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\$40 Trillion + 2/3 No Will
= Litigation

Introduction to Estate Planning

Rebecca Renzas, Esq.
Naomita Yadav, Esq.

Today's Talk

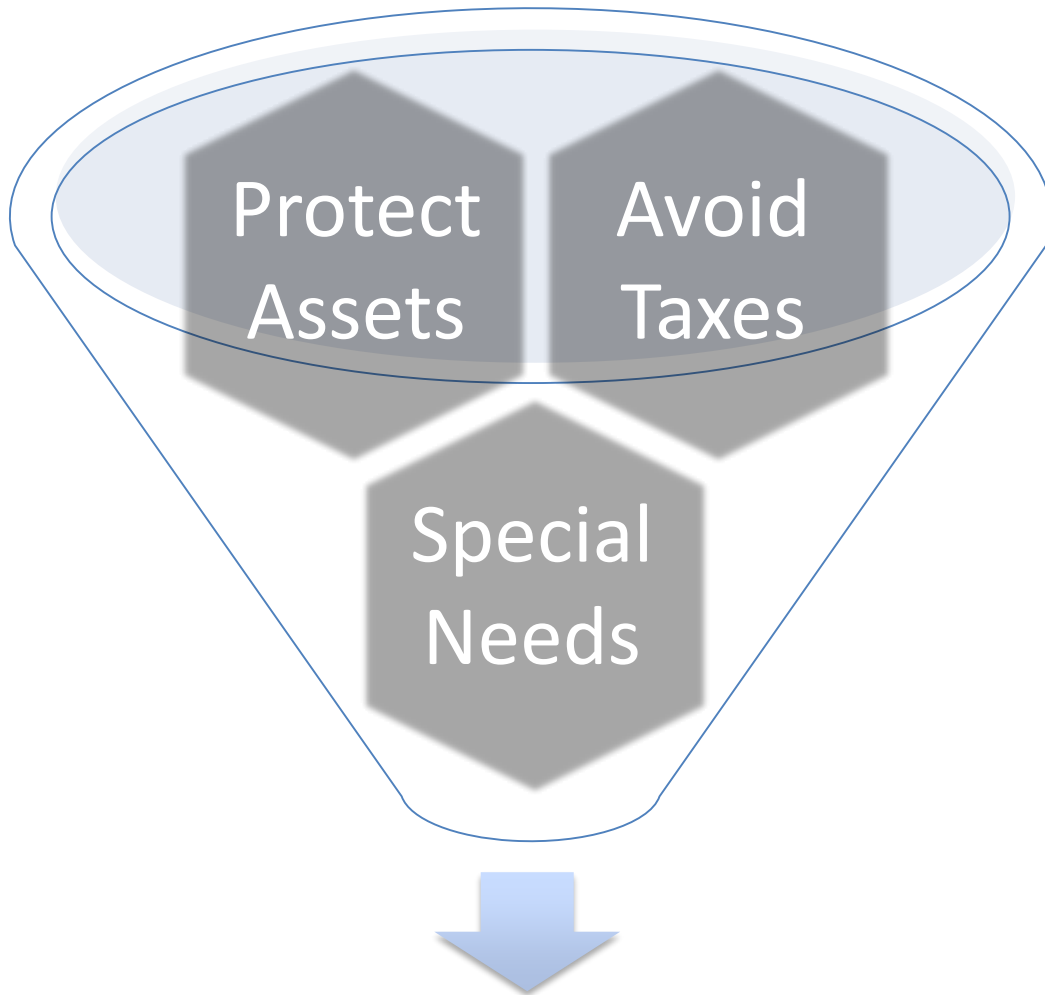
Estate Planning Basics

Tax Issues

Nontax Issues



Why Plan?



