

INTRO TO ESTATE PLANNING: ▶ WILLS VS. TRUSTS

HOSTED BY:

University of Wisconsin - Madison Retirement Association's
Committee on Financial Matters in Retirement

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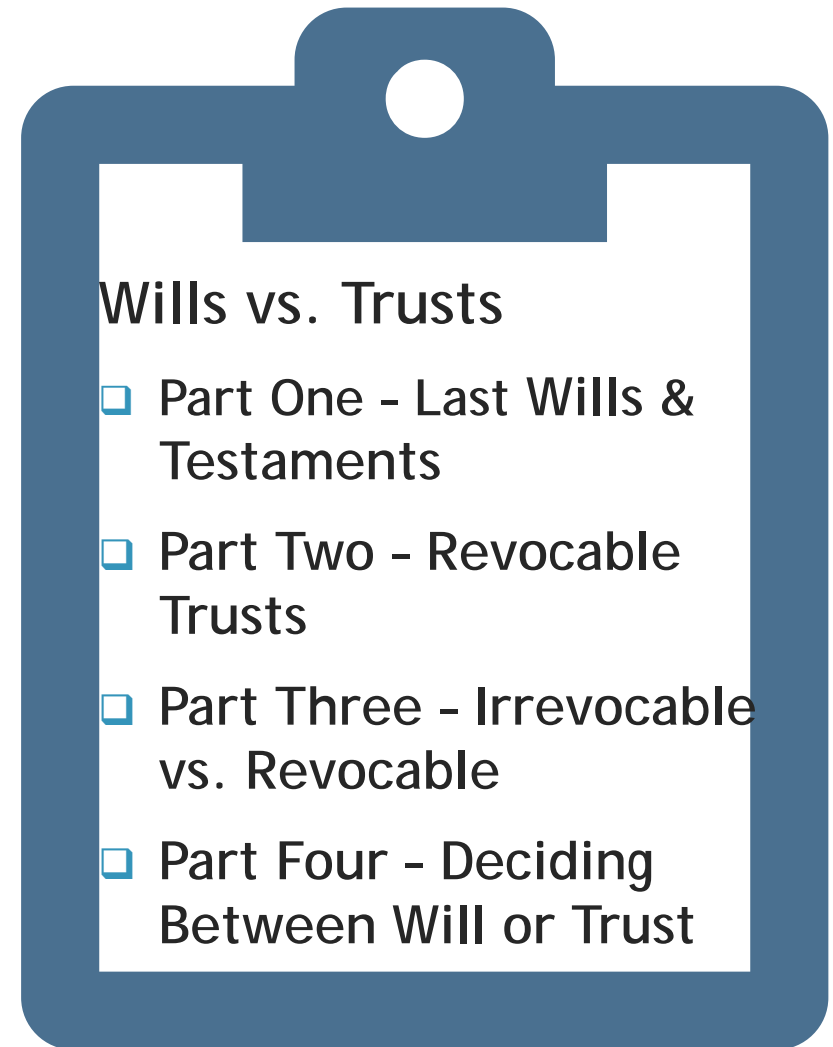
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What We Will Cover...



