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# LIVING TRUST SEMINAR

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*Presented  
by*

**Brenda Vassaur Taylor**  
*Attorney at Law*

*“Helping people preserve their wealth”*



# Brenda Vassaur Taylor, J.D., LL.M.

- Attorney and Counselor of Law since 1978
- B.B.A. in Accounting, Baylor University, Honors
- Juris Doctorate, University of Arkansas at Little Rock School of Law
- Certified Public Accountant (1978-Inactive)
- LL.M.– Masters of Law (Taxation), Southern Methodist University
- Estate, Business, Tax Planning Practice since 1978

Member: WealthCounsel, NAECLA, Christian Legal Society, ABA

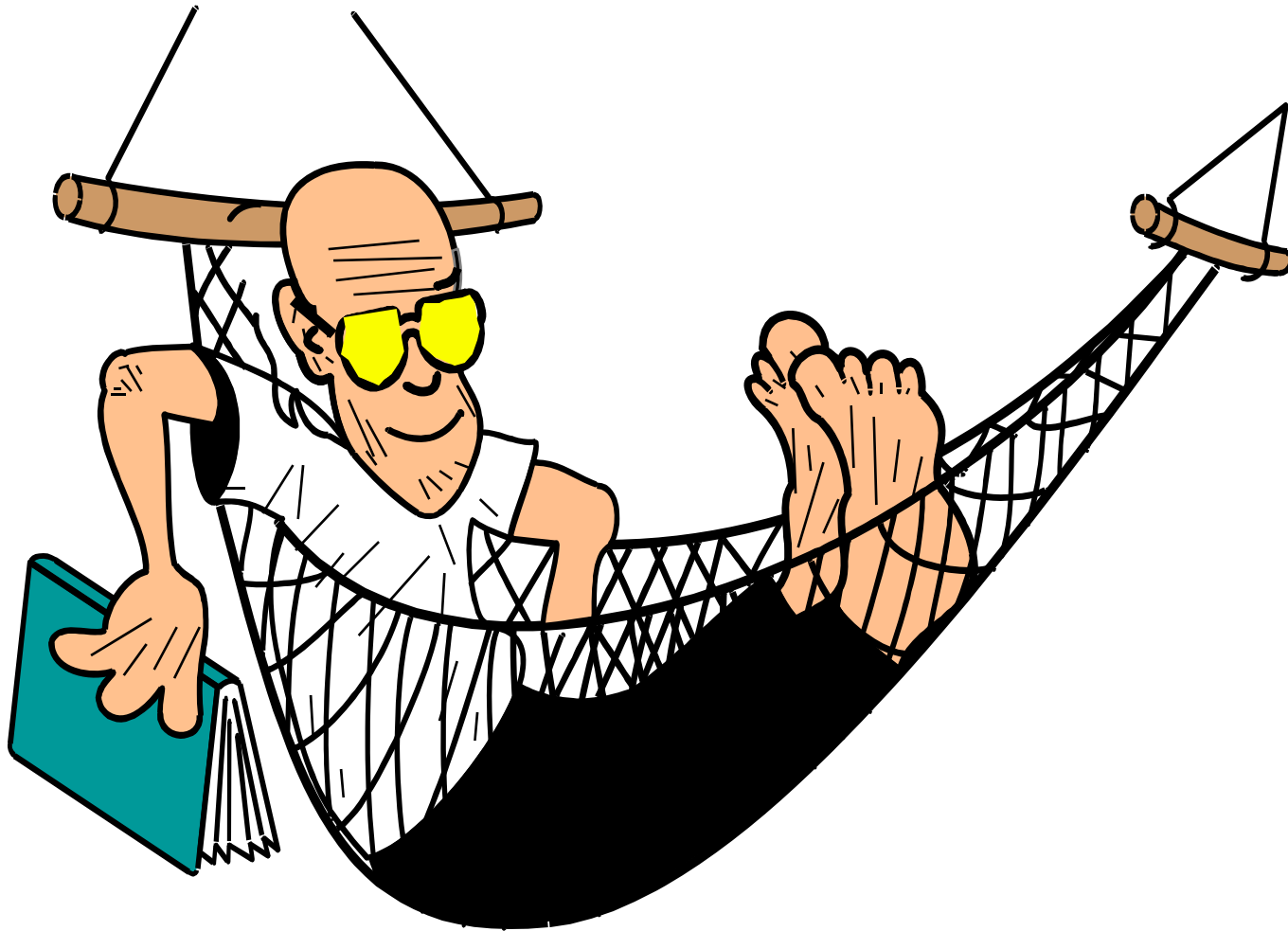


# YOUR ESTATE MATTERS

*Thank You for Coming  
and  
Congratulations!*

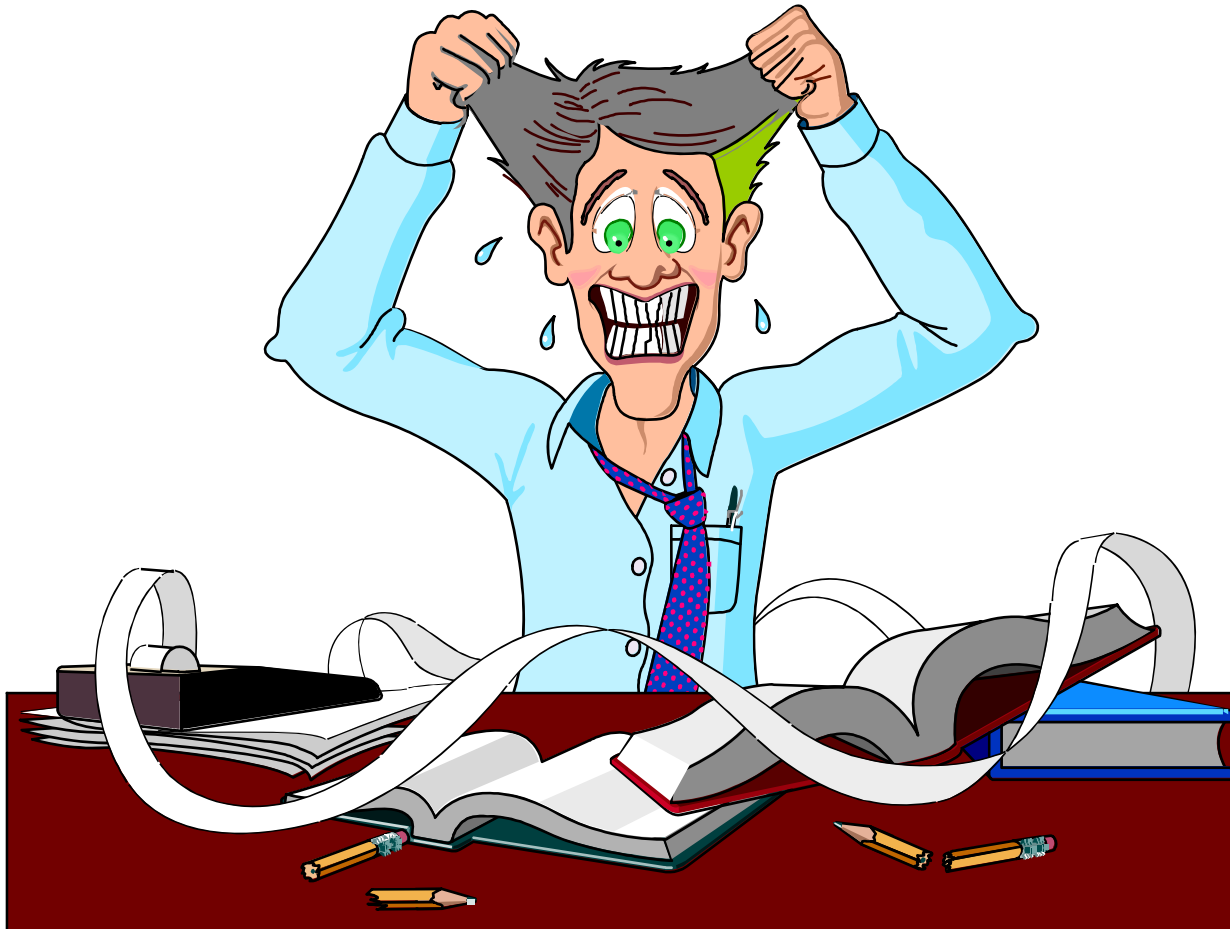


# PROCRASTINATION



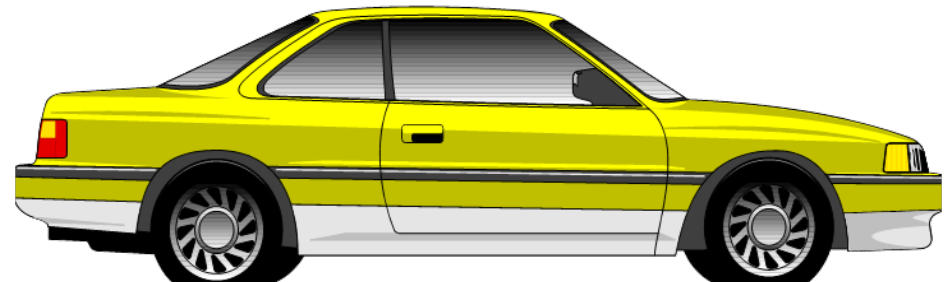
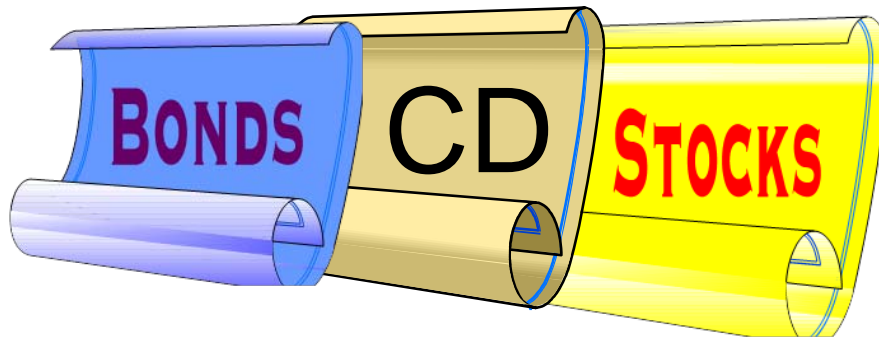
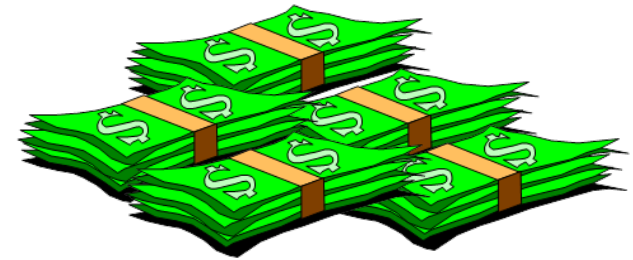
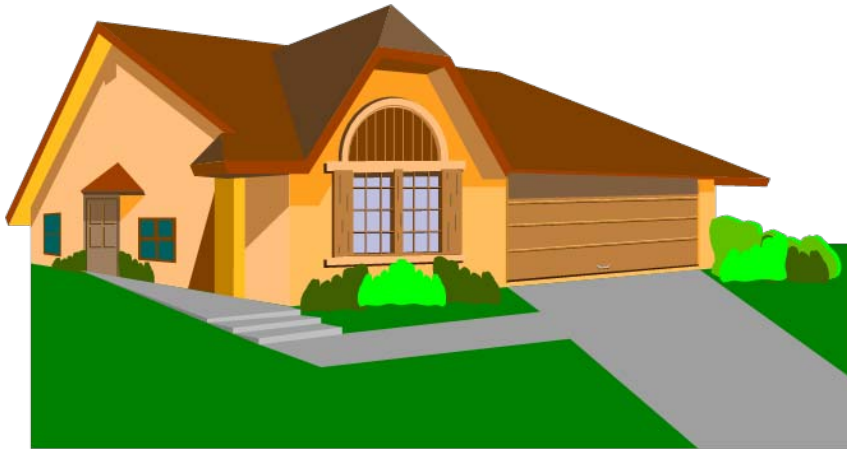