Achieve Financial/Personal Goals

Definitions: In Life

- Power of Attorney
 - Document by which one appoints another to act for oneself in cases of incapacity, or other scenarios specifically described in the document
- Healthcare Directive
 - Power of Attorney specifically for healthcare decisions

Definitions: Estate Administration

- Intestate
 - Someone who dies without a will; property is probated and passes according to state law
- Will
 - Legal document containing direction about how to pass on your property after death

Definitions: Estate Administration

- Probate

- Legal process of administering one's estate in a court. The court is called a Probate Court

- Trust

- Privately managed set of instructions for assets, used to apportion and distribute assets
- Administered by “Trustee”, governed by “Trust Agreement”

Prince



- Died intestate – No will/plan
- Problems:
 - Huge estate tax bill
 - Probate(Creditors)
 - No choice of where assets went (Control)
- Lesson:
 - Need planning to limit tax
 - Need a plan to direct where your assets go
 - Need trust to avoid probate

Revocable Trust Advantages



Probate Avoidance



Estate and Gift Tax Avoidance



Control of Assets

Basic Estate Plan

Revocable Trust

Will

Powers of
Attorney

Asset Retitling

Michael Jackson

- Died unexpectedly
- Michael Jackson Family Trust

- Problems:
 - Did not fund trust
 - Probate (Creditors)
- Lesson:
 - Fund your trust
 - **To avoid probate, assets must be titled in your trust**



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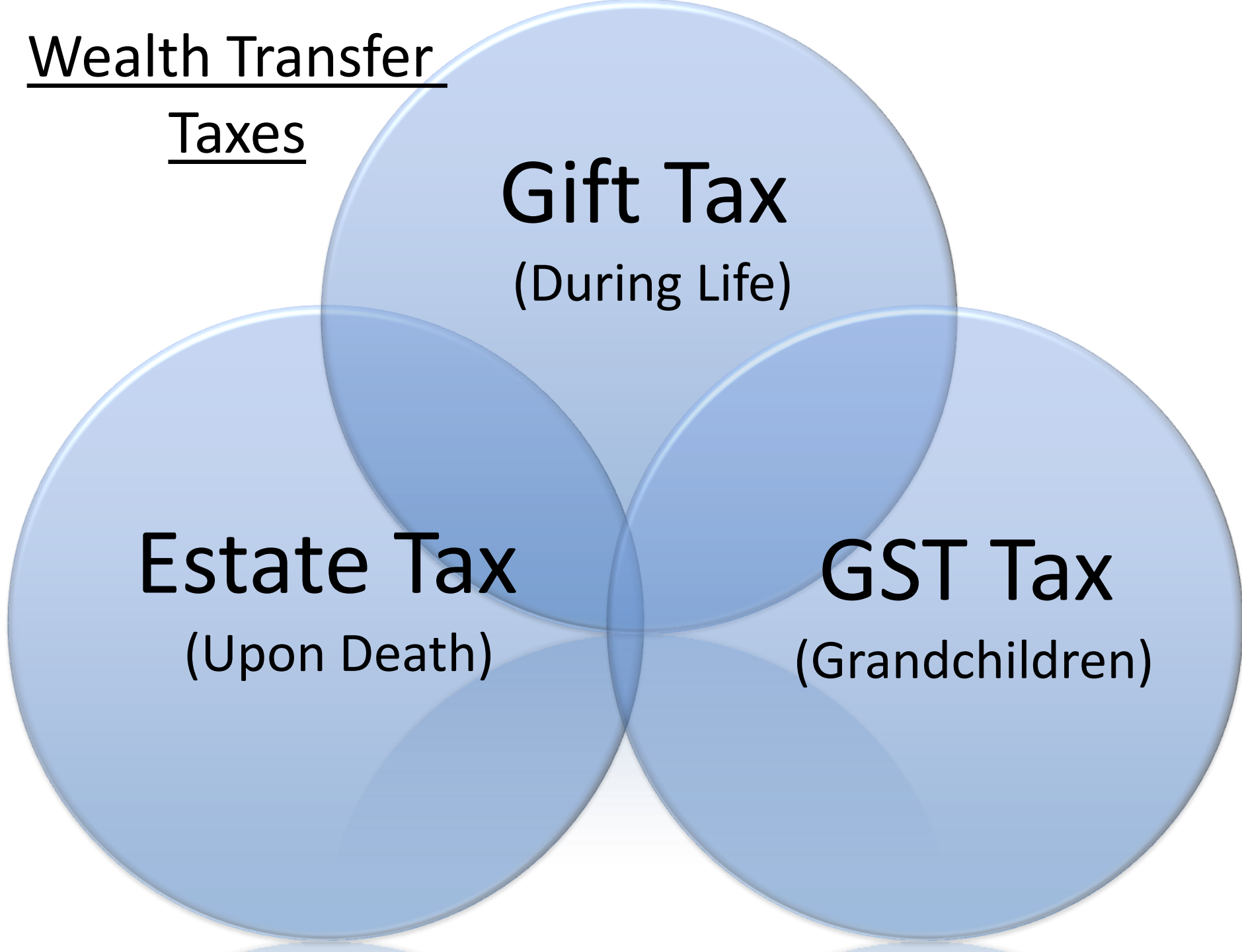


