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

# Introduction to Estate Planning

Rebecca Renzas, 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, titled a Probate Court
- Trust
  - Privately managed set of instructions for assets, used to apportion and distribute assets
  - Administered by "Trustee", governed by "Trust Agreement"

# Sonny Bono



- Died unexpectedly
- Intestate – No will/plan
- Problems:
  - Probate (Creditors)
  - No choice of where assets went (Control)
- Lesson:
  - 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



# Today's Talk

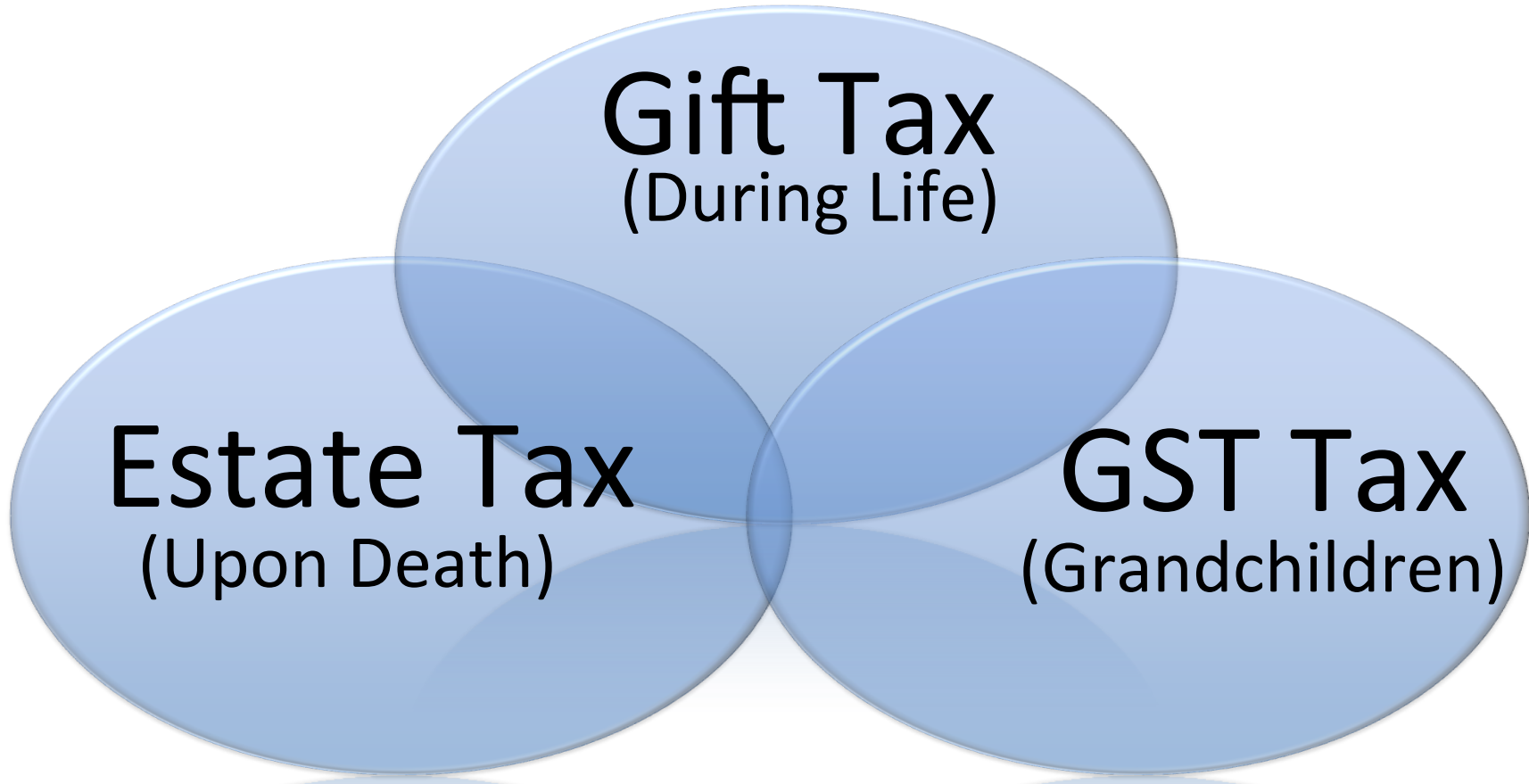
Estate Planning Basics

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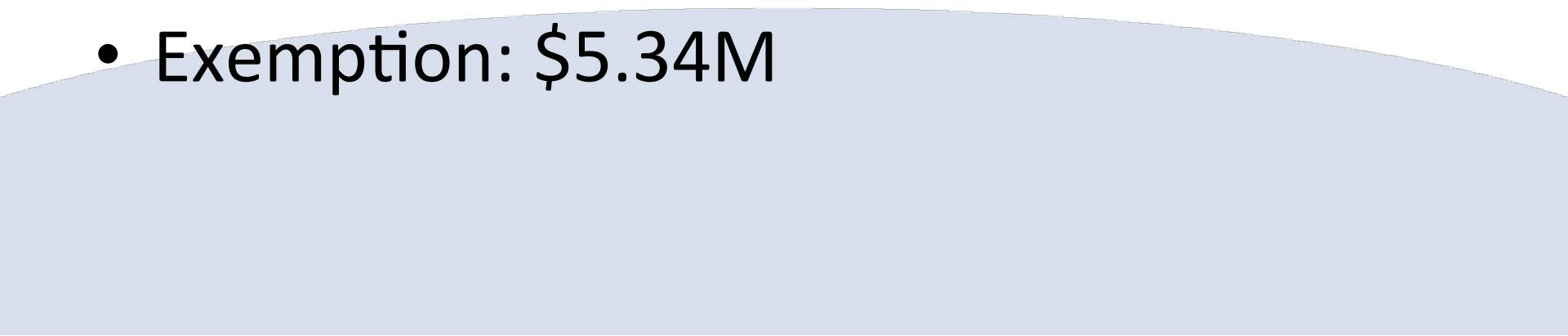