# LACK OF KNOWLEDGE



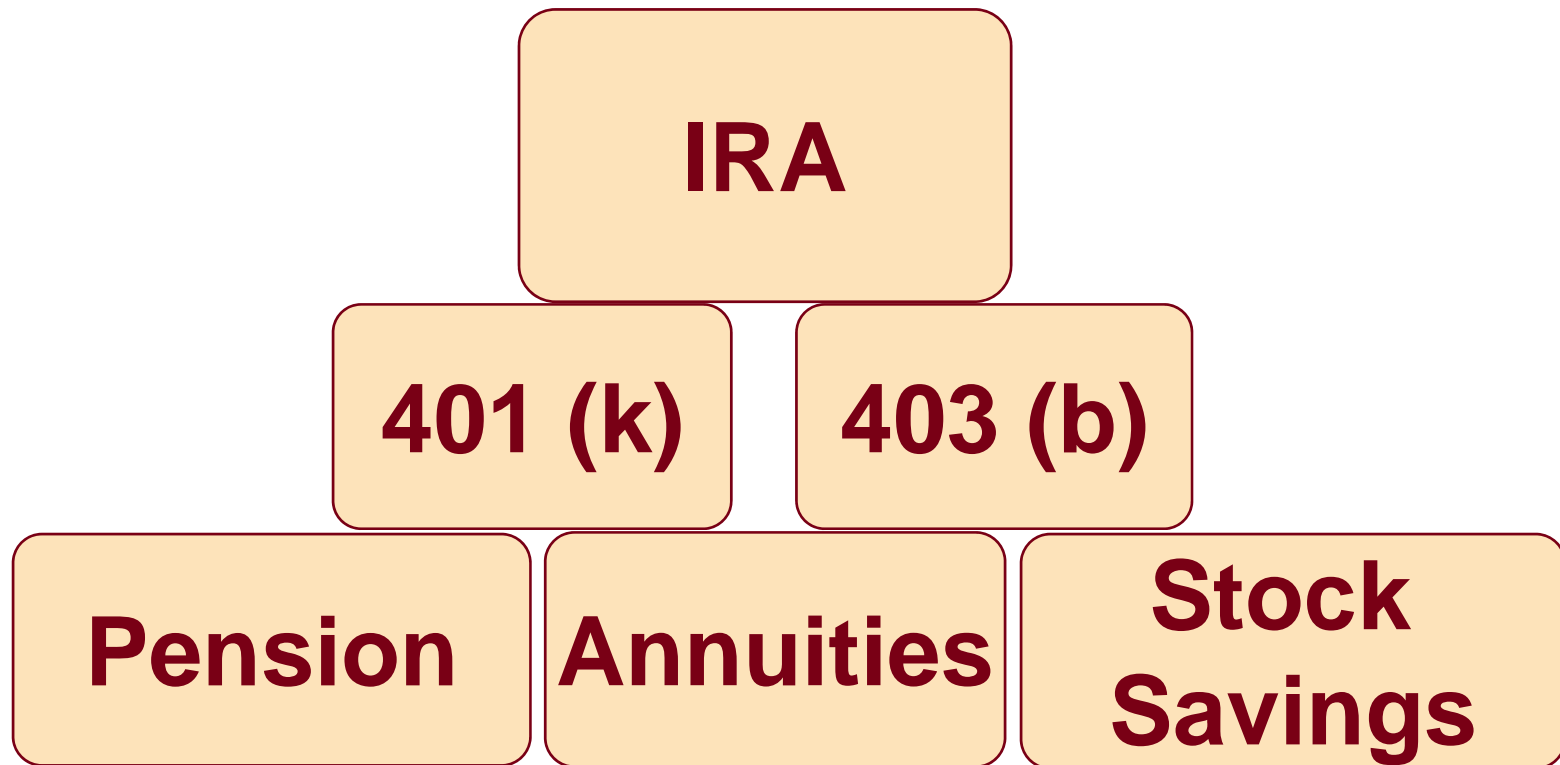


# WHAT IS AN “ESTATE”?



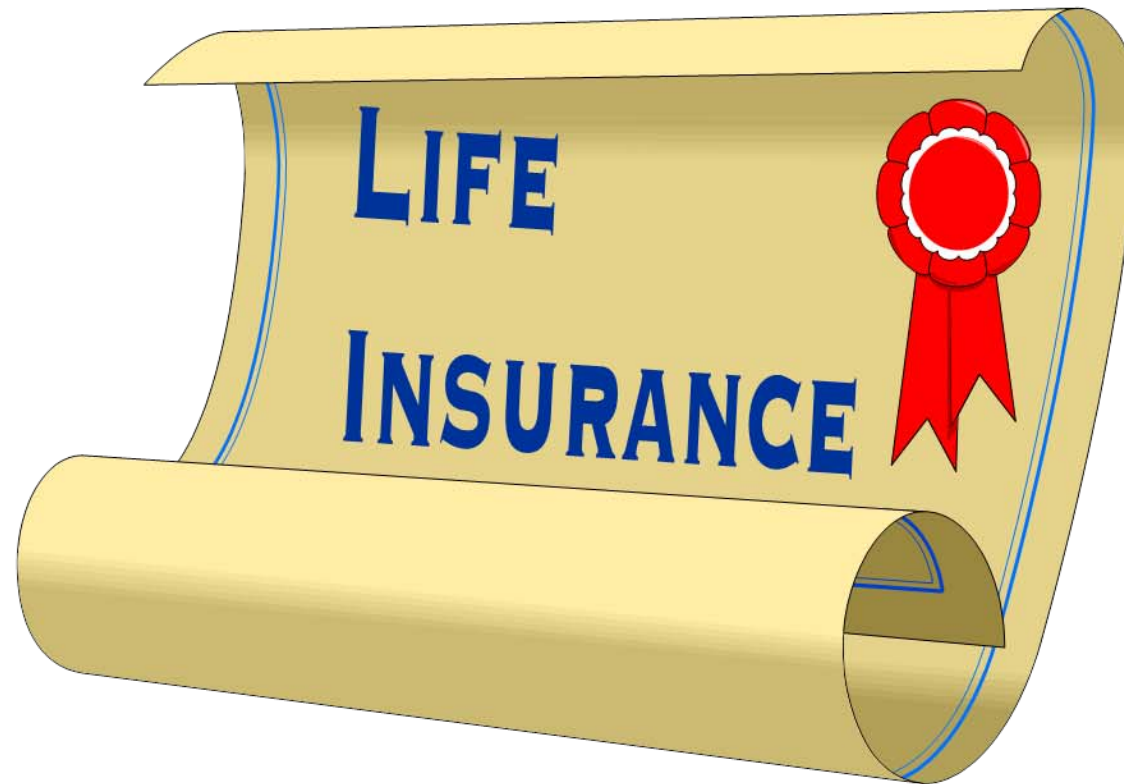


# BUT DON'T FORGET...





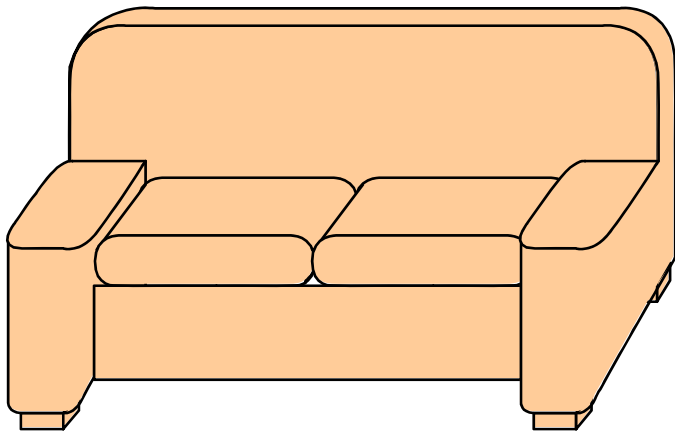
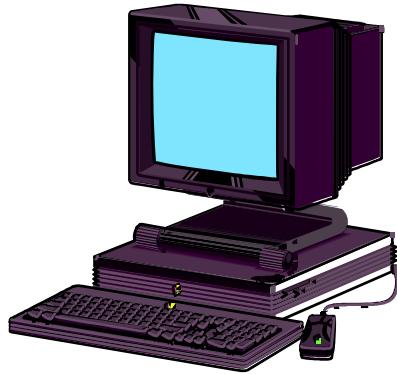
# BUT DON'T FORGET...







# BUT DON'T FORGET...

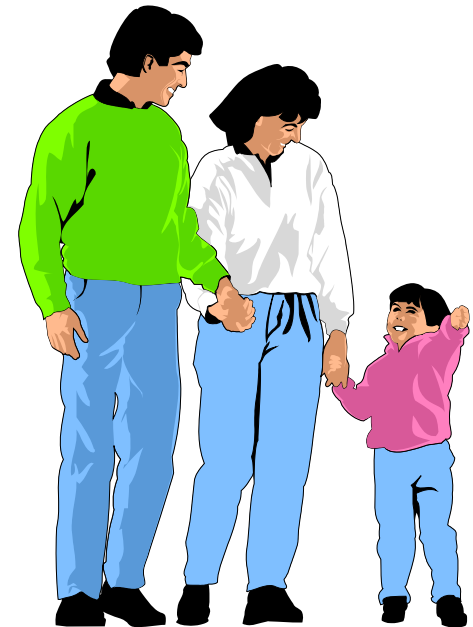




# YES, YOU NEED AN ESTATE PLAN!

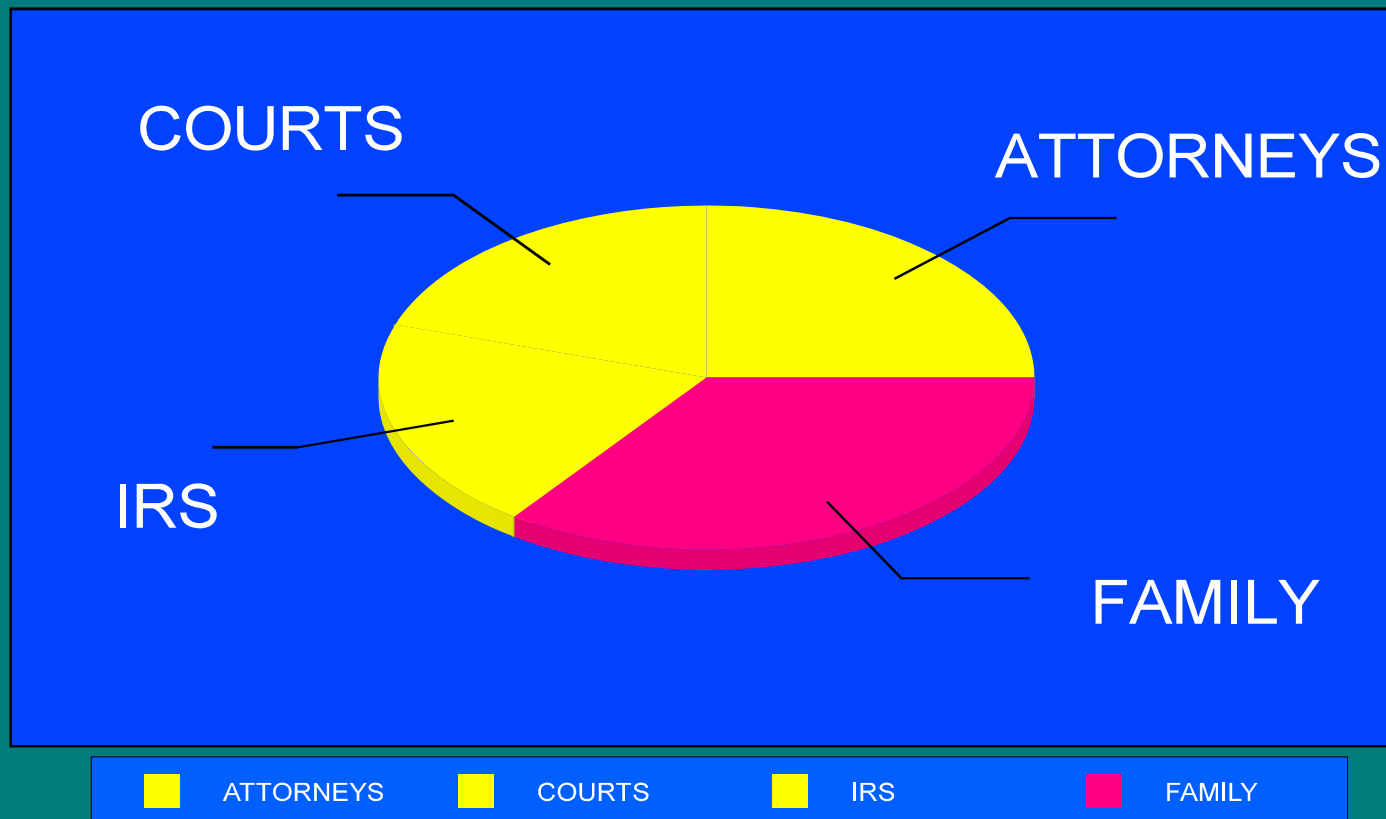
So your hard earned assets go to:

- Whom you want
- When you want
- Handled by the person you want
- At the least cost—*Avoiding:*
  - Living Probate (Guardianship)
  - Death Probate
  - Death Taxes





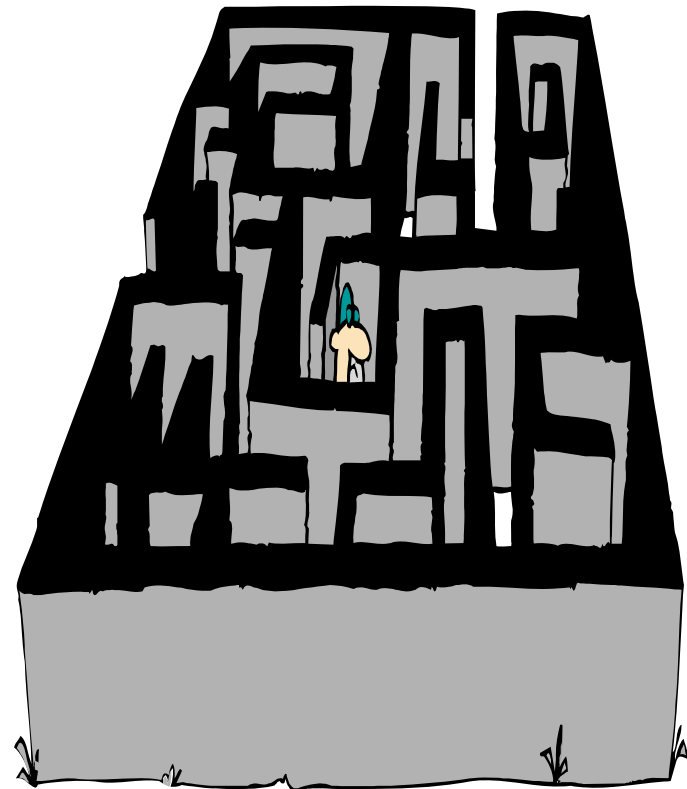
# WHY THROW IT AWAY?