Wealth Transfer
Taxes

Gift Tax
(During Life)

Estate Tax
(Upon Death)

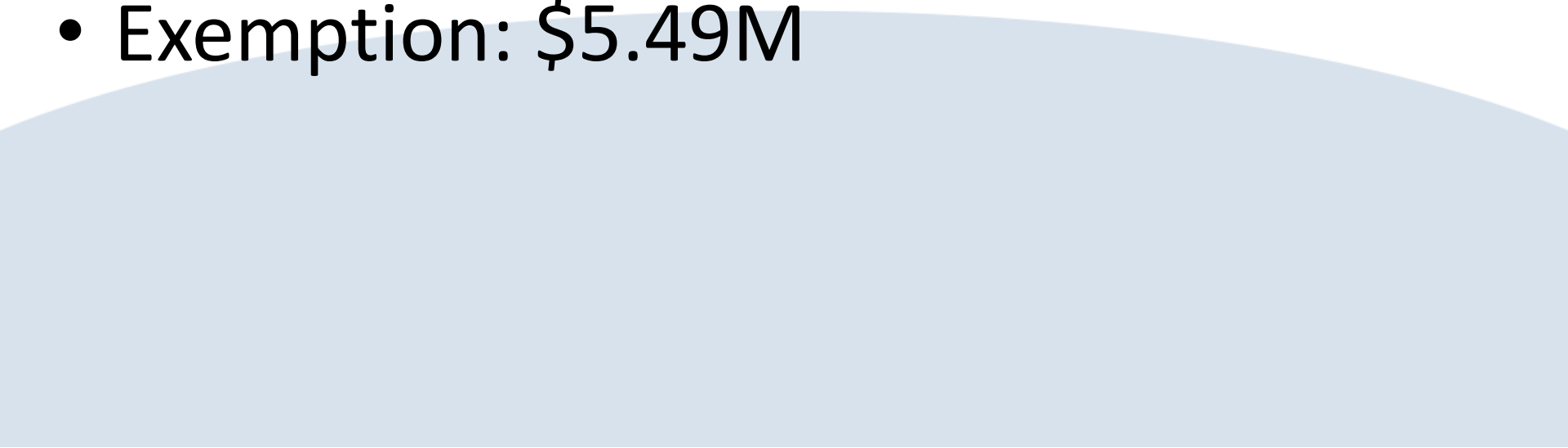
GST Tax
(Grandchildren)



Gift Tax

- Tax on gifts given during your lifetime
- Current Rate: 40%
- Exemptions
 - Annual Exclusion: \$14k
 - Lifetime: \$5.49M

Estate Tax

- Tax on transfer of wealth upon death
 - Current Rate: 40%
 - Exemption: \$5.49M
- 

Generation Skipping Transfer Tax

- Double Tax on Transfer to Grandchildren
- Current Rate: 40%
- Exemption: \$5.49M

