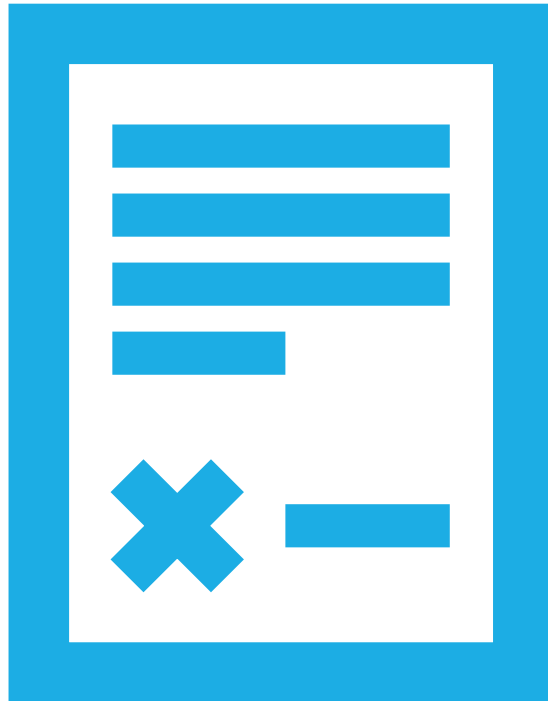
Types of Trusts

What is a revocable trust?

Provides a set of instructions to care for you and your family during your lifetime, during incapacity, and after death.

All assets disposed of via a Trust will not go through probate.

A trust **must be funded** with applicable assets.



What is an irrevocable trust or Medicaid asset protection trust?

SIMILAR TO A REVOCABLE TRUST BUT THAT AN IRREVOCABLE TRUST CANNOT (GENERALLY) BE REVOKED.

Benefits of a Trust

Maintain Control Over Estate

Avoid Probate

Reduce Estate & Income Taxes

Protect Spouse & Children

Protect Heirs' Inheritance from Creditors

Provide for Disability Planning

Prevent Delays Related to Probate Administration

Reduce Possible Disagreement Among Heirs

Continuity for Asset Management

Provide for Minor Children

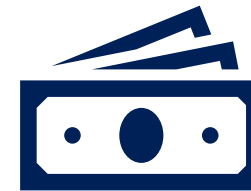
What are advance directives?



Living Will



Health Care Proxy



Financial Power of
Attorney

Financial Power of Attorney

- A legal document where an adult designates someone as their agent to make financial decisions on their behalf should they become incapacitated.
- Authorizes a person to handle your financial affairs when you are incapable of handling them yourself.



Benefits of a Financial Power of Attorney

Names a decision maker

Allows a family member to assist incapacitated person with finances

Can prevent conservatorship

Provides continuity for investments

Protects incapacitated person from themselves

Must be executed while person has capacity

Living Will

- Expresses final wishes regarding end of life care.



Health Care Proxy

- A legal document where an adult may designate another adult or group of adults to make decisions regarding health care on their behalf or to make funeral and other arrangements in the event of their death.
- When granting a health care proxy, you should also include a HIPAA authorization that gives your agent the right to access your medical records. Your health care proxy works hand-in-hand with your advanced directives.



Living Will

A Different Kind of Will



Living wills are a written expression of your wishes regarding end of life care, which is provided to your family and doctors. Your wishes cannot be honored if they are not known.



A living will takes effect after you are diagnosed by a doctor as terminally ill or permanently unconscious and the doctor determines you are unable to make or communicate decisions about your care.

How Often Should An Estate Plan Be Updated?

Recent good fortune

Change in family relationships

Becoming a parent or grandparent

Loss of a loved one

Incapacity of a spouse or loved one

Change of address

A foreseeable need for a nursing home

Your children have grown up

Regular checkups

Desired changes

Every 3 to 5 years

How do you get started?

- Who do you involve?
- What other information might you be asked to provide?

