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

Estate Planning 101

The Basics and Beyond...

Rebecca Renzas, Esq.

Today's Talk

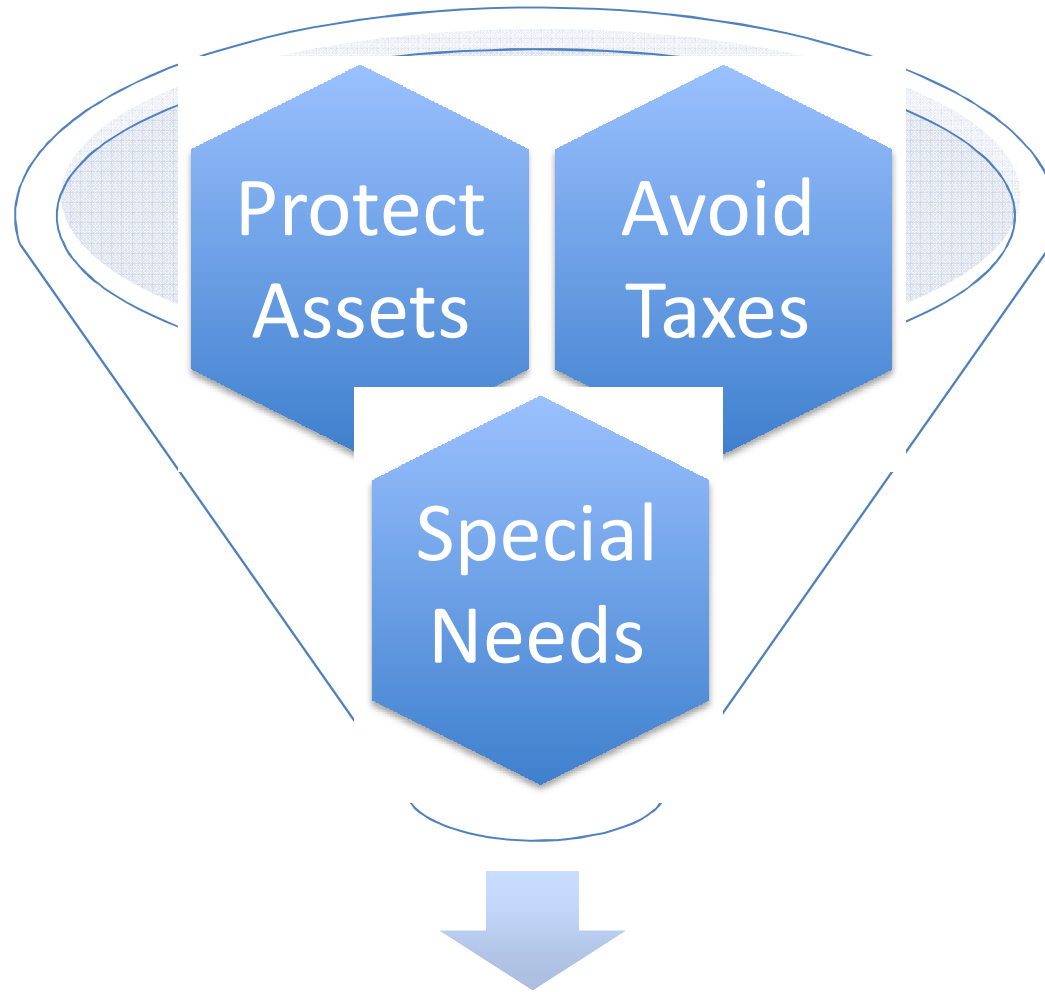
Estate Planning Basics

Tax Issues

Nontax Issues

Examples

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"