# Wealth Transfer Taxes



# Gift Tax

- Tax on gifts given during your lifetime
- Current Rate: 40%
- Exemptions
  - Annual Exclusion: \$14k
  - Lifetime: \$5.34M

# Estate Tax

- Tax on transfer of wealth upon death
  - Current Rate: 40%
  - Exemption: \$5.34M
- 

# Generation Skipping Transfer Tax

- Double Tax on Transfer to Grandchildren
- Current Rate: 40%
- Exemption: \$5.34M



# 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  

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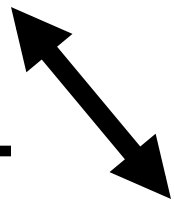
\$140 Total  
\$40 in Tax

## Estate

\$167 Total  
- 40% Tax  

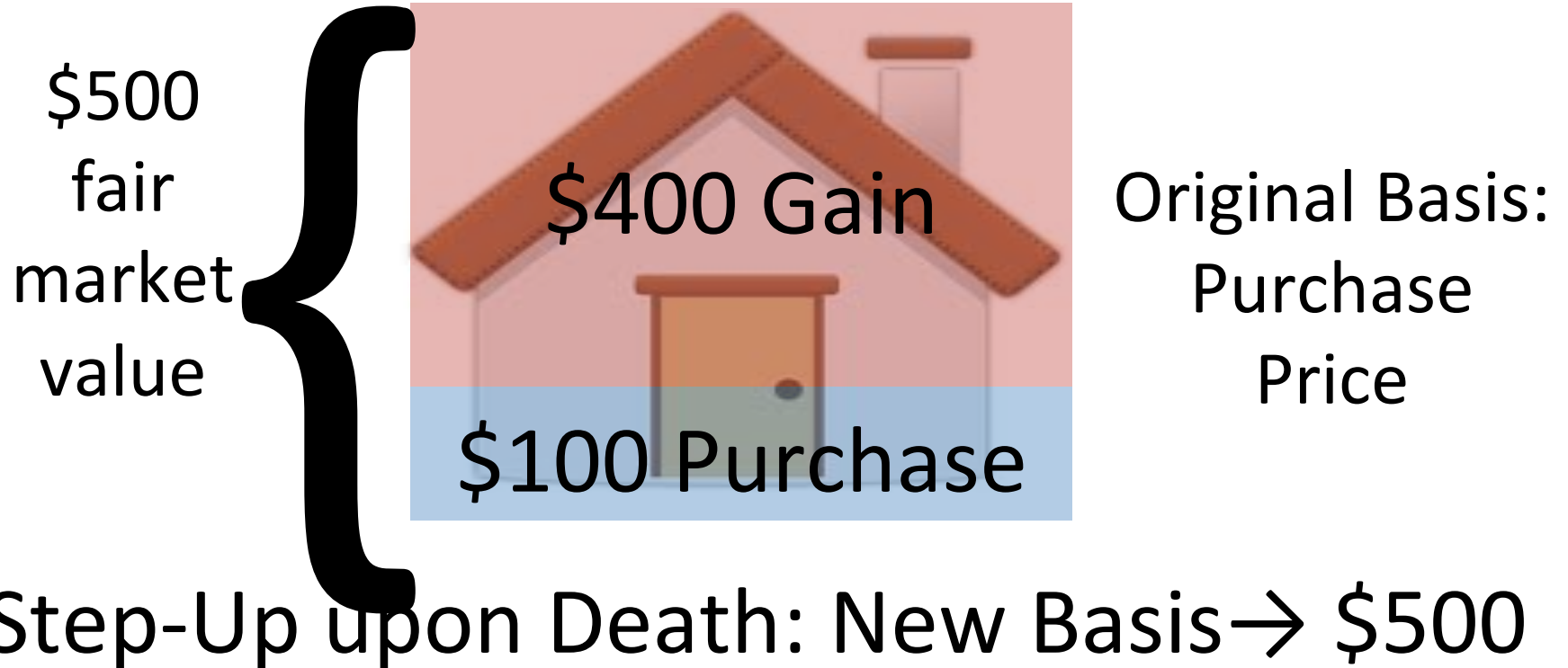
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\$100 Inherited  
\$67 in Tax