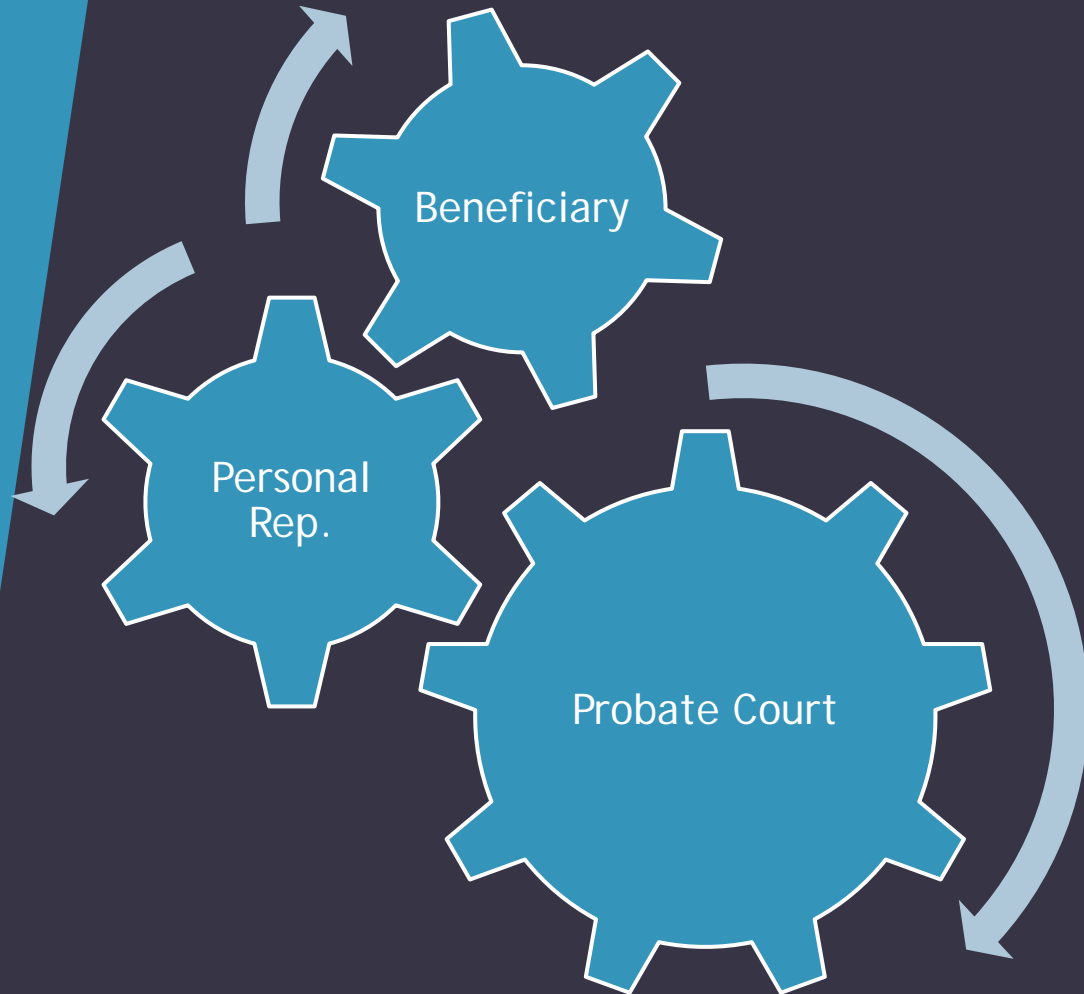
Wills vs. Trusts

- ❑ Part One - Last Wills & Testaments
- ❑ Part Two - Revocable Trusts
- ❑ Part Three - Irrevocable vs. Revocable
- ❑ Part Four - Deciding Between Will or Trust



Part One:
Estate Planning
with Last Will &
Testament

The Roles



Roles with Last Will & Testament

- ▶ Personal Representative/Executor
- ▶ Beneficiary
- ▶ Guardian
- ▶ (Testamentary) Trustee
- ▶ Governs distribution through Probate

Last Will & Testament- When does it come into play?

Your lifetime

- No effect during your lifetime

Your Incapacity

- No effect during incapacity

Upon Your Death

- Personal Representative admits will to probate court
- Works with probate judge, court, interested parties, and creditors to carry out instructions

Elements of a Last Will & Testament

Reactive Document

- Reacts to whatever assets are a part of your Estate at death, assets are not pre-organized or identified
- Sign today, no effect until you die - revocable at all times until incapacity or death

Nominations

- Nominate Guardians for minor children
- Nominate Personal Representative
- Name Beneficiaries and Distribution Pattern.

"Simple Will"

- Simple for Who?
- Simple When?

Asset Transfer Instructions, not Asset Transfer Mechanism

- Owner of assets died - we need a mechanism to pass assets of Estate to new owner(s)
- That mechanism is Probate (Court), therefore Will requires Probate
- Public, Time Consuming, and Costly post-death

What is Probate?