Gift Tax vs. Estate Tax



Common Exemption Pool



Gifting Removes Appreciation



Gift Tax Return/Carryover Basis

Gift Tax vs. Estate Tax

Gift

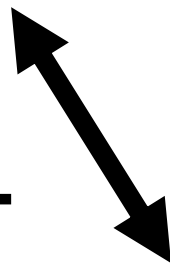
\$100 Gift
+ 40% Tax

\$140 Total
\$40 in Tax

Estate

\$167 Total
- 40% Tax

\$100 Inherited
\$67 in Tax



Lifetime Gifts Economically Efficient

Step-Up in Basis



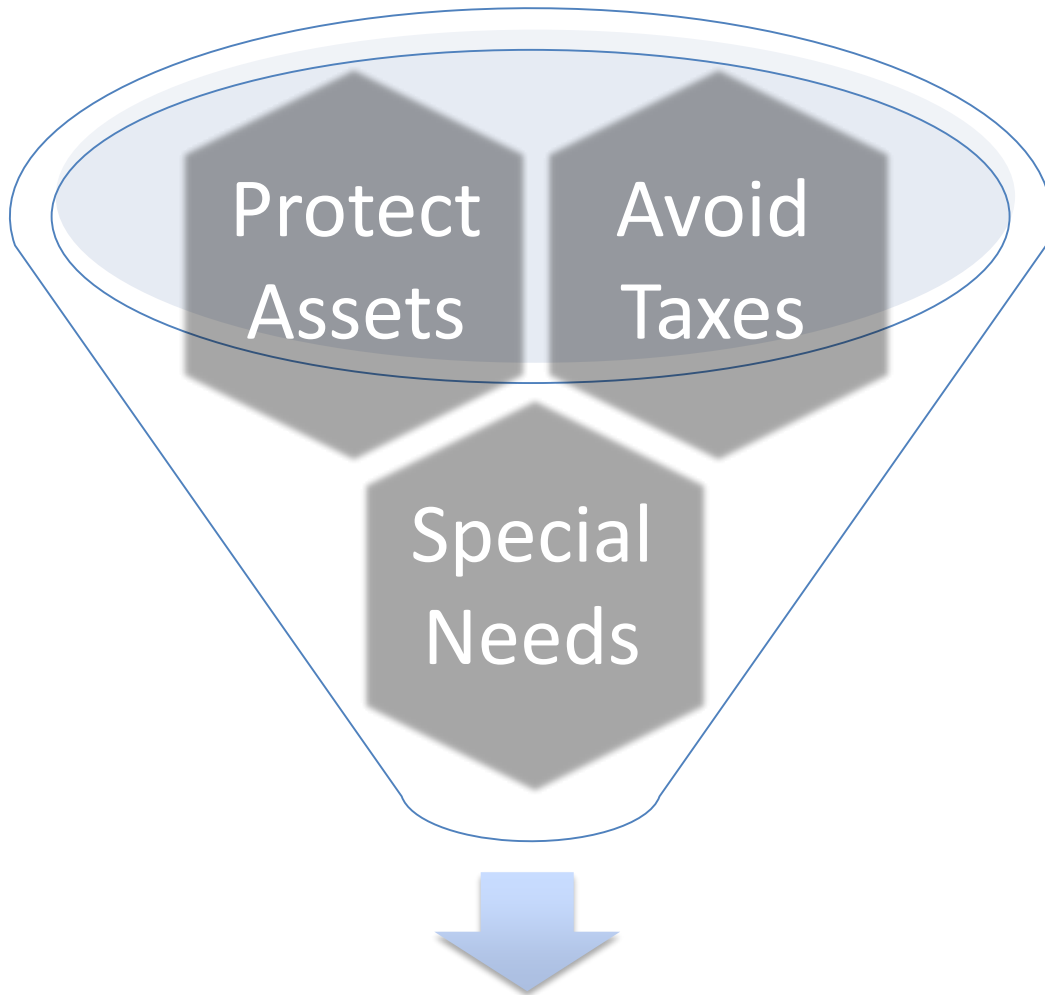
Step-Up upon Death: New Basis → \$500

Introduction to Estate Planning

Recap

Rebecca Renzas, Esq.

