

Estate Planning Essentials

WILLS & TRUSTS: ESSENTIALS OF ESTATE PLANNING

JEFF S. PATTERSON, LL.M.

Fellow, ACTEC

LYNCH MURPHY MCLANE LLP

Estate Planning Essentials

WILLS & TRUSTS: ESSENTIALS OF ESTATE PLANNING

JEFF S. PATTERSON, LL.M.

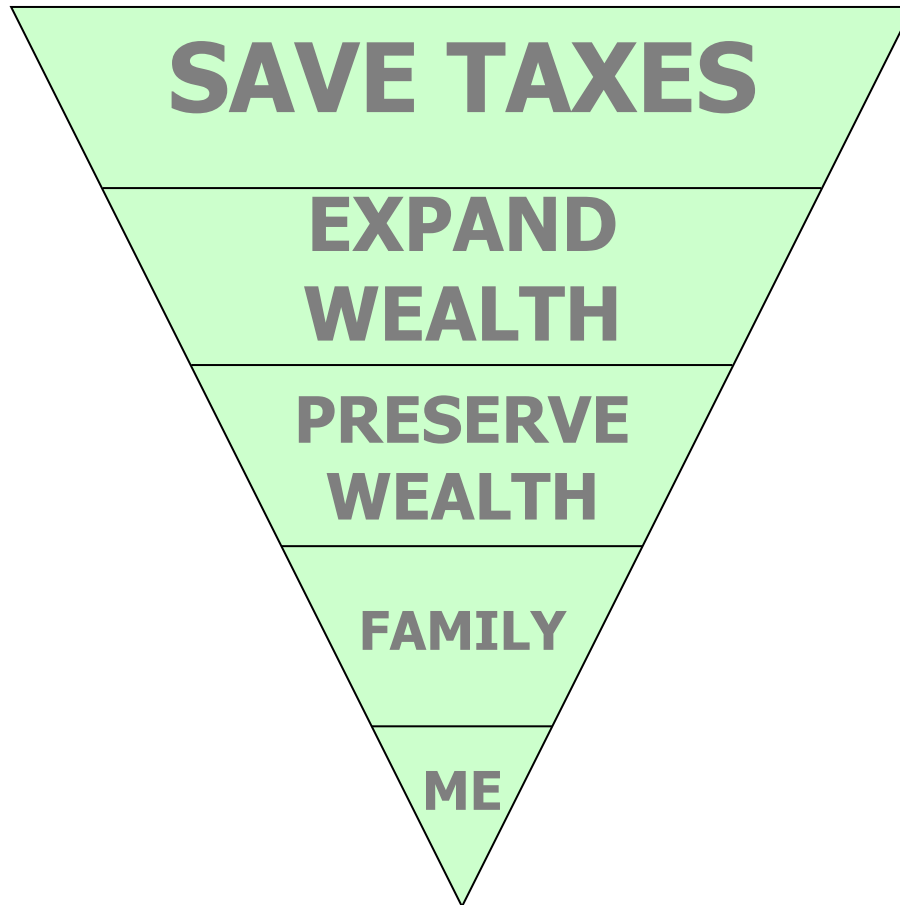
Fellow, ACTEC

LYNCH MURPHY MCLANE LLP

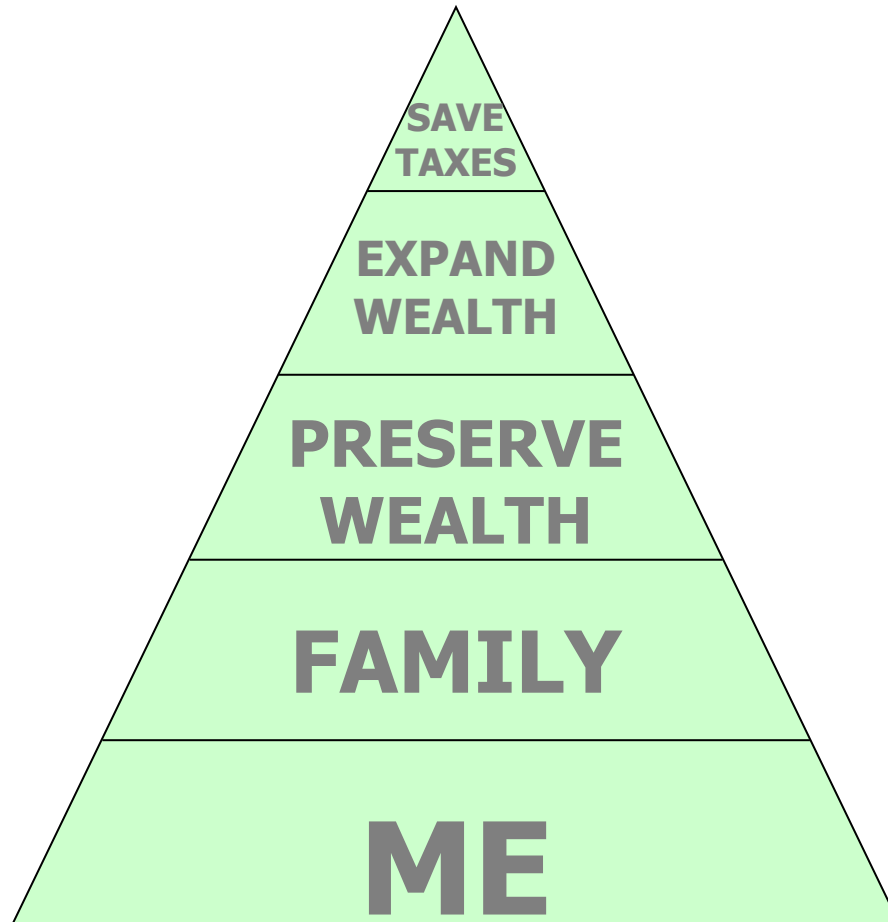
Estate Planning Options

- No documents (Joint Tenancy)
- Will and/or Powers of Attorney
- Revocable Living Trust

Estate Planning Pyramid?



Estate Planning Pyramid



Estate Planning Goals

- Protect one's dignity in event of disability
- Protect a spouse from predators / creditors
- Protect minor children
- Protect older children from bad choices
- Balance beneficiaries in blended families
- Leave a social legacy (charitable intent)
- Save on estate taxes

Estate Planning Challenges

- Maintaining control and privacy
- Planning for disability
- Asset transfer upon death
- Taxation
- Personal planning goals

What is a Will?

- Instructions for the Probate Court
- Effective upon death
- How to manage your property
- How to pay your bills
- How to distribute your property

What is Probate?

A public legal proceeding where a judge enforces the will instructions to transfer property after death.

Advantages of a Will / Probate

- Inexpensive in the short term
- Simple
- Allows appointment of guardians for minor children

Disadvantages of a Will / Probate

- More expensive in the long term
- Court involvement / public record
- Provides a forum for will contests
- Time consuming to administer
- Does not provide for disability

Disadvantages of a Will / Probate

Guardianship / Conservatorship

- A judge decides when I'm disabled, who takes control, and what the guardian can do
- Expensive (attorney, court & accounting fees)
- Time consuming
 - Record keeping
 - Court reports
- Public record

General Durable Power of Attorney

- Blank check
- Effective immediately
- No instructions
- No reporting requirements

What is a Trust?

A Trust is a document containing instructions for your trustee(s) to provide for your disability and to distribute your property to *whom* you want, *when* you want, and *in the way* you want.