Public (Court; CCAP)

Time (9-18 months for uncontested estates)

Cost (4-8% of the Estate)

Pseudo-Democracy

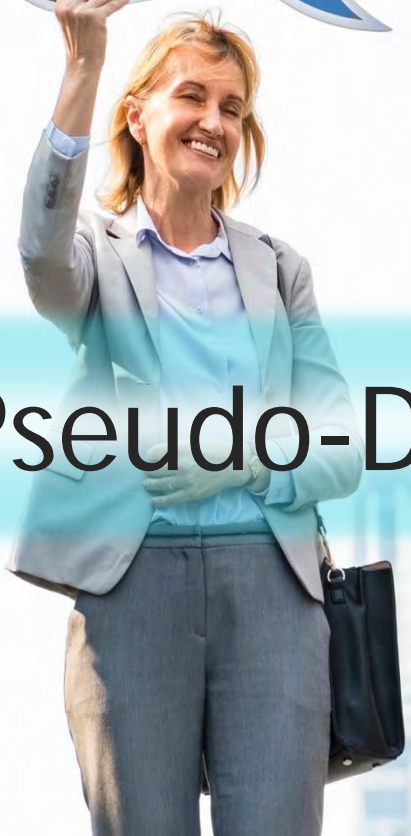
BENEFICIARY

BENEFICIARY'S SPOUSE


DISINHERITED FAMILY MEMBER

INTERESTED PERSON

CREDITOR

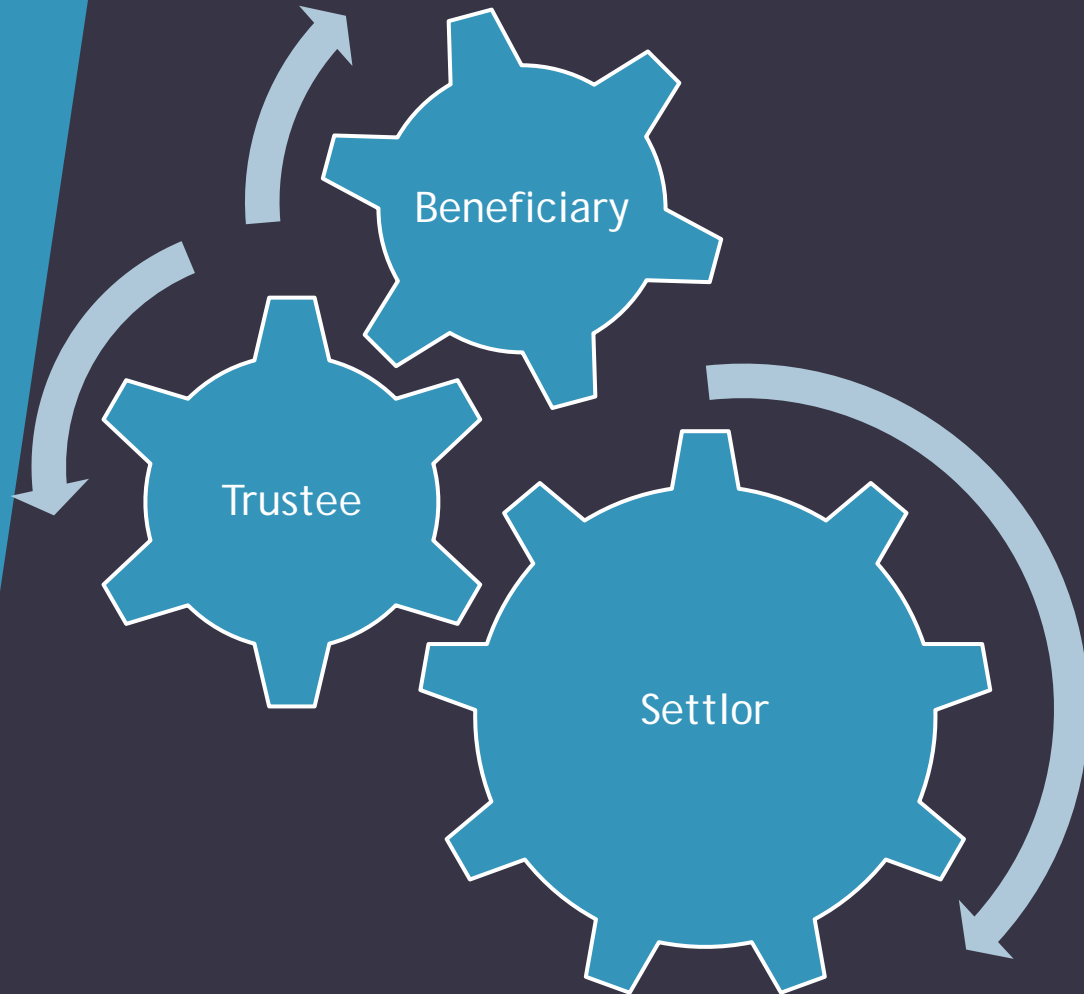


We are the Pseudo-Democracy

A hand holding a pen over a document, with a blue geometric overlay on the right side.

Part Two: Estate Planning with Revocable Living Trusts

The Roles



Roles with Trusts

- ▶ Proactive Estate Planning Tool
- ▶ Settlor
- ▶ Trustee
- ▶ Beneficiary
- ▶ Private Document - no court involvement

Revocable Living Trust— When does it come into play?

Your lifetime

- Settlor, Trustee & Beneficiary = You

Your Incapacity

- Trustee = Successor(s)
- Beneficiary = Still You

Upon Your Death

- Trustee = Successors
- Beneficiary = Spouse, Children, Siblings, Parents, Charity, etc.

Estate Planning with Living Trusts . . . Benefits



Avoids probate



Re-Marriage Protection



Blended Families



Minor Beneficiaries



Asset Protection



Step-Distribution Trusts



Discretionary Guidelines



Defined Uses



Many possibilities

Trust Funding - Lifetime and Death Impact

Failure to Fund = Probate Exposure

Not Automatic - Must "Fund" Trust

Title Controlled vs. Beneficiary Designated Assets

Lifetime - No "Day to Day" Impact - Title Change Only

Death - Already in Trust, or Payable to Trust (or Shares)