Why Plan?



Achieve Financial/Personal Goals

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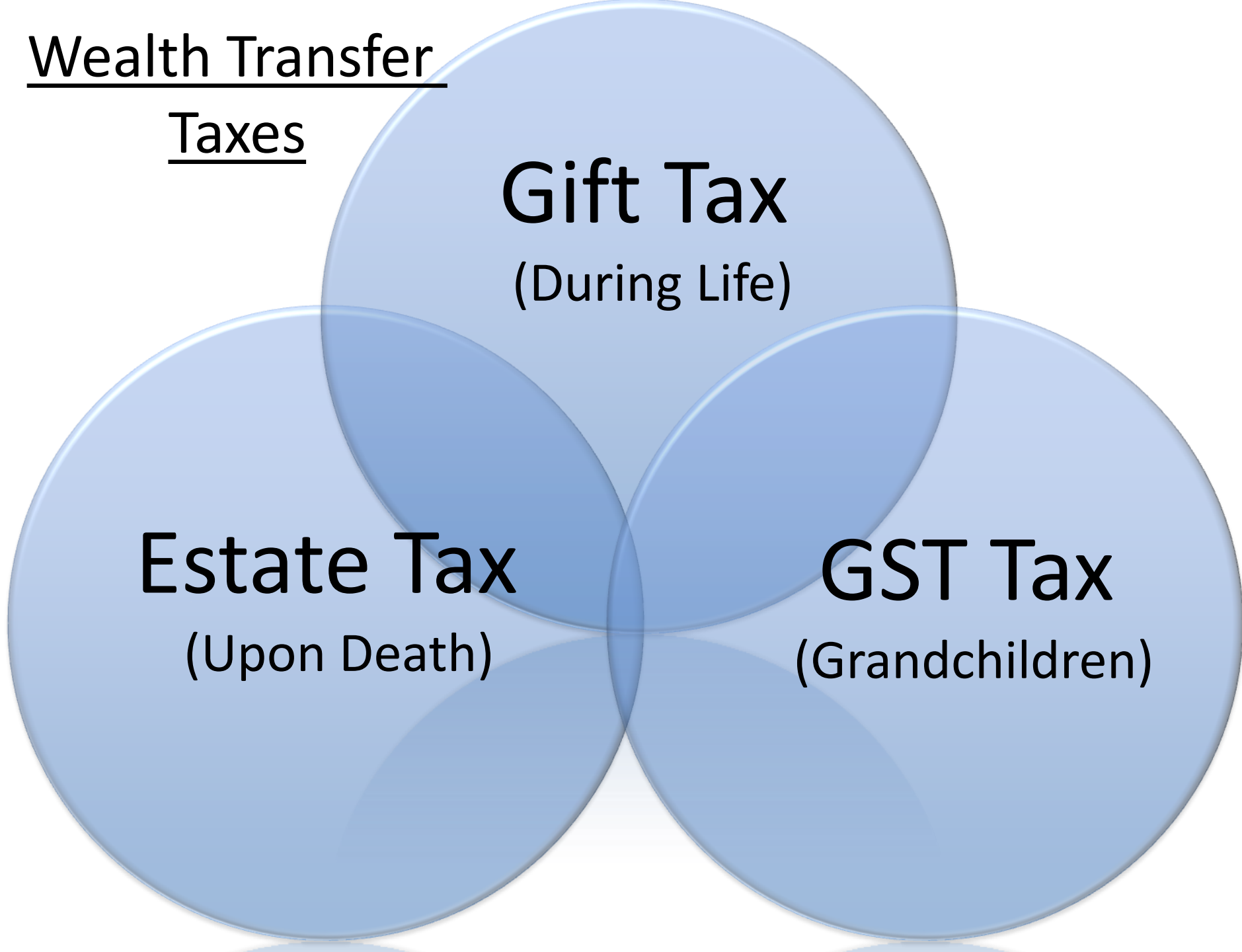