# A MAZE OF COMPLEX LEGAL ISSUES

- Probate law
- Civil law
- Tax law
- Trust law
- Real Property law
- Debtor-Creditor law



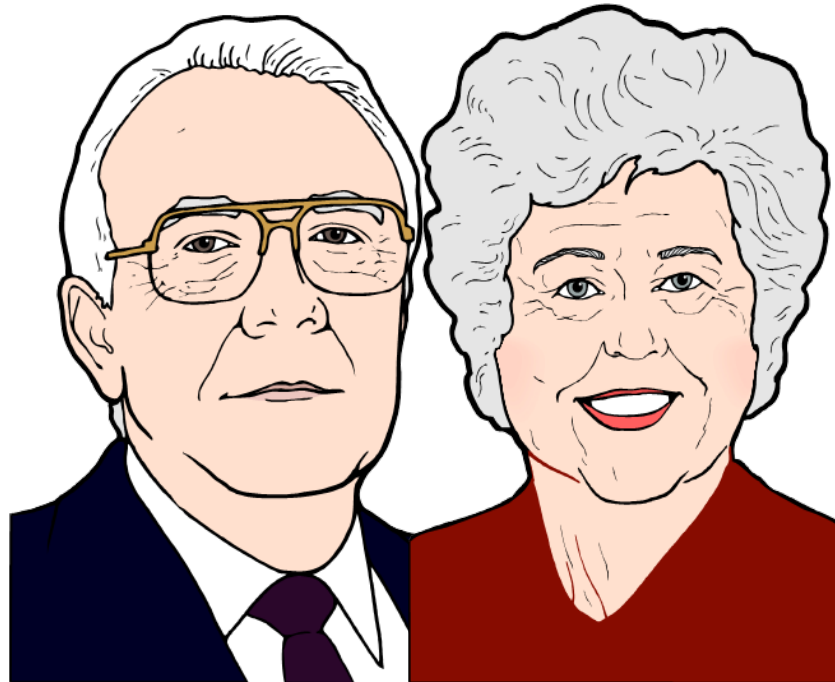


**Bill & Mary Jones**

# CASE STUDY



# BILL & MARY'S ESTATE



**\$700,000**



# BUT WHAT IF I'M...

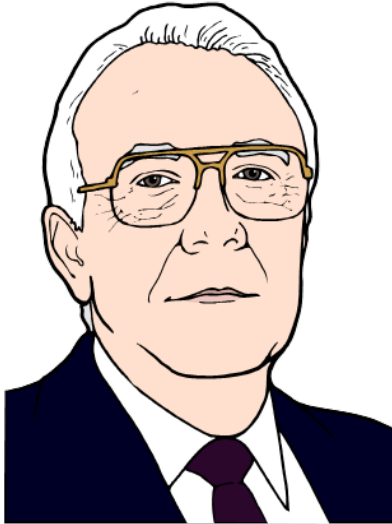
- Single (never married) ?
- Widowed ?
- Divorced ?
- Married more than once ?