Alternative Asset Transfer Mechanisms

Joint Tenancy & Survivorship Assets

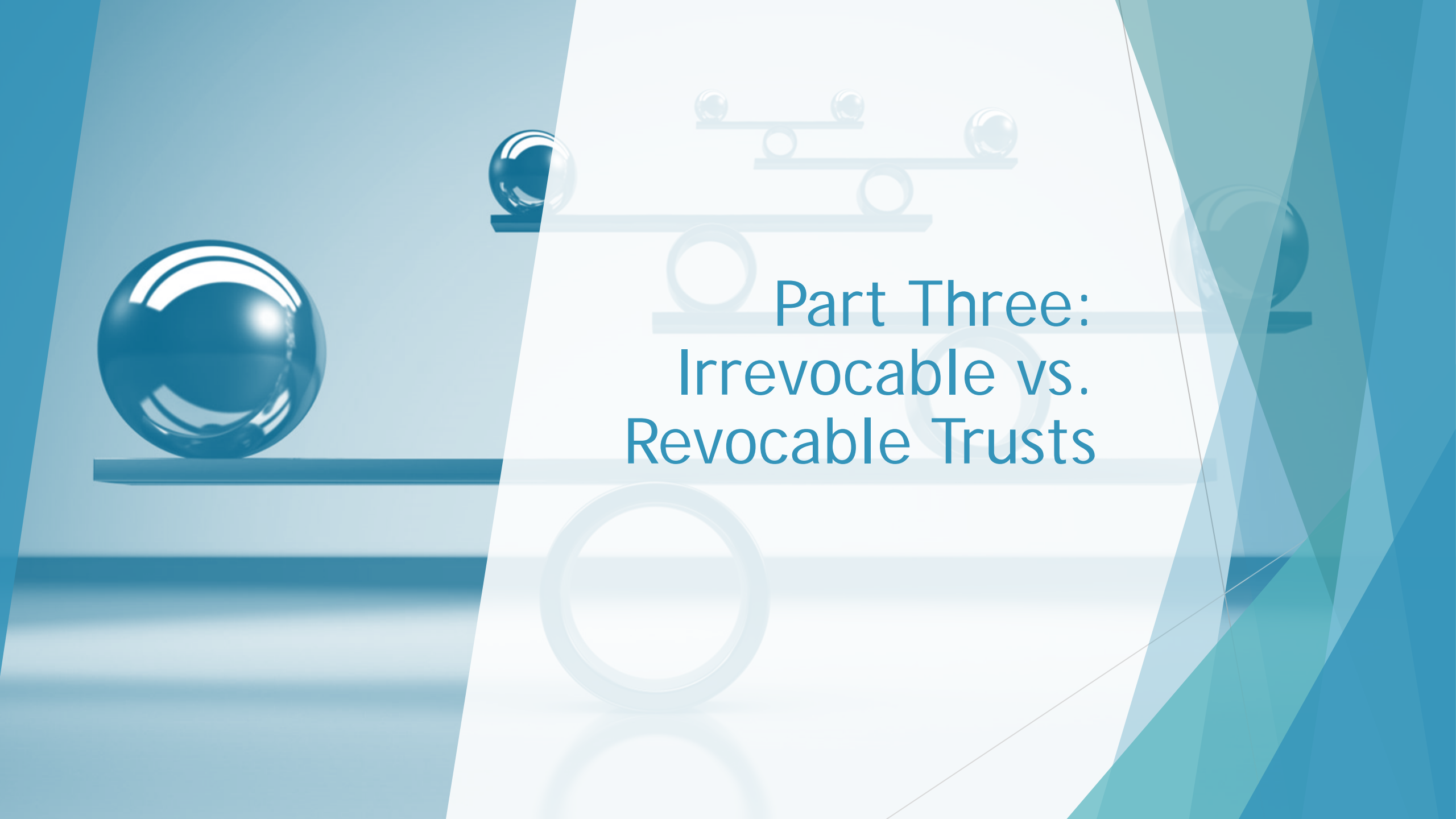
- Joint ownership where survivor takes by default

TOD/POD Designations

- POD - Bank Accounts & Cash Accounts - cash payout
- TOD - Stock, Mutual Funds, Brokerage, Real Estate - in-kind transfer of asset
- Optional account designations
- Direct transfer upon death to named individuals

Beneficiary Designations

- Retirement Assets & Life Insurance
- Direct transfer upon death to primary and contingent designated beneficiaries
- Required account designations or default contract clauses
- May offer contingency language for classes of beneficiaries



Part Three:
Irrevocable vs.
Revocable Trusts

Revocable vs. Irrevocable

Revocable: Grantor, or other party, can amend, change, or revoke, pursuant to the terms of the trust.

- Comprehensive Planning Tool
- All Assets Coordinated
- Change with You, Your Family, and Your Assets
- Retain Control, Use, and Access

Irrevocable: Cannot be amended or revoked by any party.

- Specialized and Limited Planning Tool
- Conversation Starts with Intent
- Protection – For You or Others
- Loss of Control, Use, and/or Access

Common Types of Irrevocable Trusts

Motivation and Intent of the Planning is a Major Factor

Special Needs Trust:
Protect public benefits of beneficiary with a disability or special need.