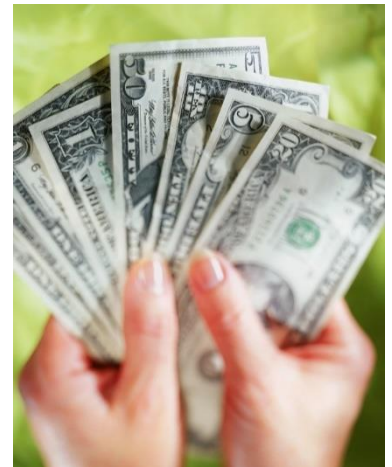
A Trust is ... a Bucket



- Holds property (Corpus)
- You fill bucket (Grantor)
- Bucket watcher (Trustee)
- Ladle out contents (Sprinkle)
- Pour out contents (Dissolve)

Trustee

- Fiduciary relationship
- Trustee must follow trust provisions
- Holds property to benefit beneficiary
- Invests trust property
- Protects trust property



Two Ways to Create a Trust

- Inter Vivos
 - Created during lifetime (Living Trust)
- Testamentary
 - Created at death

Types of Trusts

□ Revocable

- Right to change or amend
- Still part of estate

□ Irrevocable

- No right to change or amend
- Value removed from estate

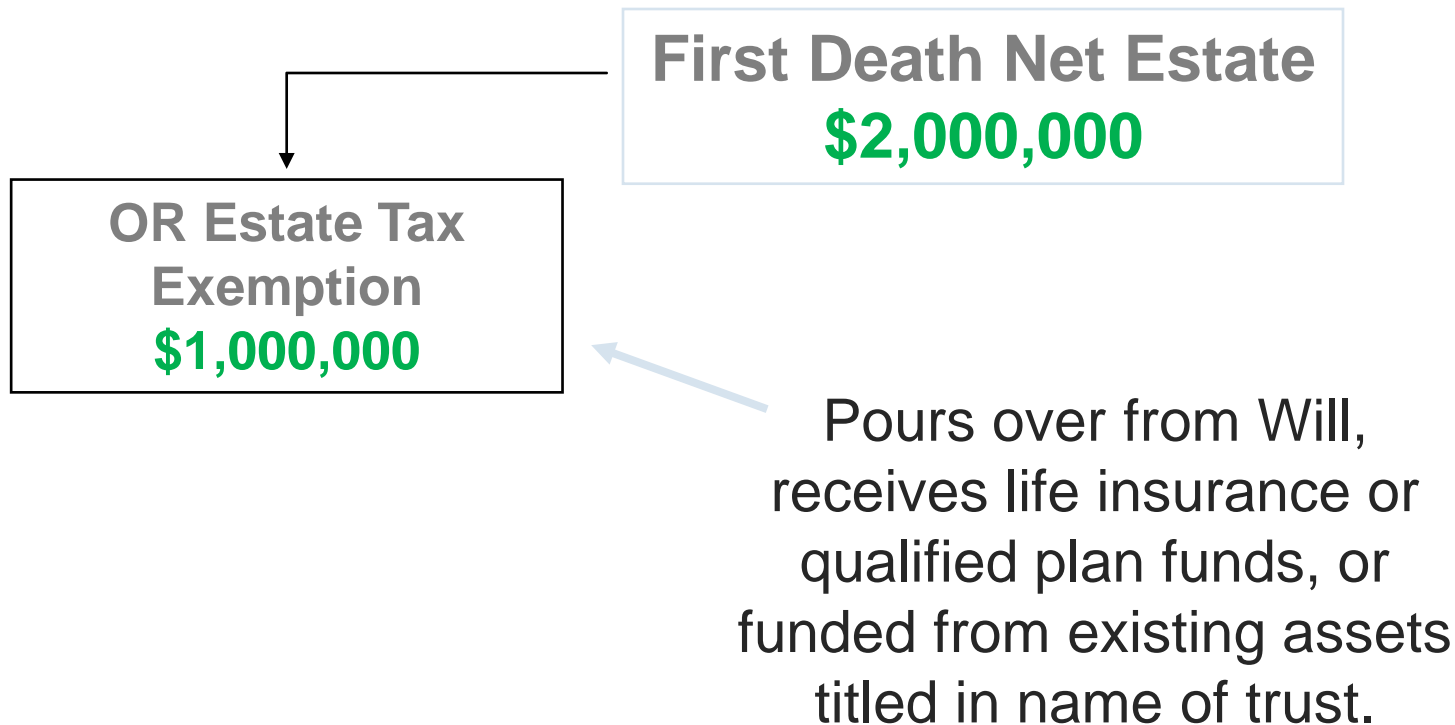
Advantages of a Trust