# BILL & MARY'S FAMILY

Bill



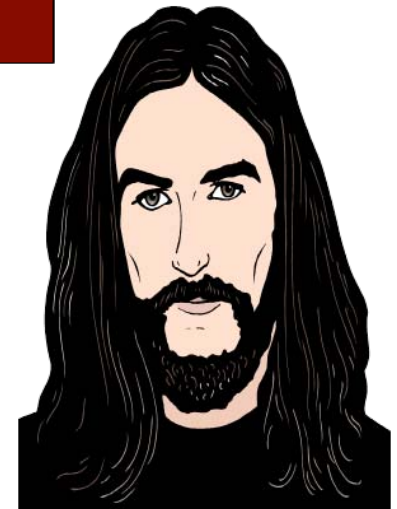
Mary



Susan



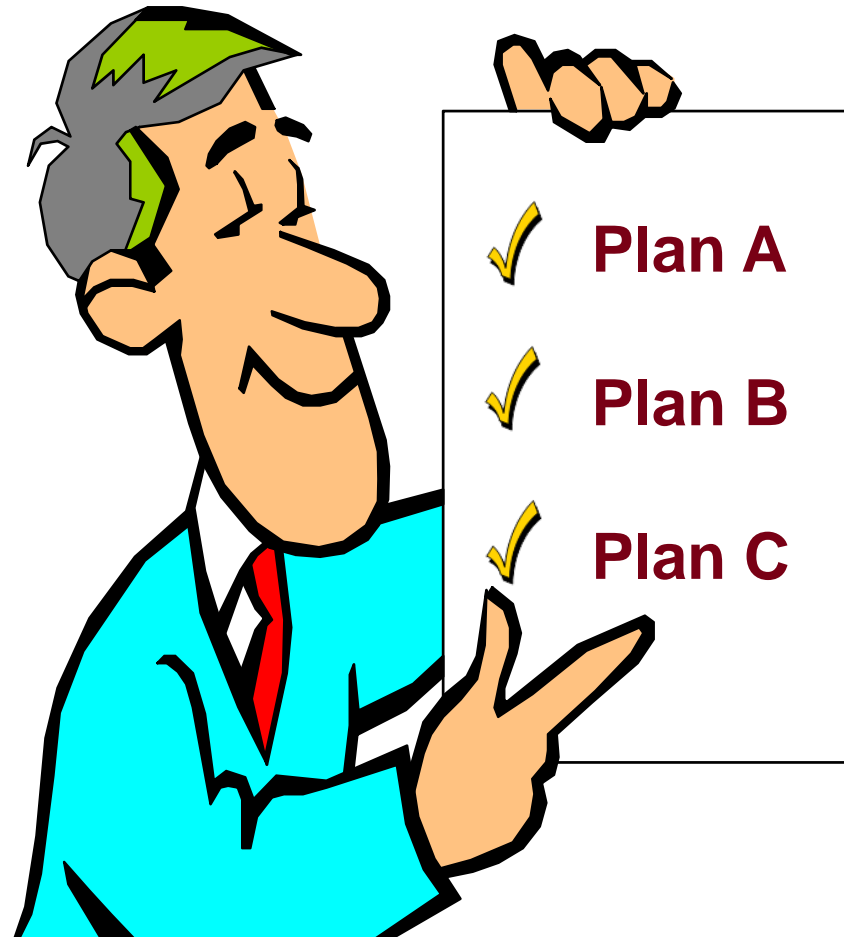
John







# PLANNING OPTIONS





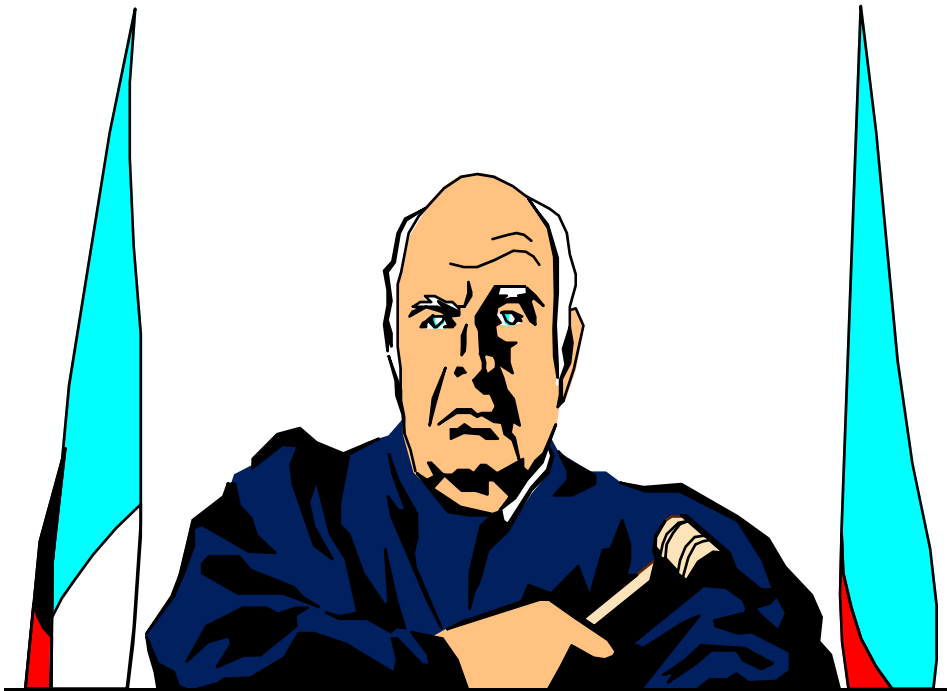
# PLANNING OPTIONS

- *Spend it all!*





# PLANNING OPTIONS

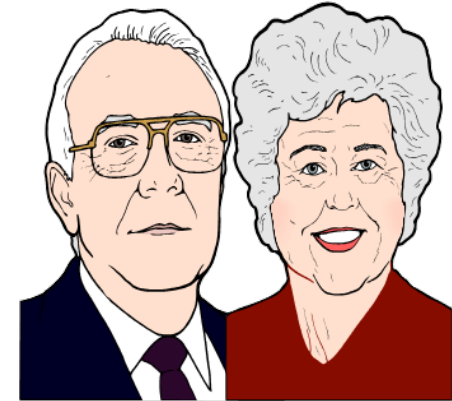


- Spend it all
- Die Intestate



# MOST COMMON OPTIONS

- Joint Tenancy (co-ownership)
- Will
- Living Trust





# BILL & MARY

## Things to do:



Exercise



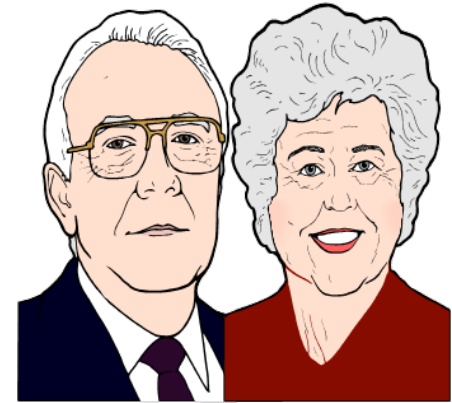
Plan vacations



Plan retirement



Create a Will



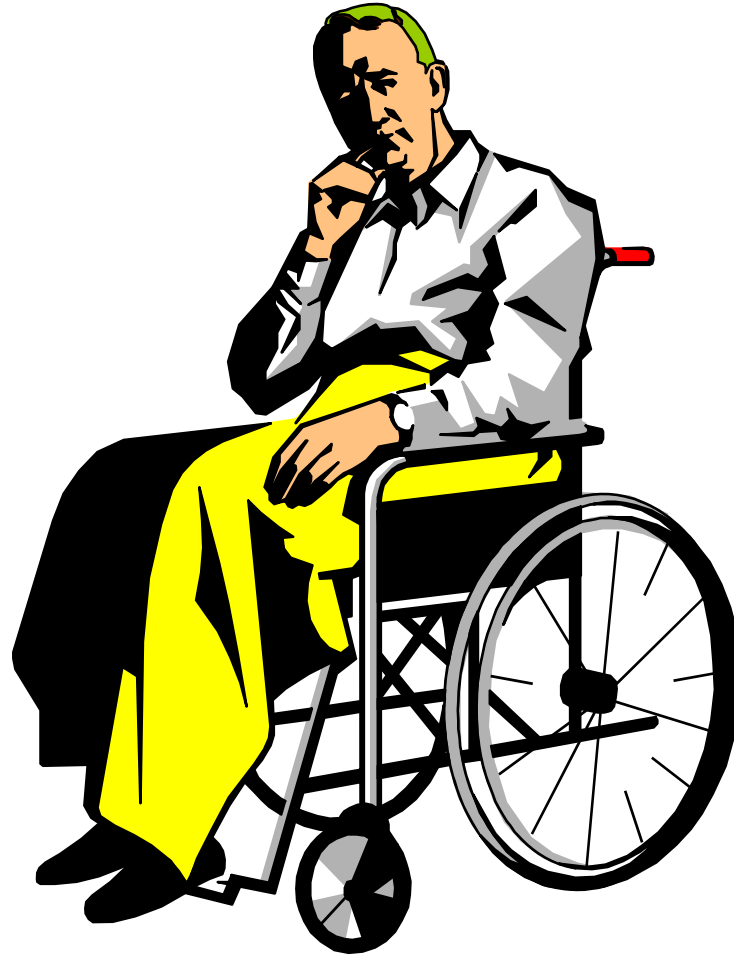


# BILL HAS A HEART ATTACK



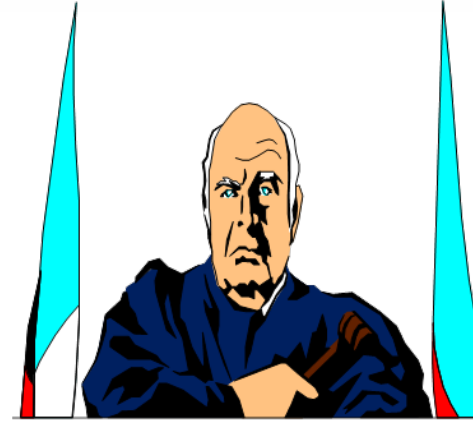


# BILL BECOMES DISABLED





# WHO WILL HANDLE BILL'S AFFAIRS ?



Conservatorship = Living Probate  
(Guardianship)

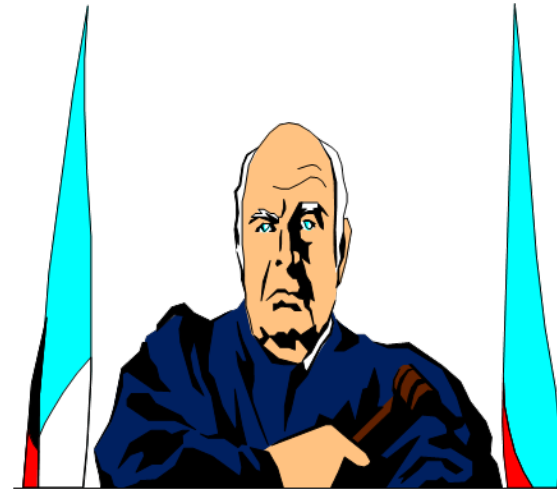
Court proceedings designed to protect  
those who are mentally incapacitated





# NIGHTMARE OF LIVING PROBATE

- Humiliating
- Court in control
- Time consuming
- Aggravating
- Expensive:
  - Court fees
  - Attorney fees
  - Accounting fees

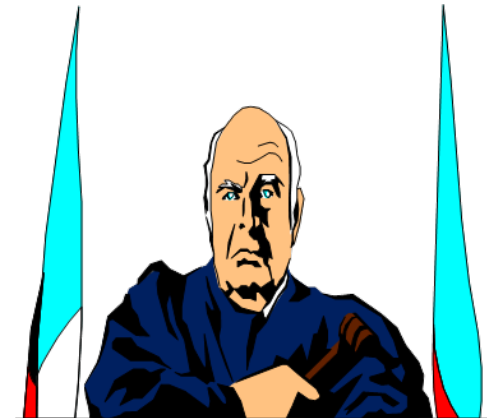






# WHAT IS DEATH PROBATE ?

- Process of changing title
- Payment of creditors





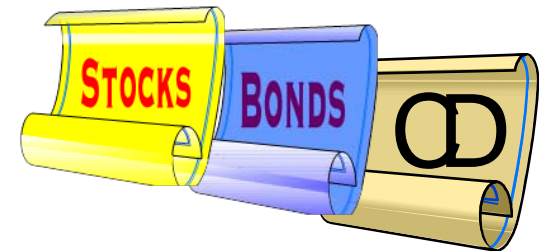
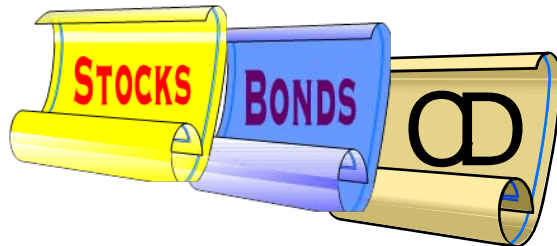
# PROBATE CHANGES TITLE



Bill



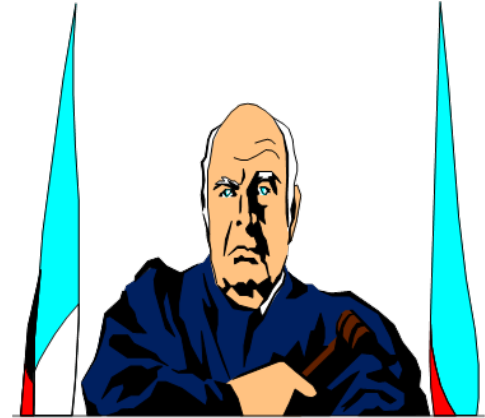
Mary





# WHAT HAPPENS IN DEATH PROBATE ?

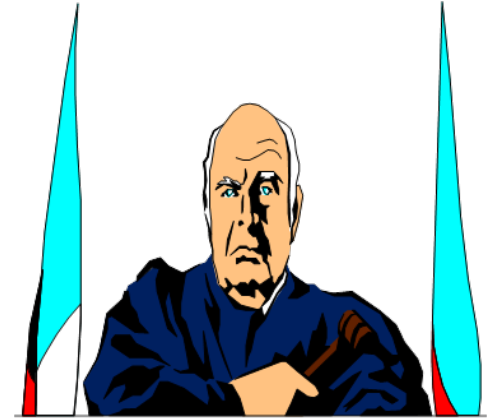
- Forum to resolve disputes
- Pay creditors
- Inventory / Appraise assets
- Distribution of estate





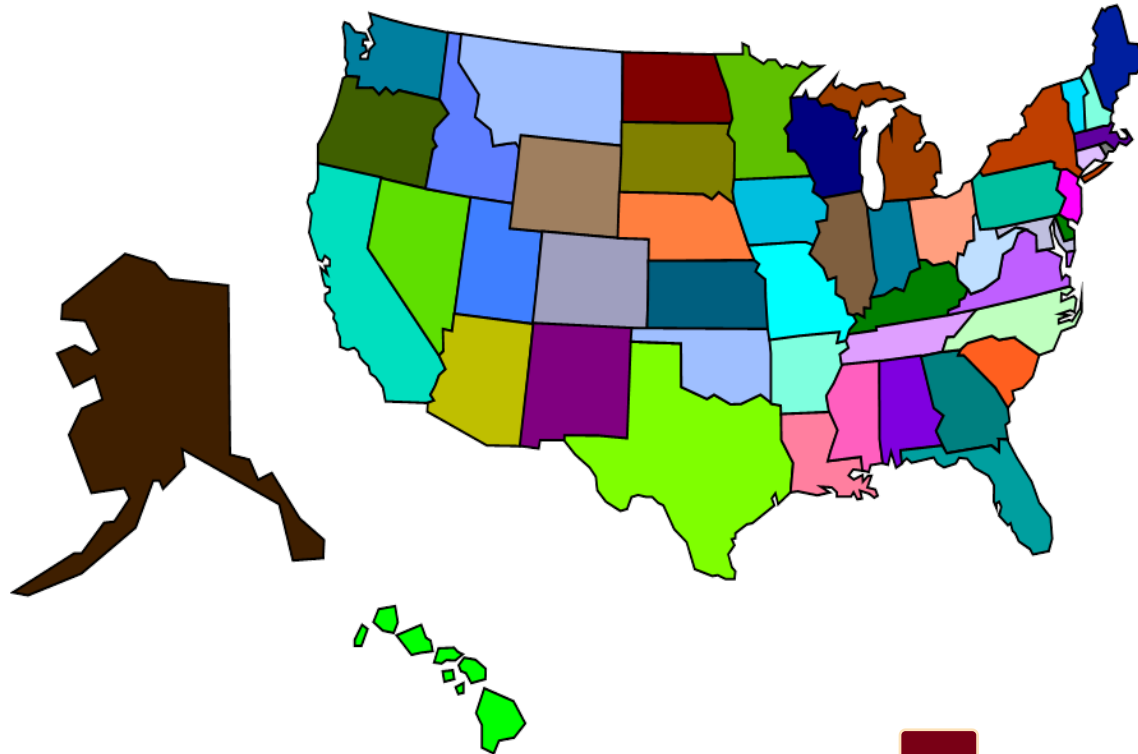
# A SUMMARY OF PROBATE DISADVANTAGES

- Expensive
- Time Consuming
- Public
- Multiple Probates





# DEATH TAXES





# FEDERAL ESTATE TAX IS...

## 37% to 55%

### Exemption

\$1,000,000

\$1,500,000

\$2,000,000

\$3,500,000

Repealed (\$0)

\$5,000,000

\$5,120,000

\$1,000,000

### Year

2002-2003

2004-2005

2006-2008

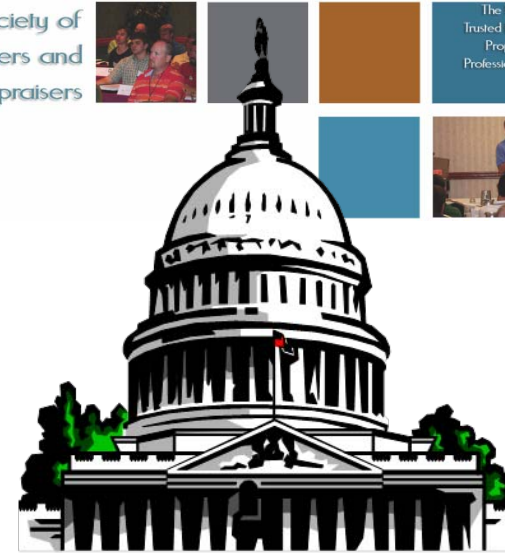
2009

2010

2011

2012

2013\*



*\*Assuming Congress does not act before December 31, 2012.*





# NO ESTATE TAX ON FIRST SPOUSE'S DEATH

- Unlimited marital deduction  
(for both estate and gift tax purposes)
- Watch out if surviving spouse is not a U.S. citizen!