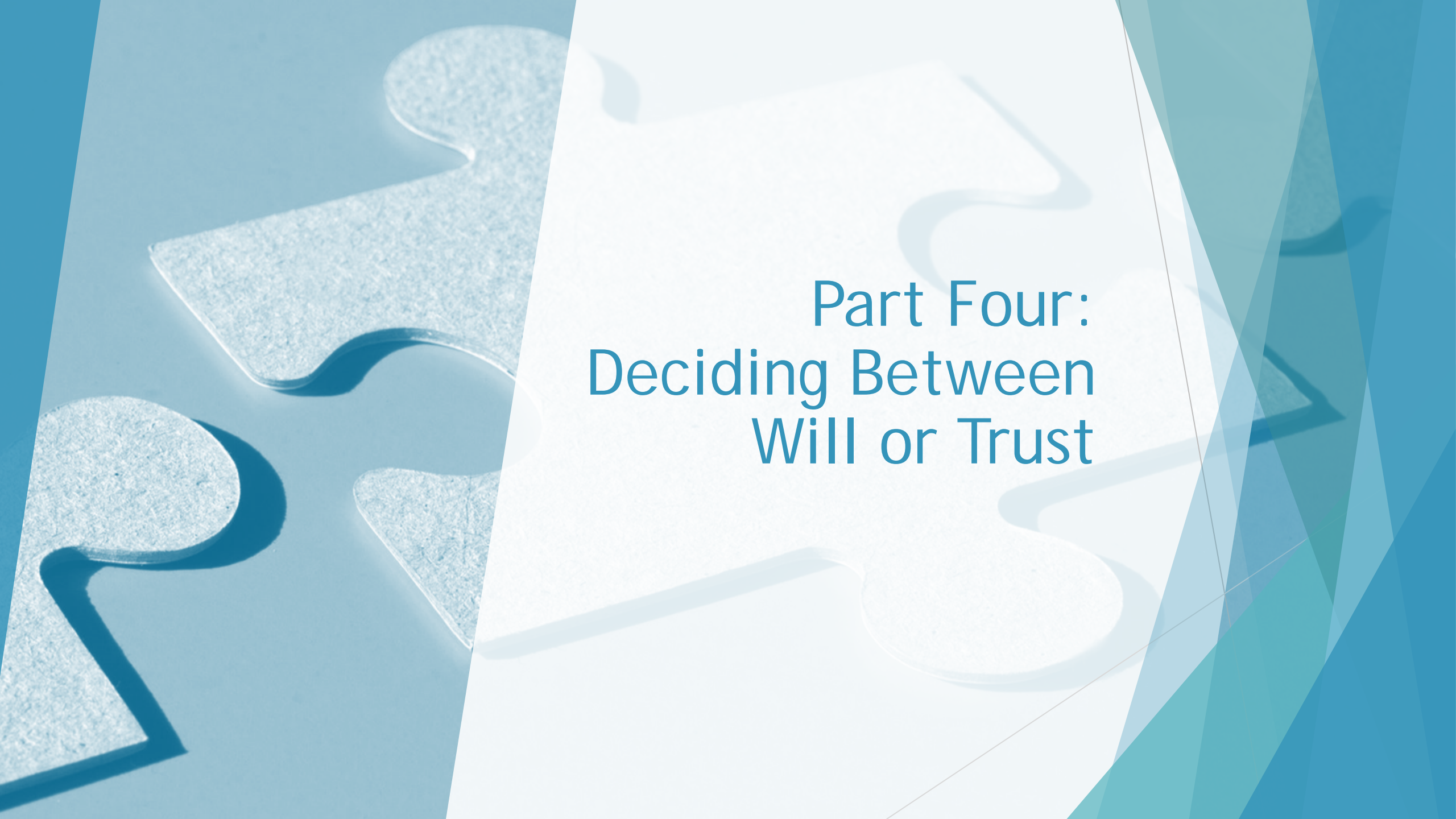
Gifting Trust: Control gifts to younger beneficiaries.

Charitable Trusts: Tax benefits while providing for charitable cause, over time.

Medicaid Asset Protection Trust:
Nursing Home Protection.

Dynasty Trusts:
Ongoing management, control, and protection for generations.

And more...



Part Four:
Deciding Between
Will or Trust

Factors to Consider When Choosing Between a Will or Trust Centered Estate Plan



Estate Size



Asset Makeup (i.e., Real Estate, Business Interests, Stocks, etc.)



Family Dynamics and Needs of Beneficiaries



Private vs. Public
Simplicity - Planning v. Administration



Age of Beneficiaries

Planning Considerations – Wills & Trusts



Who decides? Who manages?



How will the assets be divided?



When will they receive it?