- Less expensive in the long term, since most work is done during lifetime
- Personalized definition of disability
- Personalized disability instructions
- More difficult to contest
- Private
- Maximum control of assets while living *and* after death
- More efficient tax planning

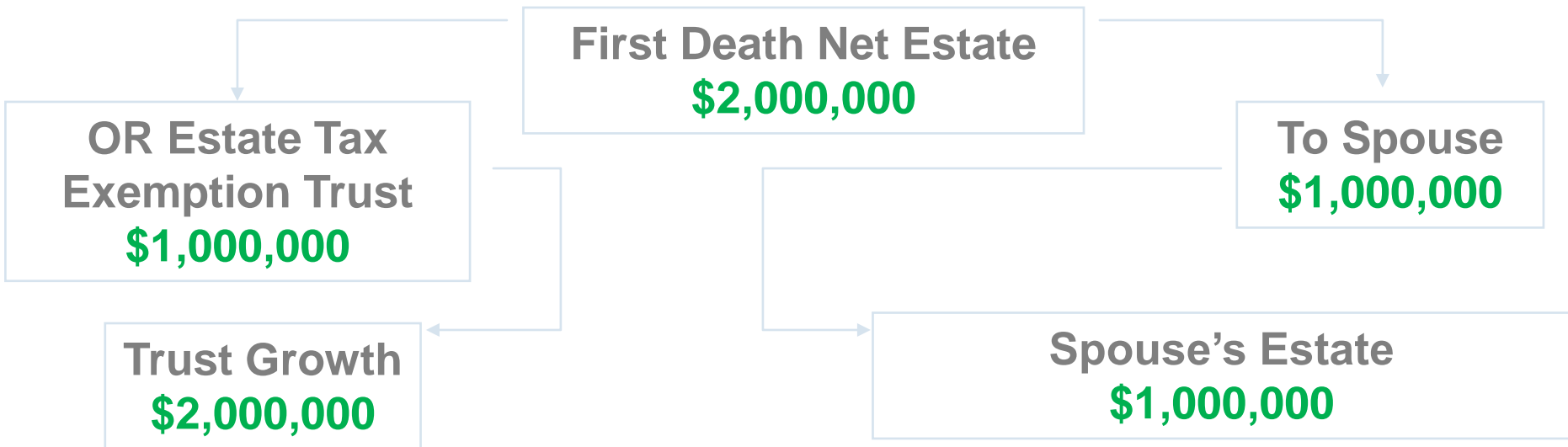
Revocable Trust Tax Planning

- Grantor transfers assets during lifetime
- At death, other assets received from estate (pour-over will) or as beneficiary (life insurance)
- Funds a Credit Shelter trust with remaining estate tax exemption for non-spouse beneficiary
- Surviving spouse has right to income and limited right to invade principal
- Avoids outright transfer to non-spouse beneficiary