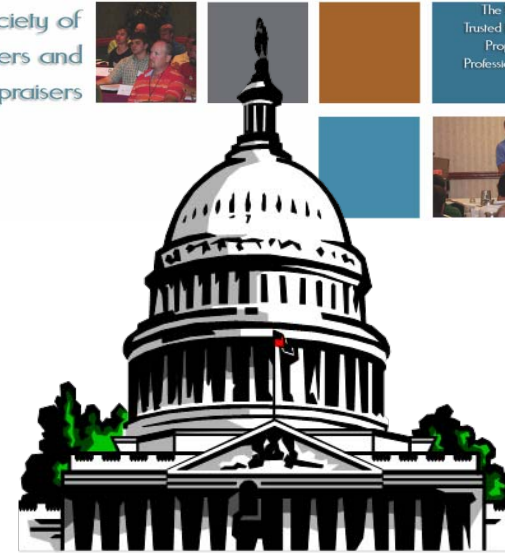
# IF YOUR 2013 ESTATE IS *LESS* THAN \$1,000,000

- No Estate Tax at death

*but...*

You must plan to avoid:

- Living Probate
- Death Probate





# GOOD NEWS FOR SURVIVING SPOUSES !

*A surviving spouse lives an average  
of 7 years after death of spouse.*

*(And money properly invested  
doubles every 10-12 years).*





# MARY GETS ALZHEIMER'S



Fairview Rest Home



# MARY'S LIVING PROBATE

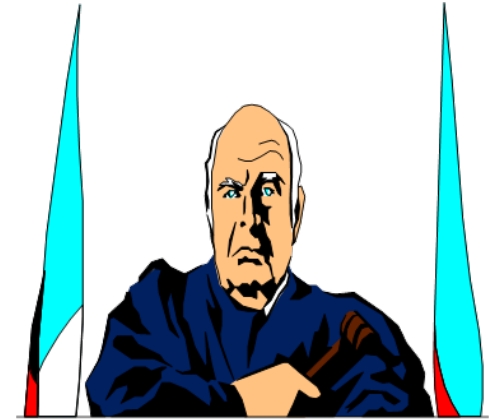
*Who will the court appoint?*



John



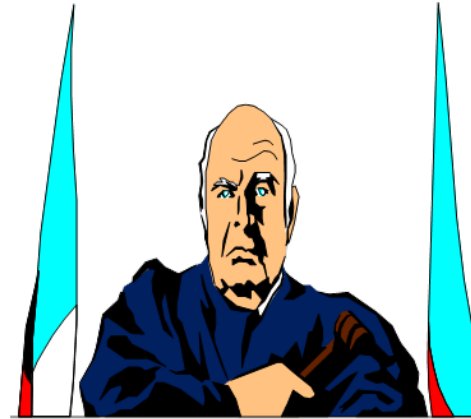
Susan





# MARY'S LIVING PROBATE

- Humiliating
- Court in control
- Time consuming
- Aggravating
- Expensive





# MARY PASSES AWAY





# HOW WILL THE ESTATE BE DISTRIBUTED ?

**\$1,400,000**

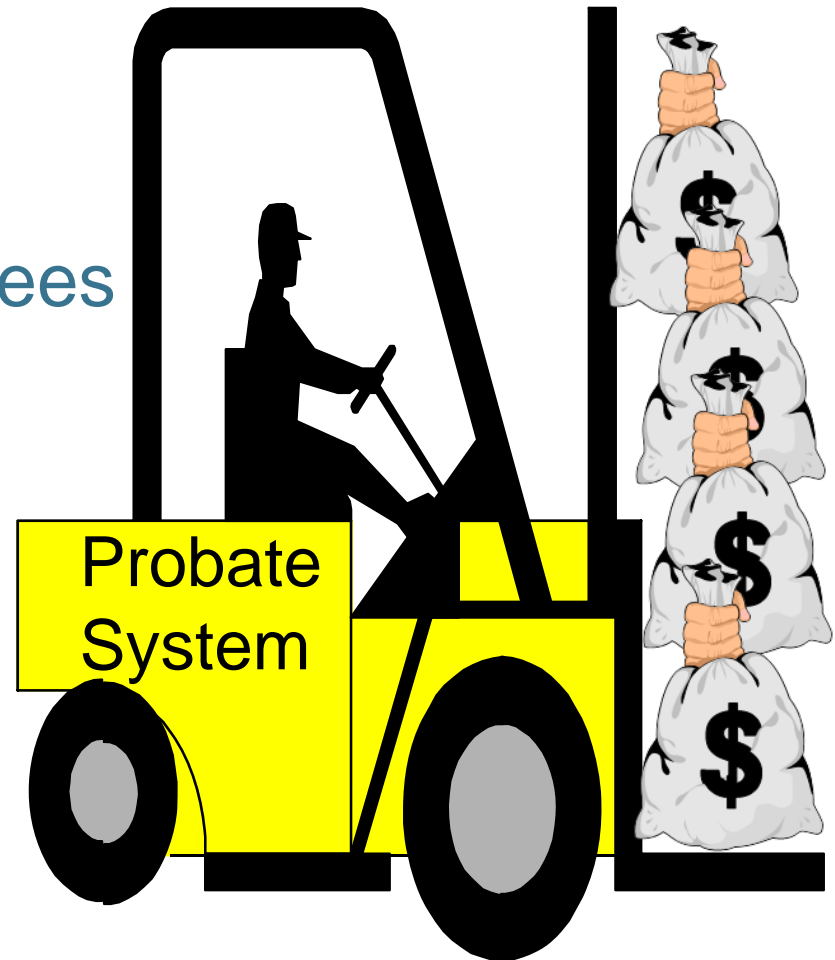






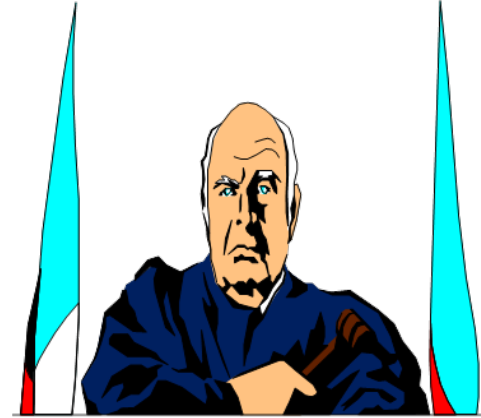
# THE ESTATE MUST GO THROUGH DEATH PROBATE

- \$ Court fees
- \$ Publication & bond fees
- \$ Executor fees
- \$ Attorney fees





# THE COST OF PROBATE



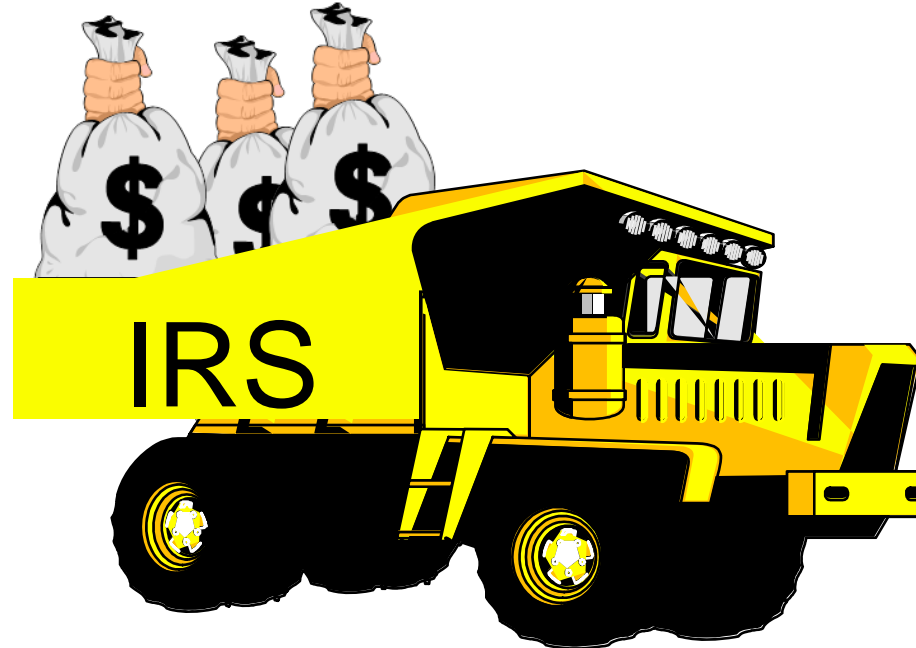
Mary's Death Probate Fee

\$ (77,000)



# FEDERAL ESTATE TAX

*Everything over  
the exemption amount is  
taxed at 37% to 55% (and at  
a flat 55% rate in 2013)!*





# ESTATE TAX IS DUE WITHIN 9 MONTHS OF DEATH



*Not enough cash?*



# THE HIDDEN COSTS OF BILL AND MARY'S PLANNING

• Total estate (at Mary's Death)	\$1,400,000
• Tax exemption (2013)	\$1,000,000
• Net taxable estate	\$ 400,000
• Tax due (flat 55% rate)	\$ 220,000
• Probate fees	\$ 77,000
Total costs	\$ 297,000



*There must be a  
better  
alternative !*





# WHAT IS A LIVING TRUST?

## Living Trust...

---

*How does it work ?*

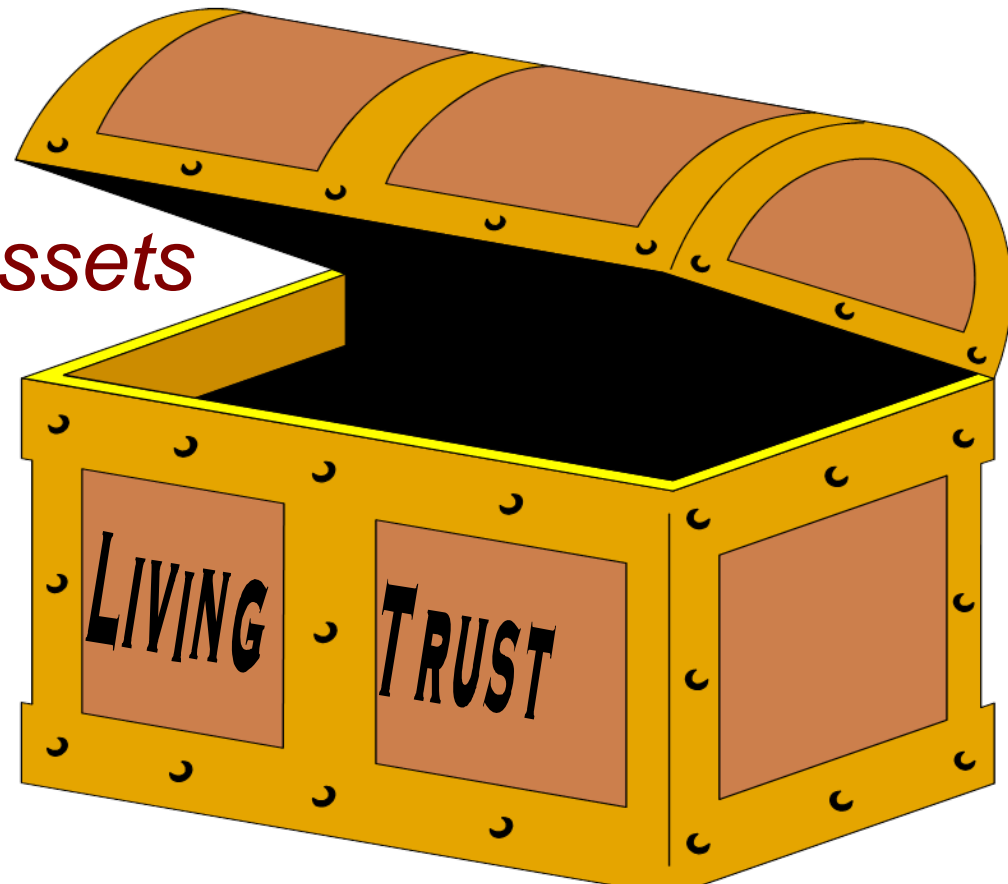




# THINK OF IT AS A BOX...



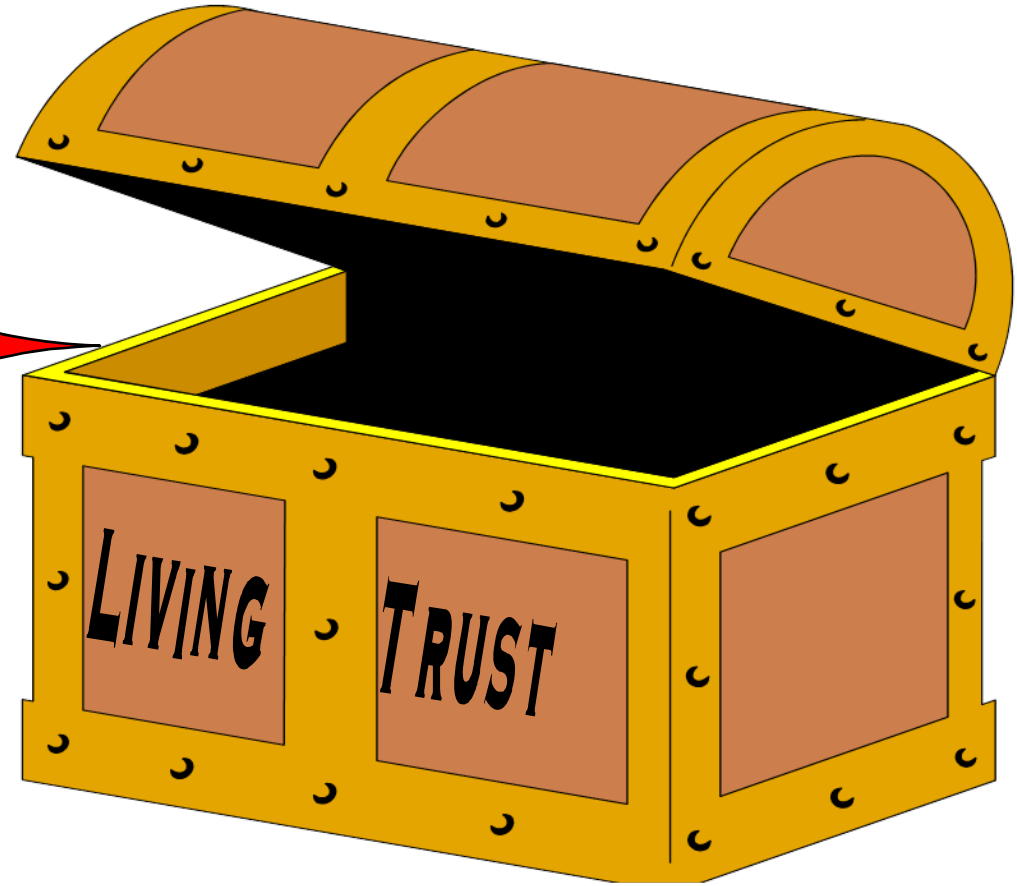
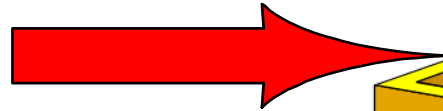
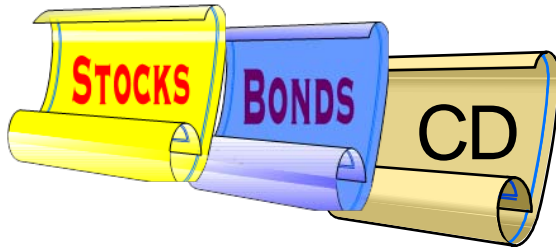
*Holds title to assets*