Revocable Trust Advantages



Probate Avoidance



Estate and Gift Tax Avoidance



Control of Assets

Basic Estate Plan

Revocable Trust

Will

Powers of
Attorney

Asset Retitling

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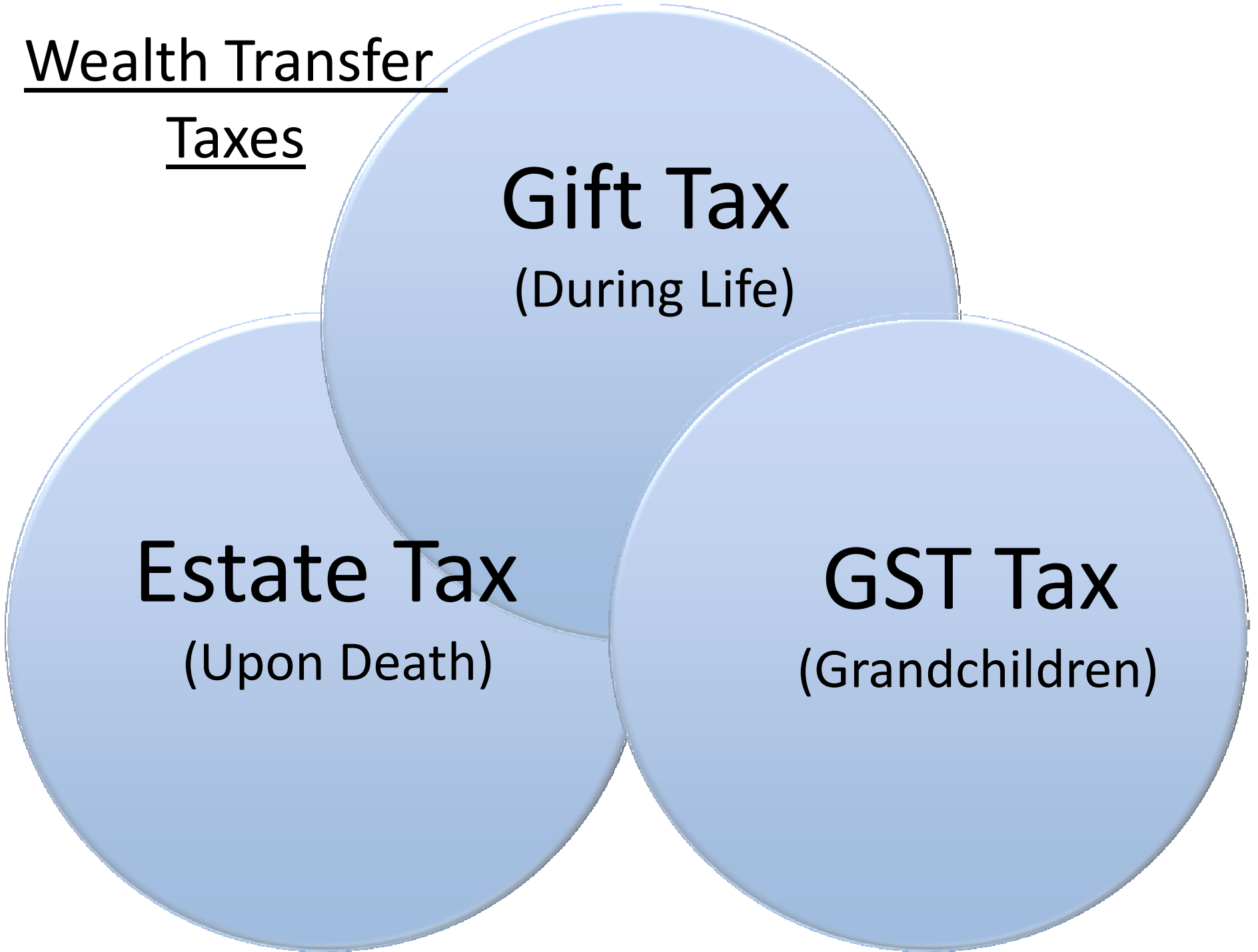
Examples

Wealth Transfer
Taxes

Gift Tax
(During Life)

Estate Tax
(Upon Death)

GST Tax
(Grandchildren)