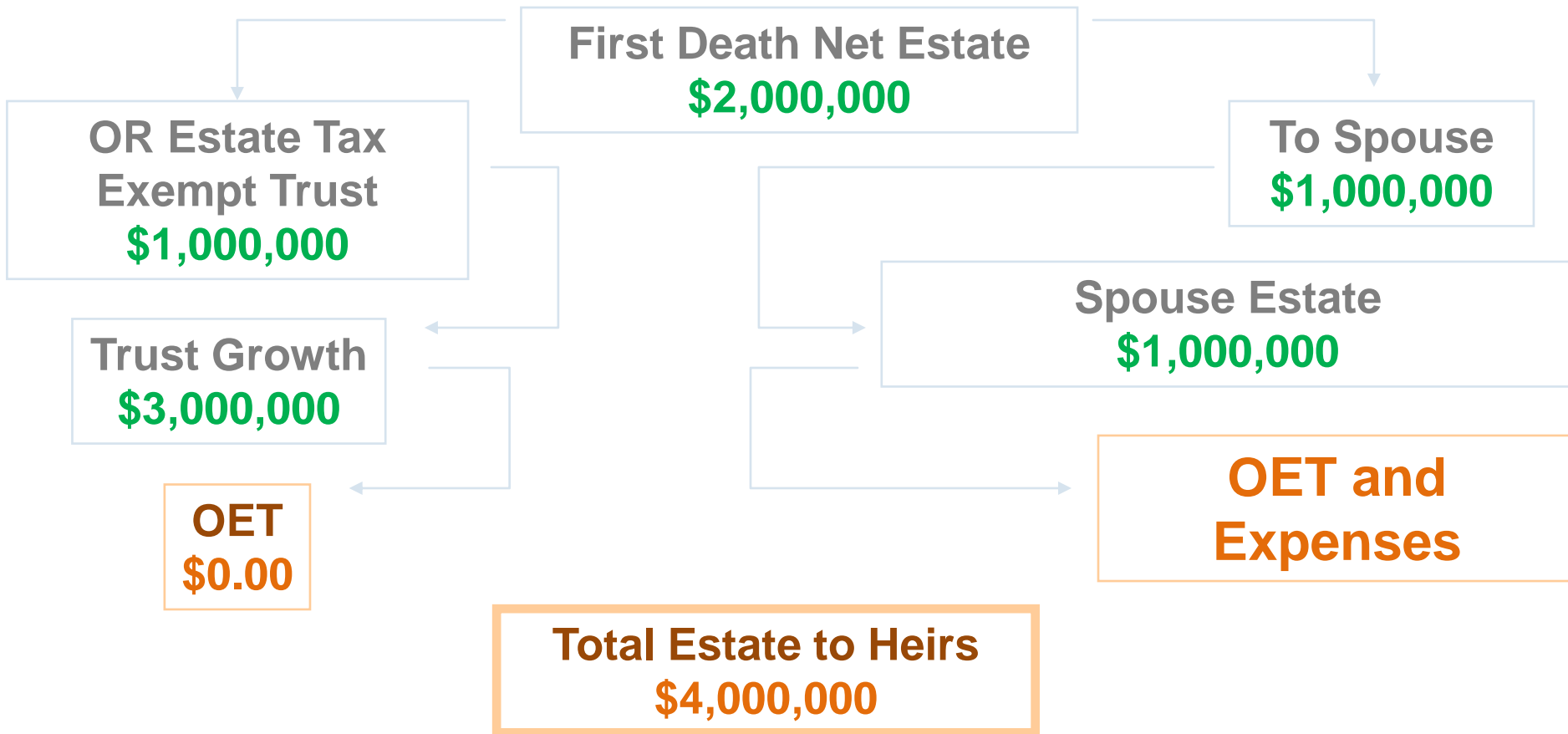
RLT Using the Exemption



Remainder to Spouse



Tax Due at Second Death



True or False:

A spouse has no right to income or principal from a credit shelter trust.

Potential Trust Issues

- May not be current
 - New legal issues
 - New personal / family situations
- May not be fully funded
- May contain only standard definitions of disability without personal instructions
- May rely heavily on Powers of Attorney

Estate Planning Essentials

WILLS & TRUSTS: BASICS OF ESTATE PLANNING

JEFF S. PATTERSON, LL.M.
PARTNER

LYNCH MURPHY MCLANE LLP