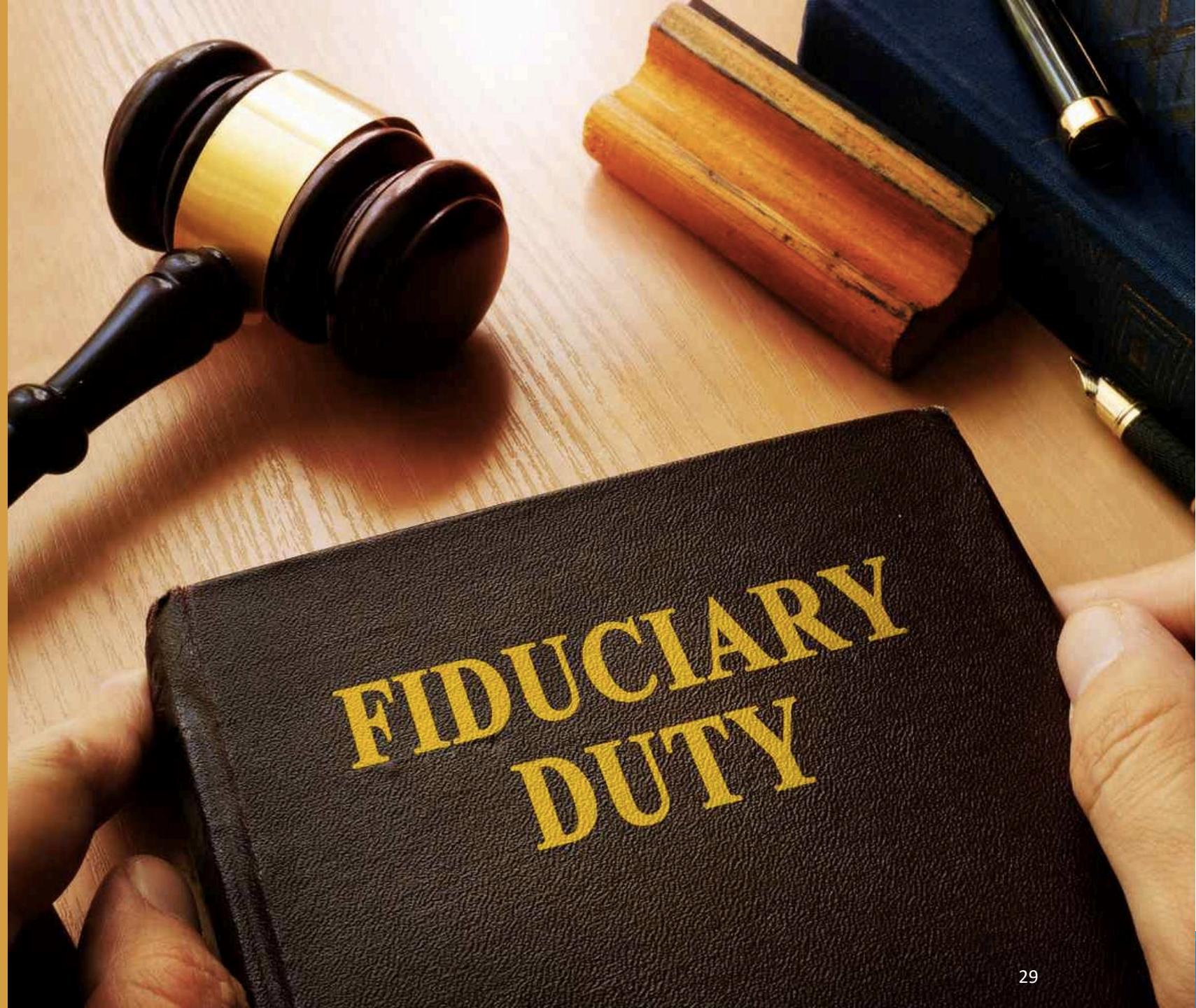


Information about the beneficiaries

- Names and relationships
- Special considerations for children/descendants
 - Adopted/adopted-out/non-marital/step-children
 - Special needs/addictions/relationships/spending patterns/other personal habits
- Personal information
 - Ages (guardian, trust, education)
 - Elderly (planning for incompetence)
- Contingent beneficiaries



Information about Fiduciaries



Fiduciaries

Positions:

- Who will serve as “executor?”
- Trustee?
- Guardian of minor children?

Characteristics:

- Individual
- Corporate or professional – fees?

Information about Property

Accurate descriptions, including:

- How title is held
- Value
- Form (insurance, retirement assets, employee benefits, stock, real property, personal property)
- Characteristics (“community” or separate)

Debts/liabilities

Inheritance

Goals

- What do you wish to accomplish?
 - Create a legacy
 - Care for family
 - Avoid taxes
 - Promote certain behavior
 - Timing/cost

Questions?

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