Lifetime Gifts Economically Efficient

# Step-Up in Basis



# Introduction to Estate Planning

*Recap*

Rebecca Renzas, Esq.

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# Wealth Transfer Taxes

**Gift Tax**

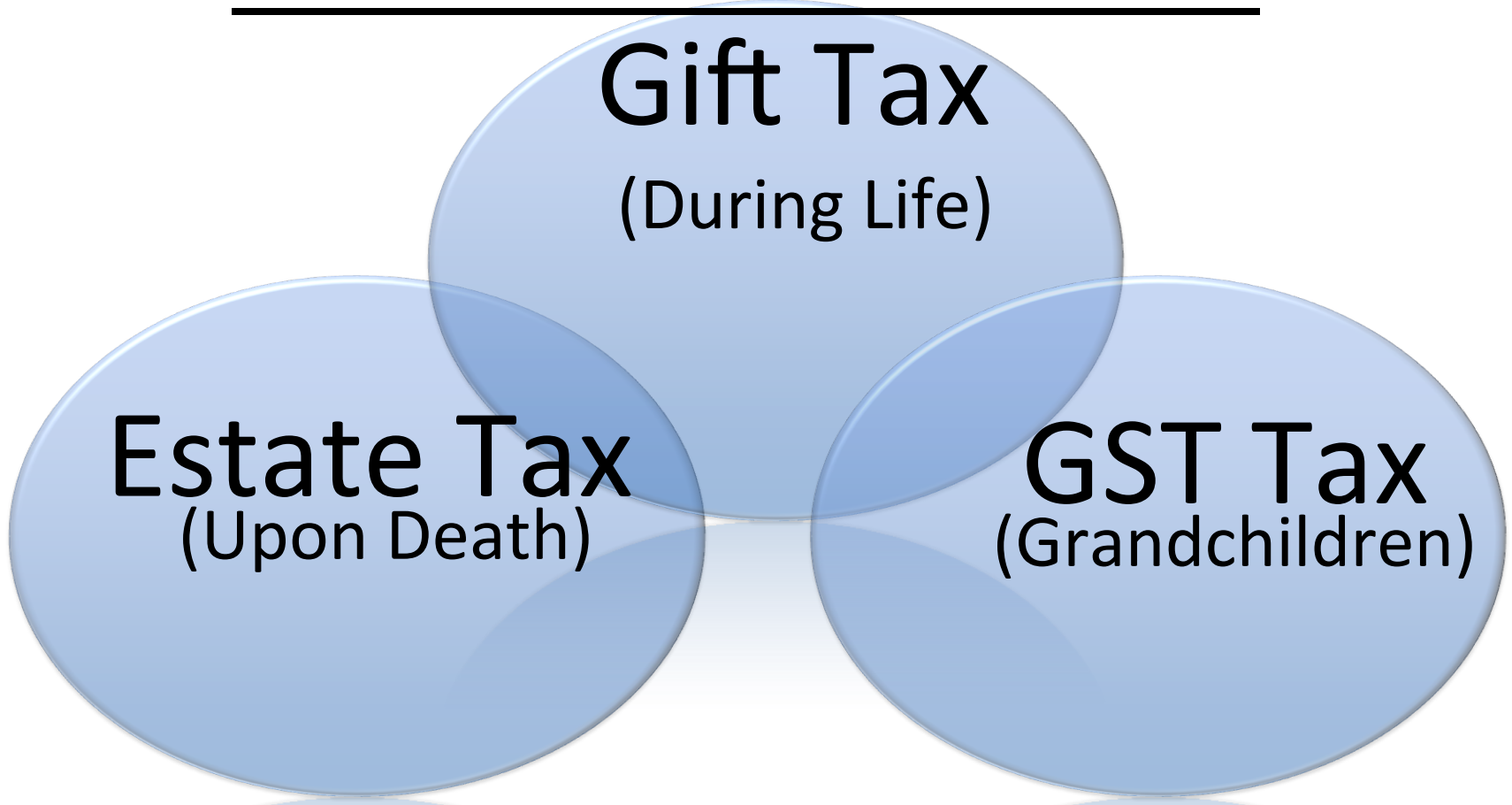
(During Life)