Wealth Transfer
Taxes

Gift Tax
(During Life)

Estate Tax
(Upon Death)

GST Tax
(Grandchildren)



Tax Issues

Unified Credit

- Max dollar amount that can pass tax-free
 - Via gift (life) or estate (death)
 - Now \$5.49M
- Called “Exemption” or “Exclusion”
- Increases annually for inflation

Portability

New Law

- Can transfer Unified Credit to spouse upon death
- Not automatic
- Some negatives
 - More on this later

Example	Planning	Estate Tax	Income Tax	Portability	Control/Protection
1	No	Extra	Step Up	No	No
2	Yes	No extra	No Step Up	No	Yes
3	No	No extra	Step Up	Yes	No
4	Yes	No extra	Step Up	Yes	Yes

Example 1: No Unified Credit Planning

Old Law

H & W are married with \$15M estate.
All assets are jointly titled.



Upon Death of H



All to W outright (\$15M)*

*No estate tax because of marital deduction

Example 1: Continued

Old Law

Upon Death of W



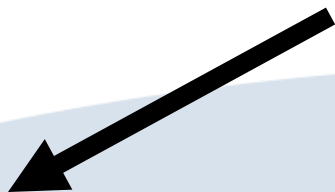
- With H's \$5.49M estate tax exemption wasted, when W dies she can only pass on \$5.49M free from federal estate taxes
 - (\$15M estate - \$5.49M exemption)
= \$9.51M taxable estate
 - \$9.51M taxable estate x 40% estate tax rate
= \$3.804M in taxes

Example 2: Unified Credit Planning (No Portability)

Revocable Trust (\$15M
Estate)



Upon Death of First Spouse



Bypass Trust
(\$5.49M)



QTIP Trust*
(\$2.01M)



Survivor's
Trust (\$7.5M)

*No estate tax because of marital deduction

Example 2: Continued

Upon Death of W



- Survivor's Trust (\$7.5M) and QTIP Trust (\$2.01M) subject to federal estate tax
- W has \$5.49M exemption remaining
- (\$9.51M estate - \$5.49M exemption)
= \$4.02M taxable estate
 - \$4.02M taxable estate x 40% estate tax rate
= \$1.608M in taxes
 - **\$2.196M less in taxes than Example 1**

New Law

Portability

Unified credit transferable to
spouse upon death

Example 3: Unified Credit Planning (with Portability)

H & W are married with \$15M estate.
All assets are jointly titled.



Upon Death of H



All to W outright
(\$15M in assets with \$10.98M
Unified Credit)*

*No estate tax because of marital deduction

Example 3: Continued

Upon Death of W



- Due to portability, wife has \$10.98M exemption
- (\$15M estate - \$10.98M exemption)
= \$4.02M taxable estate
 - \$4.02M taxable estate x 40% estate tax rate
= \$1.608M in taxes
 - **Similar tax result as Example 2, without planning and with additional basis step up**

Example 4: Unified Credit Planning (with Portability)

Revocable Trust (\$15M
Estate)



Upon Death of First Spouse



QTIP Trust*
(\$7.5M)



Survivor's
Trust (\$7.5M)

*No estate tax because of marital deduction

Example 4: Continued

Upon Death of W



- Survivor's Trust (\$7.5M) and QTIP Trust (\$7.5M) subject to federal estate tax
- Due to portability, wife has \$10.98M exemption
- (\$15M estate - \$10.98M exemption)
= \$4.02M taxable estate
 - \$4.02M taxable estate x 40% estate tax rate
= \$1.608M in taxes
 - **Similar tax result as Example 2 and 3, with planning and additional basis step up**

Portability Negatives

- No inflation adjustment.
- Can be lost if remarry.
- No portability of generation-skipping tax exemption.
- Requires action: estate tax return still must be filed.
- False belief that portability = no planning.