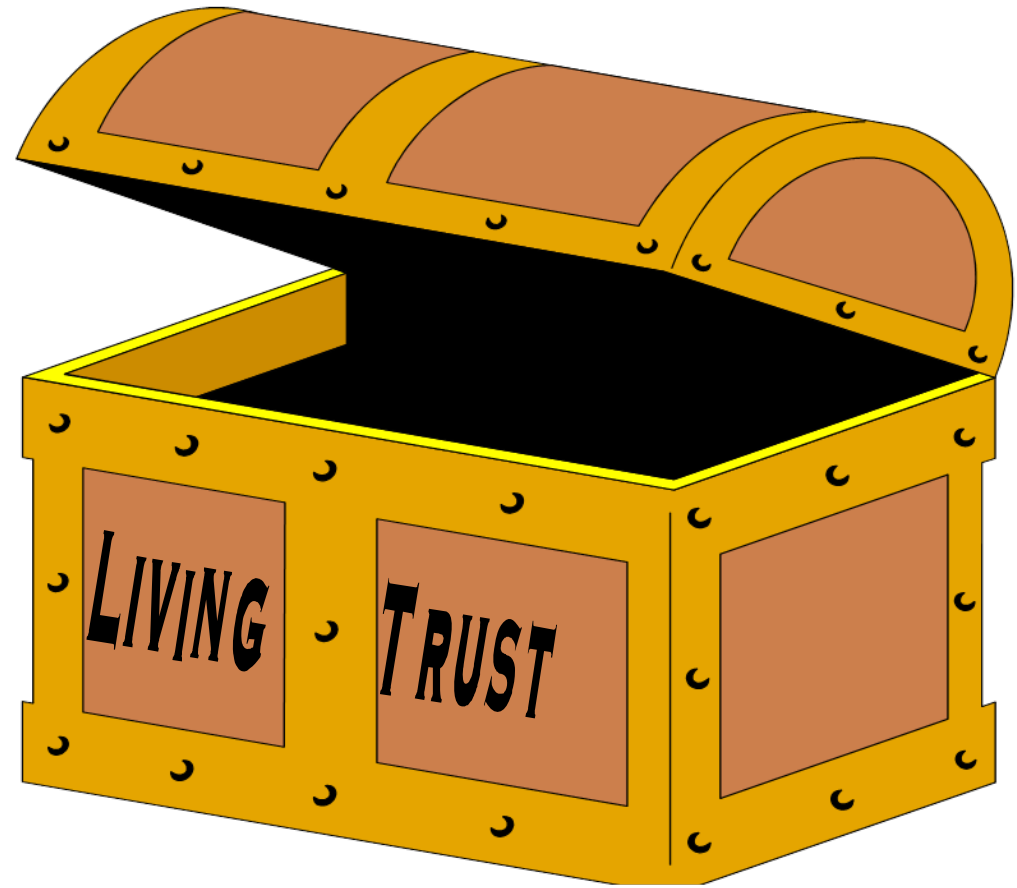
# PUT ASSETS INTO THE TRUST





# THREE POSITIONS OF A TRUST

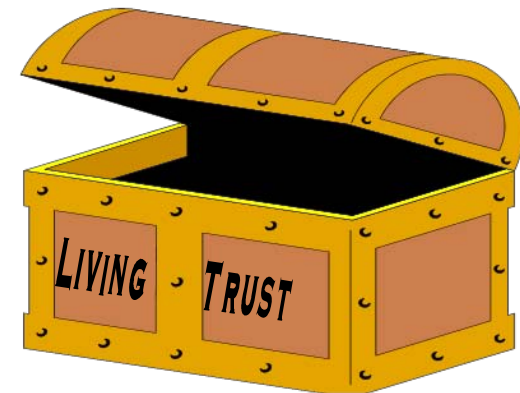
- Trustors
- Trustees
- Beneficiaries



# SUMMARY OF TRUST POSITIONS



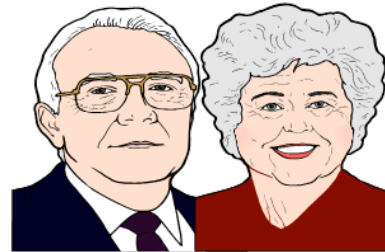
*All you need to remember...*



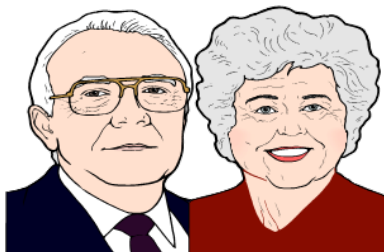
- Trustors - Create trust and transfer their assets
- Trustees - Manage trust assets but can't spend it on themselves
- Beneficiaries - All trust assets are for their benefit



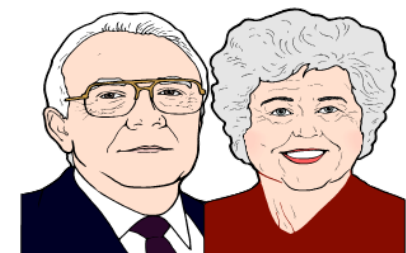
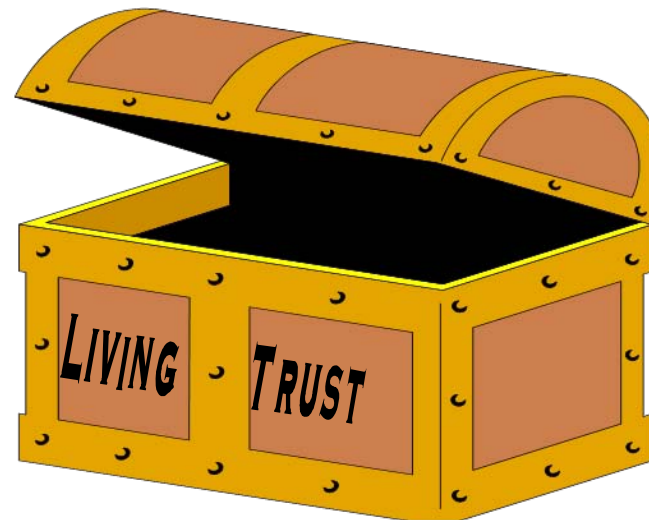
# BILL & MARY OCCUPY ALL THREE POSITIONS



Trustors



Trustees



Beneficiaries

# DURING YOUR JOINT LIFETIME, IT'S BUSINESS AS USUAL...

*... You are in control !*

The trust can be amended or revoked

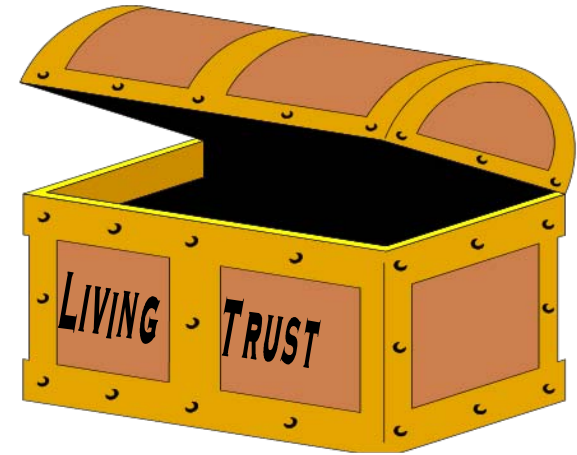
- No change in property tax
- No income tax change
- No new tax forms





# SO, WHY CREATE A LIVING TRUST ?

It's simply a...  
*“Standby Device”*





# JONES LIVING TRUST

*How it works during different time periods*

Jones  
Living Trust

Both spouses are alive

**First Death**

Jones  
Living Trust

One spouse is deceased

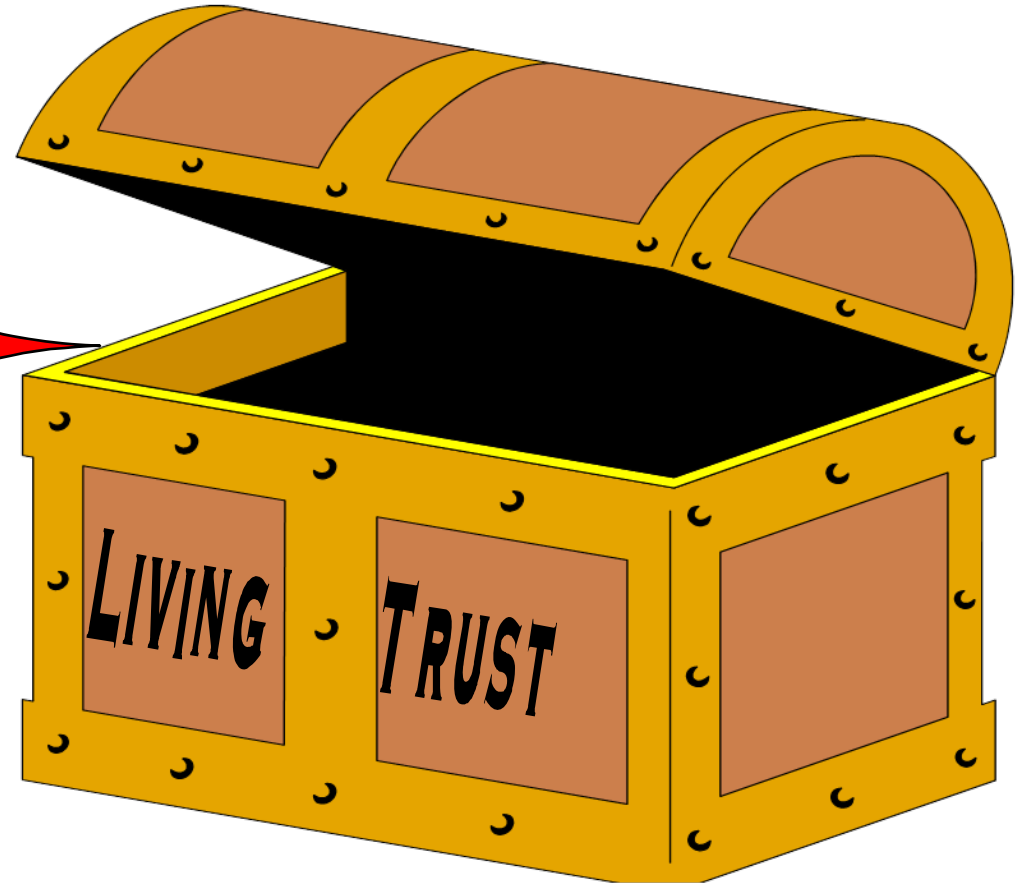
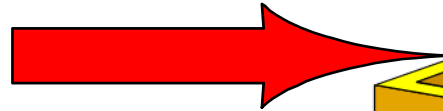
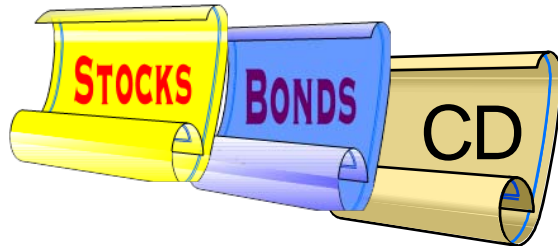
**Second Death**