**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 \$5.34M
- 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 \$5.34M estate tax exemption wasted, when W dies she can only pass on \$5.34M free from federal estate taxes
  - (\$15M estate - \$5.34M exemption)  
= \$9.66M taxable estate
  - \$9.66M taxable estate x 40% estate tax rate  
= \$3.864M in taxes

# Example 2: Unified Credit Planning (No Portability)

Revocable Trust (\$15M  
Estate)

Upon Death of First Spouse

Bypass Trust  
(\$5.34M)

QTIP Trust\*  
(\$2.16M)

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 (\$2.16M) subject to federal estate tax
- W has \$5.34M exemption remaining
- (\$9.66M estate - \$5.34M exemption)  
= \$4.32M taxable estate
  - \$4.32M taxable estate x 40% estate tax rate = \$1.728M in taxes
  - **\$2.136M 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 \$10.68M  
Unified Credit)\*

\*No estate tax because of marital deduction

# Example 3: Continued

Upon Death of W



- Due to portability, wife has \$10.68M exemption
- (\$15M estate - \$10.68M exemption)  
= \$4.32M taxable estate
  - \$4.32M taxable estate x 40% estate tax rate  
= \$1.728M 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)

```
graph TD; A["Revocable Trust ($15M Estate)"] --> B["Upon Death of First Spouse"]; B --> C["QTIP Trust* ($7.5M)"]; B --> D["Survivor's Trust ($7.5M)"];
```

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 \$10.68M exemption
- (\$15M estate - \$10.68M exemption)  
= \$4.32M taxable estate
  - \$4.32M taxable estate x 40% estate tax rate = \$1.728M 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 required.
- Law still developing: small chance Example 4 may be rejected by IRS.
- 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
2	Yes	No extra	No Step Up	No	Yes
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## Unified Credit

- Max dollar amount that can pass tax-free
  - Via gift (life) or estate (death)
  - Now \$5.34M
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# Protection of Assets



Spouse

The diagram consists of four 3D-style oval bubbles arranged in a diamond pattern. The top-left bubble is orange and labeled 'Spouse'. The top-right bubble is green and labeled 'Children'. The bottom-left bubble is purple and labeled 'Special Needs'. The bottom-right bubble is red and labeled 'Creditors'. All bubbles have a gradient and a shadow beneath them. They are set against a light blue background that features a subtle curved horizon line.

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
- 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

IDGT

CLAT

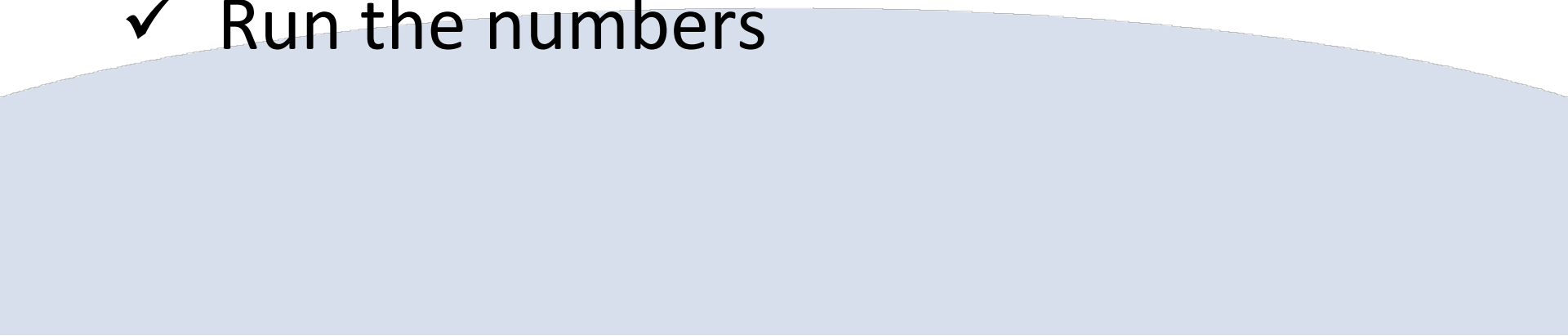
QPRT

ILIT

GRAT

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*

Rebecca Renzas, Esq.

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