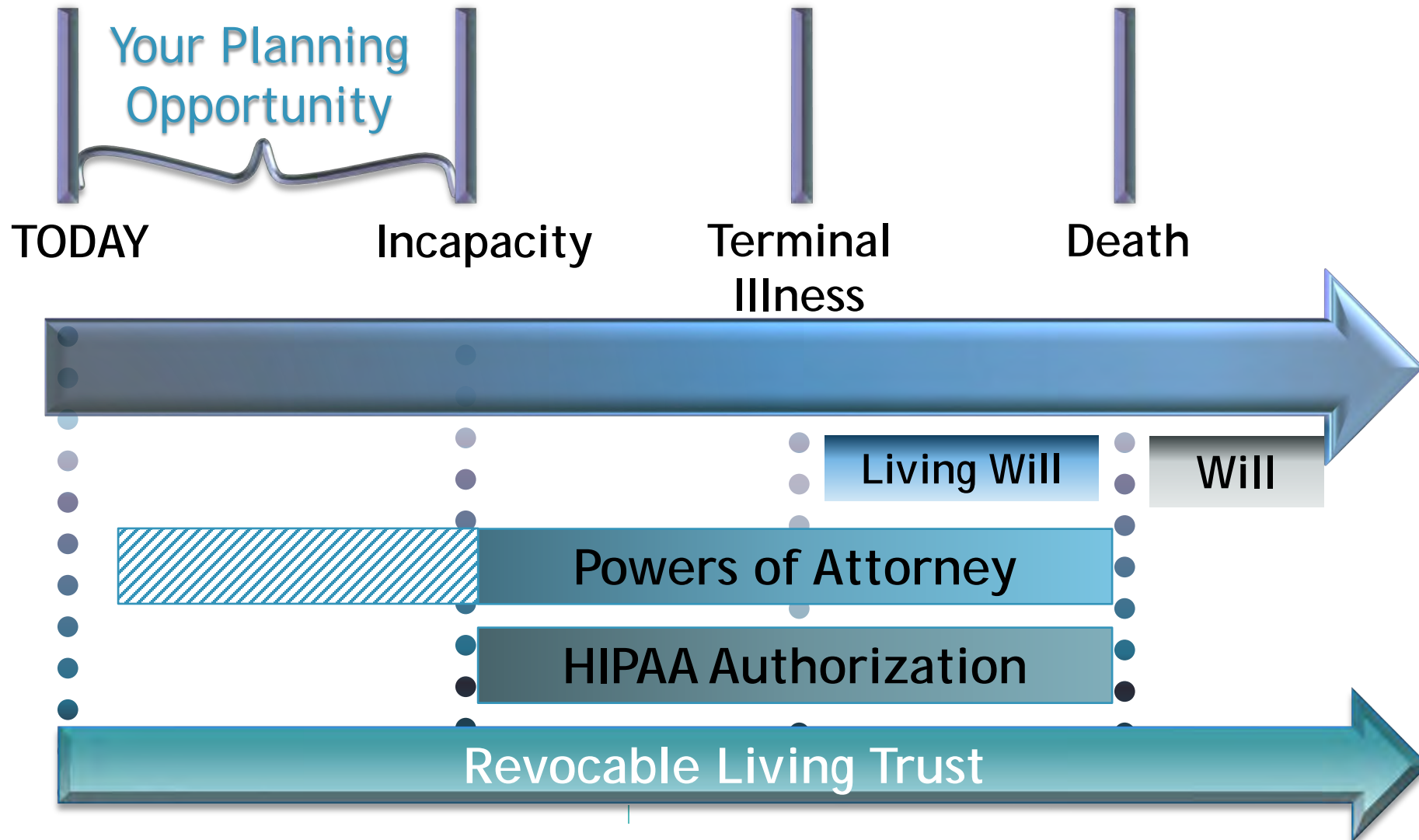


How will they receive inheritance?
Restriction vs. Protection



Beneficiaries under 35: Inheritance exhausted in 18 months, on average

When is the best time to plan...?



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Thank you for your time and attention!

Treat our firm as a resource!

For Questions or to Schedule a Consult:

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