Jones  
Living Trust

Both spouses are deceased



# BILL AND MARY TRANSFER ASSETS INTO THEIR TRUST







# BILL HAS A STROKE

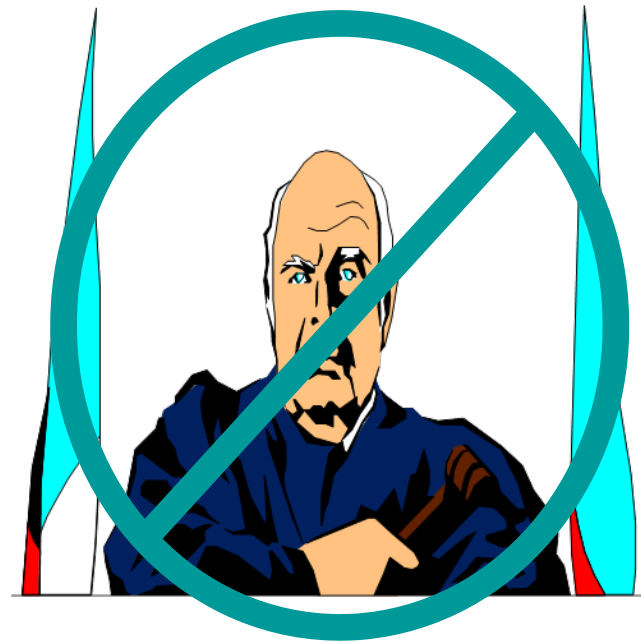




# NO LIVING PROBATE

*The Living Trust has special instructions on how to handle disability...*

- No Public humiliation
- No Loss of control
- No Time delays
- No Needless expenses
  - No Court fees
  - No Attorney's fees
  - No Accounting fees





# THE COST OF USING A LIVING TRUST

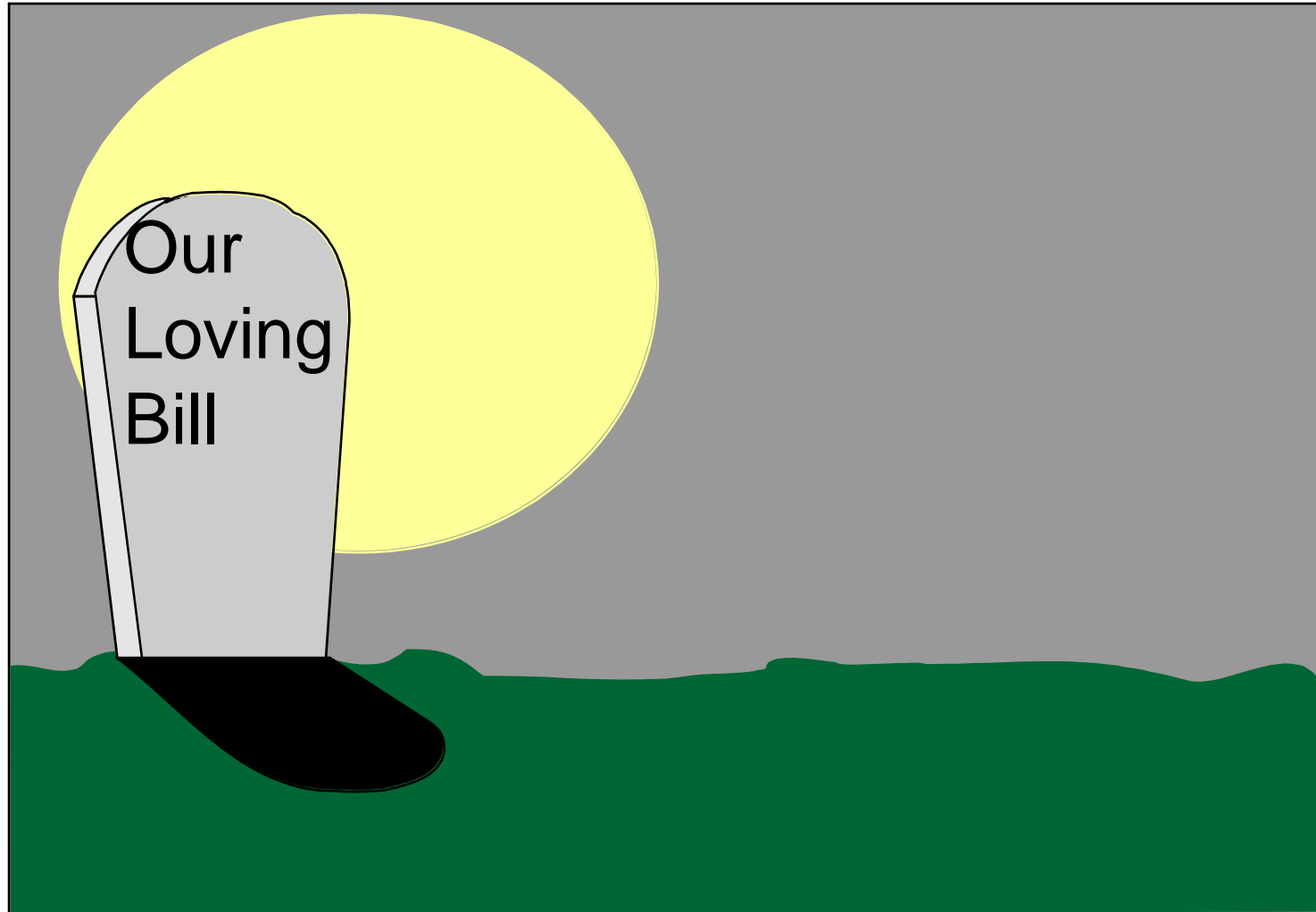
Bill's Living Probate

\$0.00





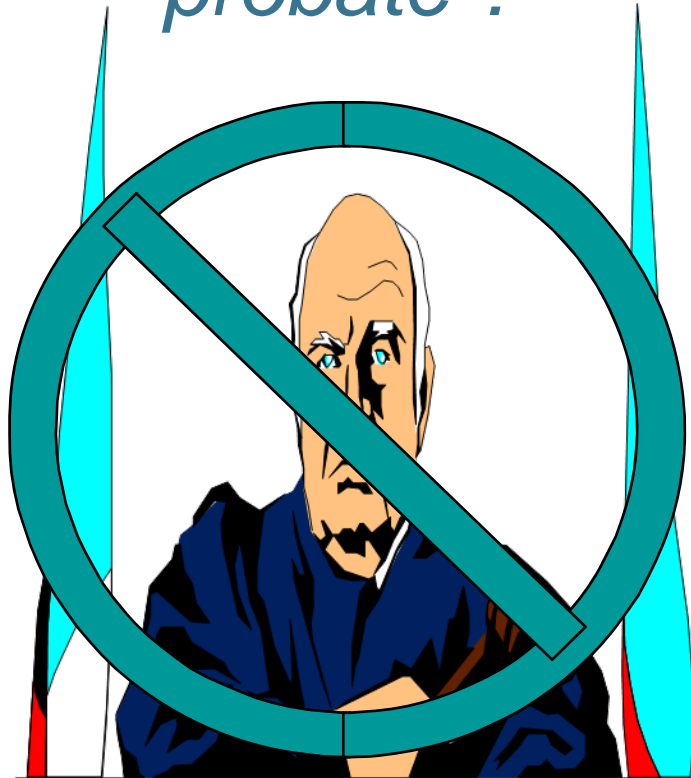
# WILL BILL'S ESTATE GO THROUGH PROBATE ?





# NO DEATH PROBATE

*Remember the main purpose of  
probate ?*



To change title of assets



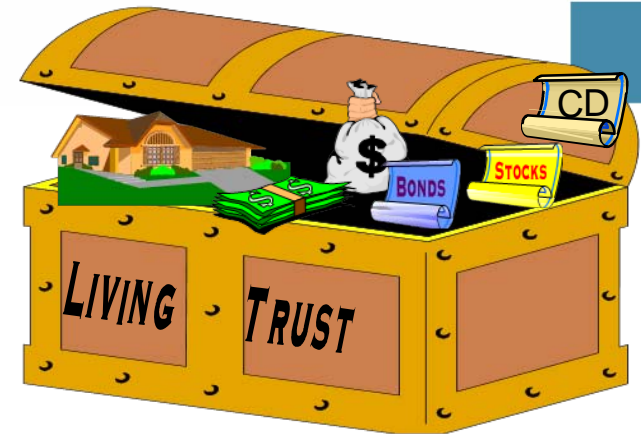
# NO NEED TO CHANGE TITLE





# THE LIVING TRUST AVOIDS...

- Death Probate
- \$ Court fees
- \$ Publication & bond fees
- \$ Executor fees
- \$ Probate Attorney fees



## And...

- No time delays
- No public record
- No multiple probates



# WHAT ABOUT ESTATE TAX ?

Bill & Mary  
are the  
Trustors

Jones  
Living Trust

- Checking account
- IRA
- Life insurance

Bill & Mary are Co-Trustees

## First Death

Mary sole Trustee  
and sole Beneficiary

Jones  
Living Trust

## Second Death

John

Susan





# ESTATES GREATER THAN \$1,000,000

Bill & Mary  
are the  
Trustors

Jones  
Living Trust

- Checking account
- IRA
- Life insurance

Bill & Mary are Co-Trustees

## First Death

Mary sole Trustee  
and sole Beneficiary

**Survivor's Trust**  
(Revocable)  
“A” \$350,000

**Family Trust**  
(Irrevocable)  
“B” \$350,000

## Second Death

John

Susan



# ESTATES GREATER THAN \$1,000,000

Bill & Mary  
are the  
Trustors

Jones  
Living Trust

- Checking account
- IRA
- Life insurance

Bill & Mary are Co-Trustees

## First Death

Mary sole Trustee  
and sole Beneficiary

**Survivor's Trust**  
(Revocable)  
"A" \$700,000

Income

Principal for: HMSE

Principal 5% or \$5,000

**Family Trust**  
(Irrevocable)  
"B" \$700,000

## Second Death

John

Susan



# MARY GETS ALZHEIMER'S

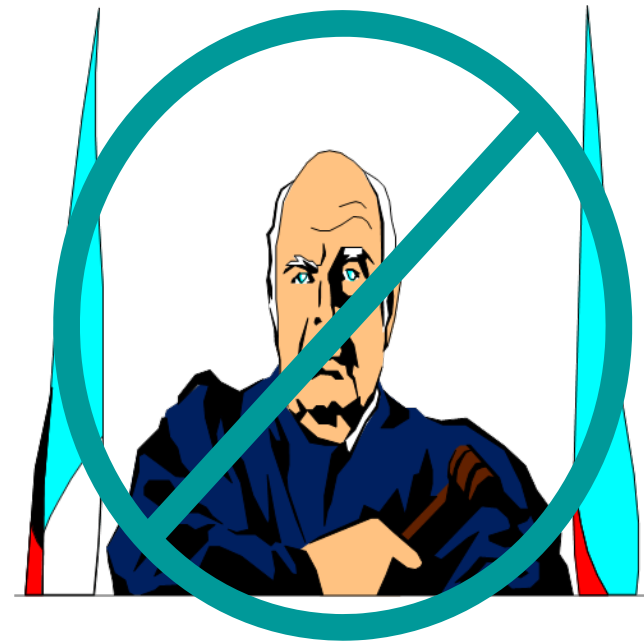




# NO LIVING PROBATE

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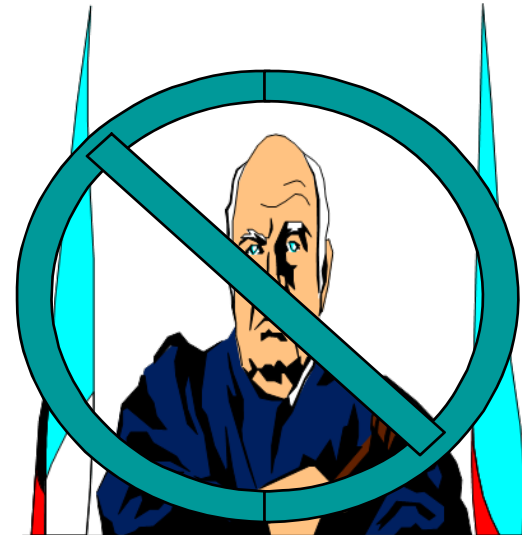




# THE COST OF USING A LIVING TRUST

*Mary's Living Probate*

*\$0.00*





# MARY PASSES AWAY





# WILL MARY'S ESTATE GO THROUGH PROBATE?

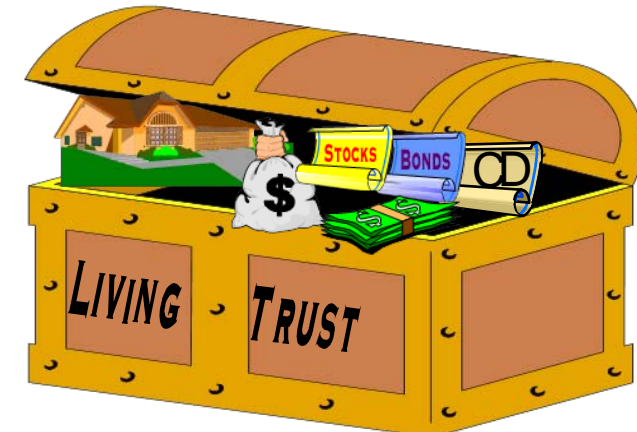




# THE LIVING TRUST AVOIDS...

## *Death probate:*

- No Court fees
- No Publication & bond fees
- No Executor fees
- No Probate Attorney fees