Tax Issues by Example

Example	Planning	Estate Tax	Income Tax	Portability	Control/Protection
1	No	Extra	Step Up	No	No
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4	Yes	No extra	Step Up	Yes	Yes

Unified Credit

- Max dollar amount that can pass tax-free
 - Via gift (life) or estate (death)
 - Now \$5.49M
- Called “Exemption” or “Exclusion”
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Portability

New Law

- Can transfer Unified Credit to spouse upon death
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Nontax Issues



Protection of Assets



Spouse

The diagram consists of four large, glossy, colored circles arranged in a diamond pattern. The top-left circle is orange and labeled 'Spouse'. The top-right circle is green and labeled 'Children'. The bottom-left circle is purple and labeled 'Special Needs'. The bottom-right circle is red and labeled 'Creditors'. Each circle has a subtle shadow beneath it, and the entire set is positioned above a light blue curved base.

Children

Special
Needs

Creditors

Trusts Superior to Joint Tenancy



Double Step-Up in Basis



Fractional Discounting



Preservation of Exemption

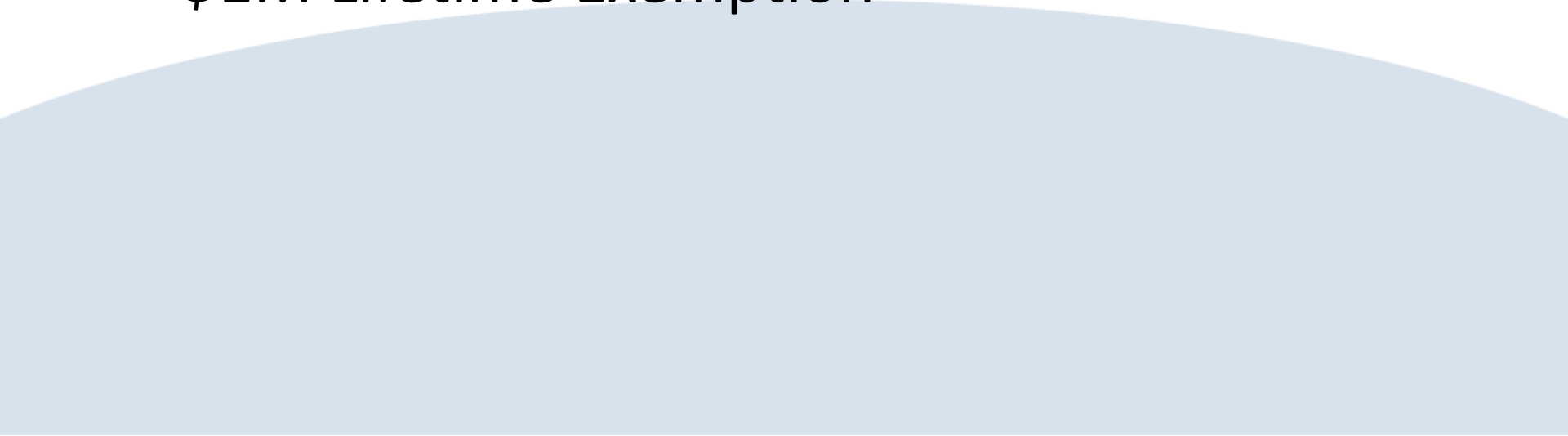


Creditor Protection



Control of Assets

Property Tax Issues

- Normal Rules: Reassessment at death
 - Exception: Parent-Child Exclusion
 - Principal Residence (unlimited)
 - \$1M Lifetime Exemption
- 

Charitable Giving

- Lifetime or on-death
- Retirement account beneficiary designation
- Via charitable remainder trust or charitable lead trust
- Utilize charitable gifts to offset income and estate taxes



*and others in need

Other Types of Trusts



Sophisticated irrevocable trusts to
minimize estate/gift tax

Next Steps

- ✓ Set up a basic estate plan
- ✓ Customize plan to fit your goals/needs
- ✓ Run the numbers

Introduction to Estate Planning

Thank you for Listening

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Nothing contained or presented herein constitutes legal
advice or formation of attorney-client relationship

Thank you for Listening

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