## *And...*

- No time delays
- No public record
- No multiple probates





Bill & Mary  
are the  
Trustors

Year 2011  
Jones  
Living Trust

Bill & Mary are Co-Trustees

- Checking account
- IRA
- Life insurance

## First Death

Mary sole Trustee  
and sole Beneficiary

Survivor's Trust  
(Revocable)  
"A" \$700,000

Income

Principal for: HMSE

Principal 5% or \$5,000

Family Trust  
(Irrevocable)  
"B" \$700,000

## Second Death



Common Pot  
Trust

A+B =

\$700,000 \$1,400,000



\$700,000 Successor Trustee



# SUMMARY: ADVANTAGES OF THE LIVING TRUST

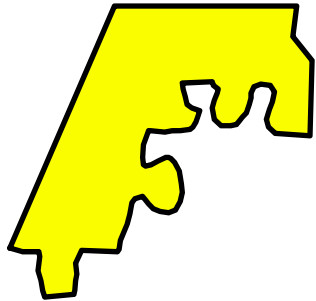
*Your hard earned assets go to...*

- Whom you want
- When you want
- Handled by the person you want
- At the least cost—*avoiding*:
  - Living Probate
  - Death Probate
  - Death Taxes

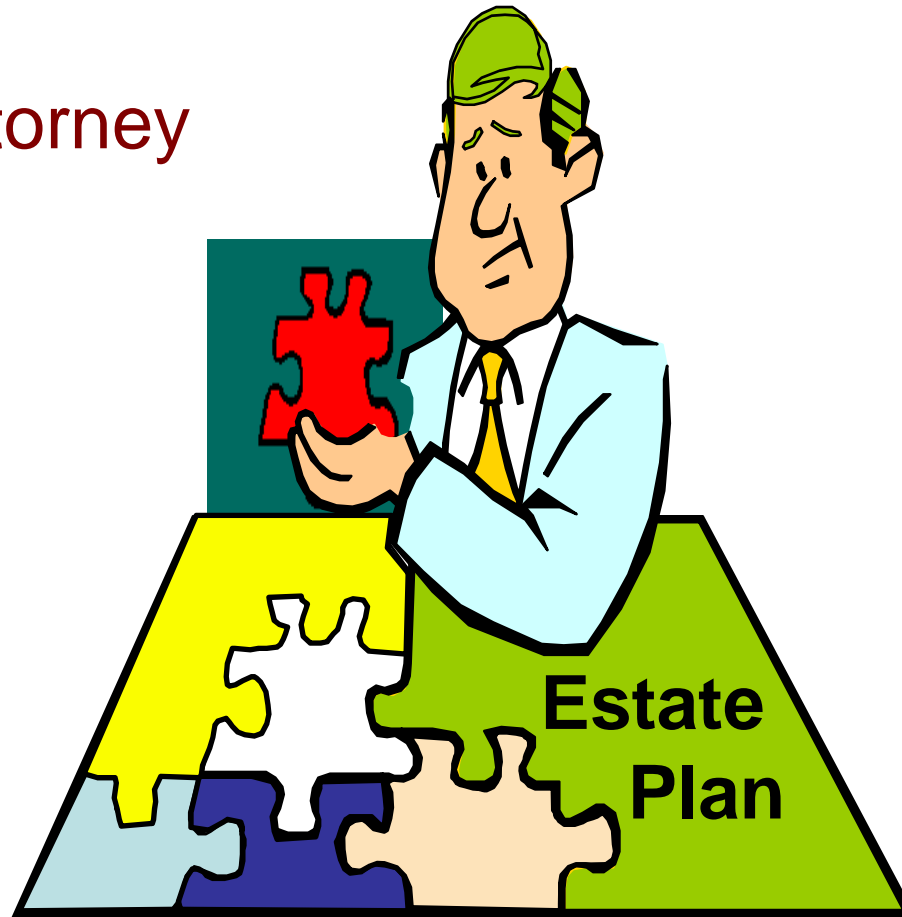
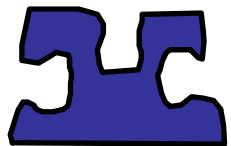


# PUTTING THE FINAL PIECES TOGETHER

Property  
Power of Attorney



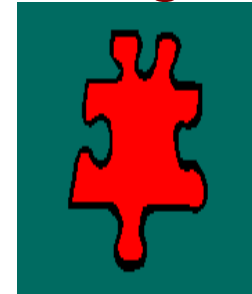
Property  
Agreement



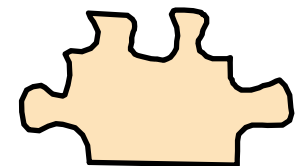
Pour Over Will



Living Trust



Health Care  
Documents





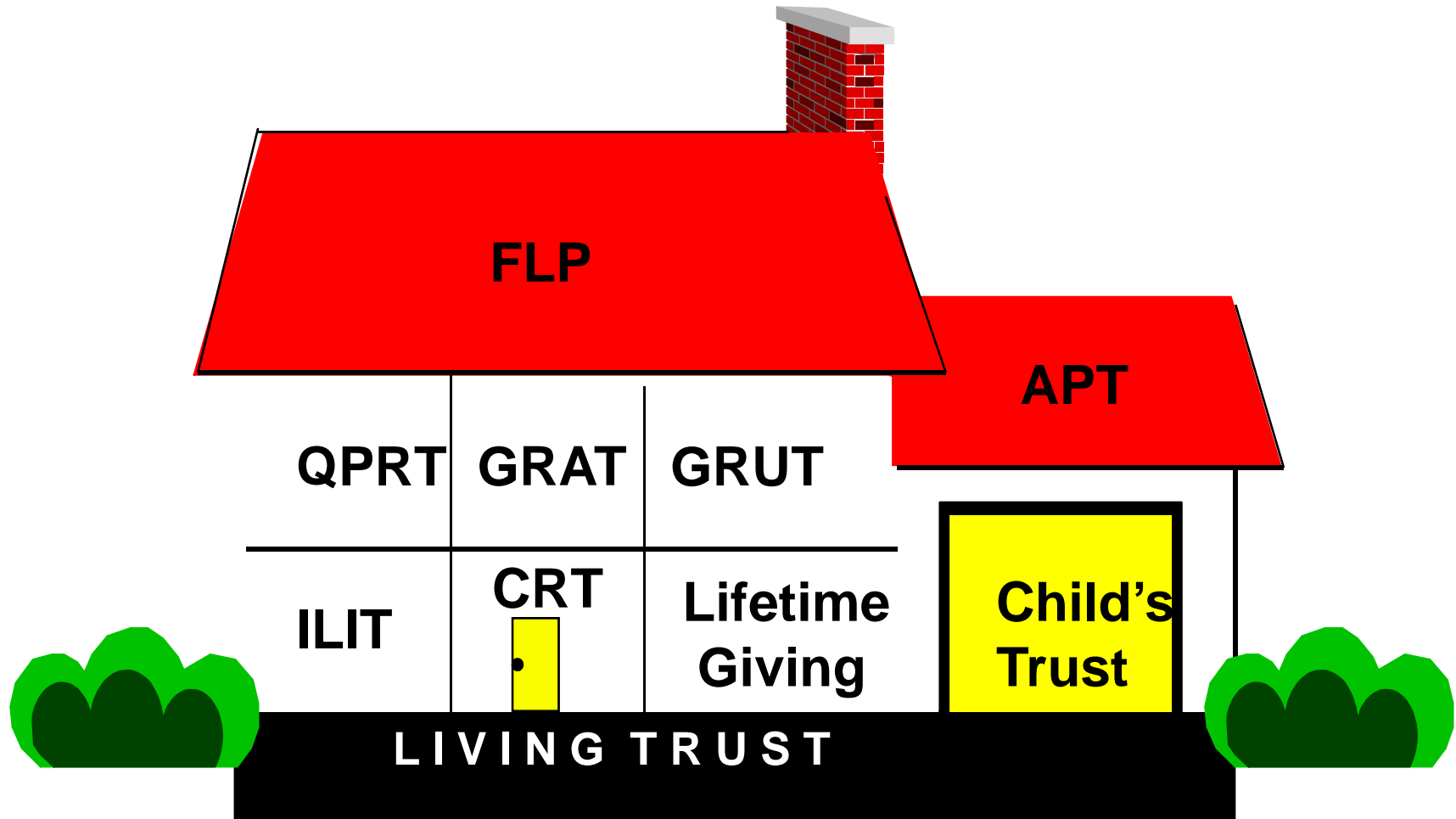
# HEALTH CARE DOCUMENTS



- Avoid unwanted medical interventions
- Help your family know your wishes
- Protect your life savings

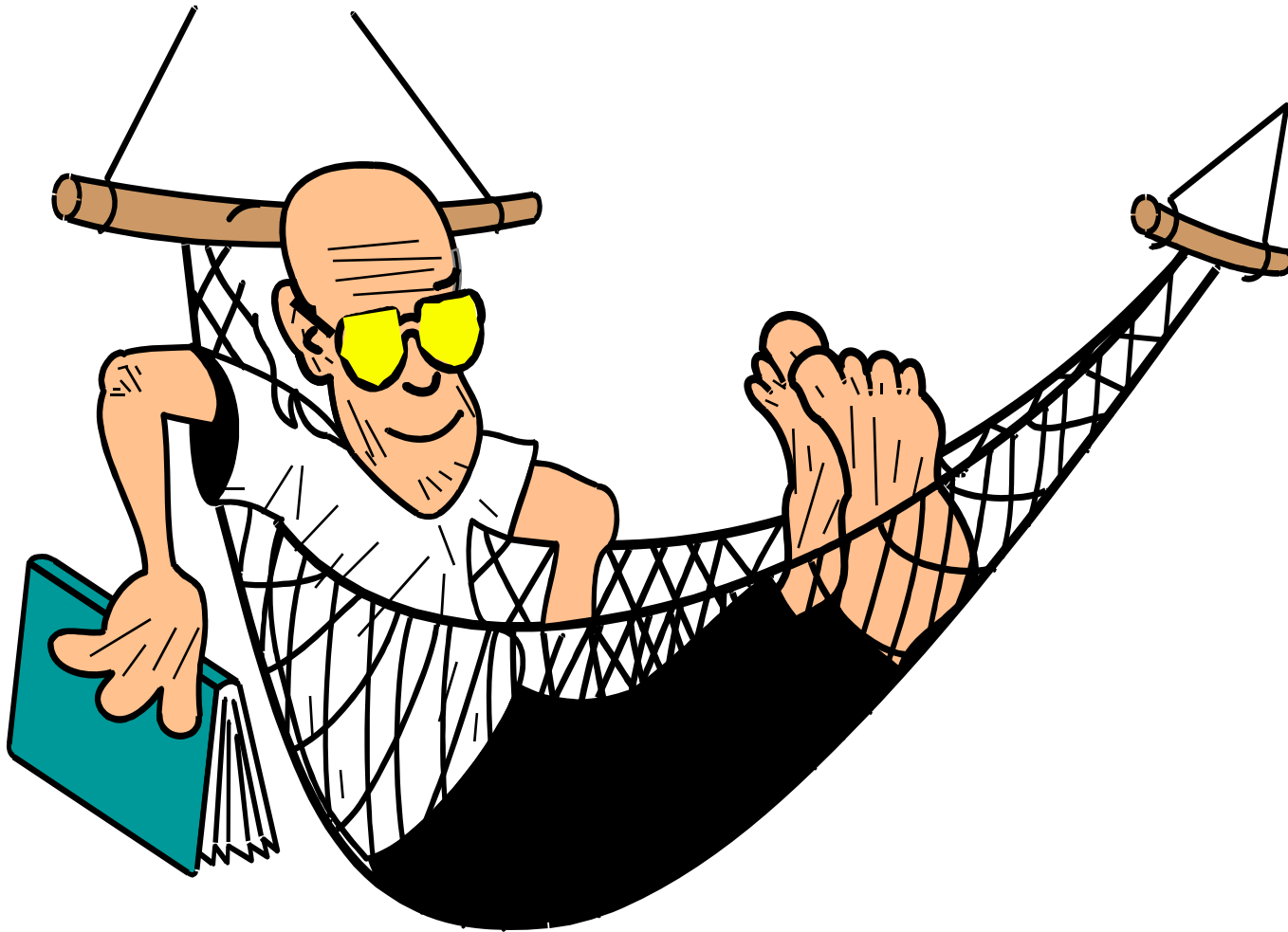


# COMPLETE ESTATE PLANNING





# ***WAKE UP!!!***





***Thank you* for coming,  
and I hope this has  
helped you to get  
help soon!**

***“Helping people preserve their wealth”***