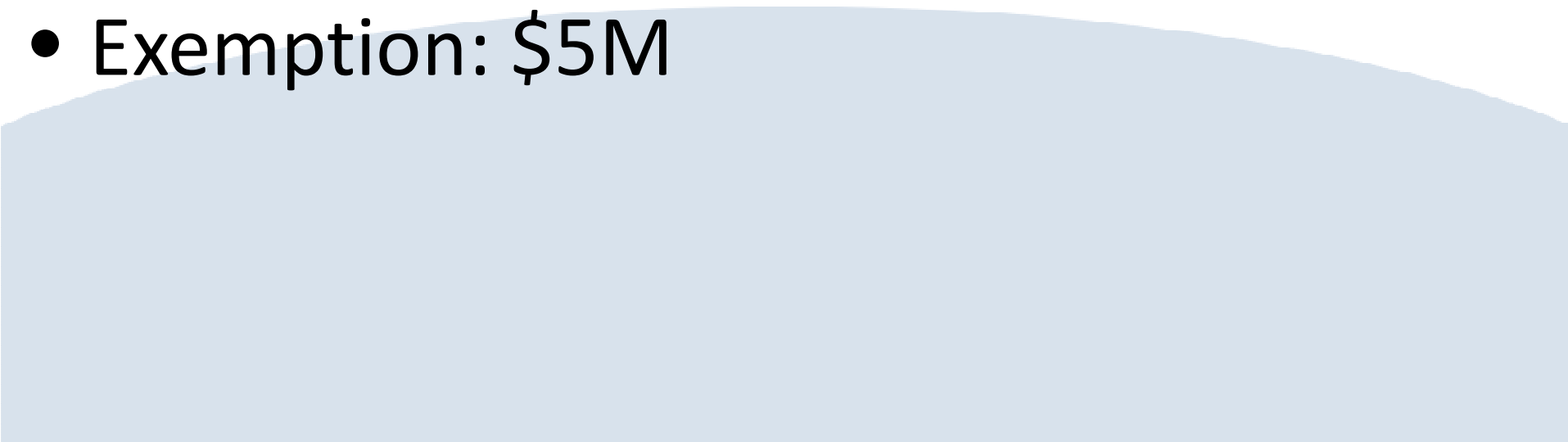
Gift Tax

- Tax on gifts given during your lifetime
- Current Rate: 35%
- Exemptions
 - Annual Exclusion: \$13k
 - Lifetime: \$5M

Estate Tax

- Tax on transfer of wealth upon death
 - Current Rate: 35%
 - Exemption: \$5M
 - 2012: return to 55% + \$1M exemption*
- *Pending Congress (In)Action

Generation Skipping Transfer Tax

- Double Tax on Transfer to Grandchildren
 - Current Rate: 35%
 - Exemption: \$5M
- 

Gift Tax vs. Estate Tax



Common Exemption Pool



Gifting Removes Appreciation



Gift Tax Return/Carryover Basis

Gift Tax vs. Estate Tax

Gift

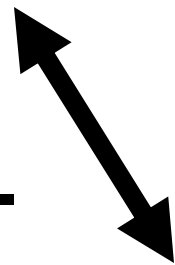
\$100 Gift
+ 35% Tax

\$135 Total
\$35 in Tax

Estate

\$154 Total
- 35% Tax

\$100 Inherited
\$54 in Tax



Lifetime Gifts Economically Efficient

Step-Up in Basis



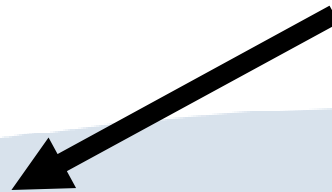
Step-Up upon Death: New Basis → \$500

Sample Two-Spouse Plan

Revocable Trust (\$15M
Estate)



Upon Death of First Spouse



Bypass Trust
(\$5M)

QTIP* Trust
(\$2.5M)

Survivor's
Trust (\$7.5M)

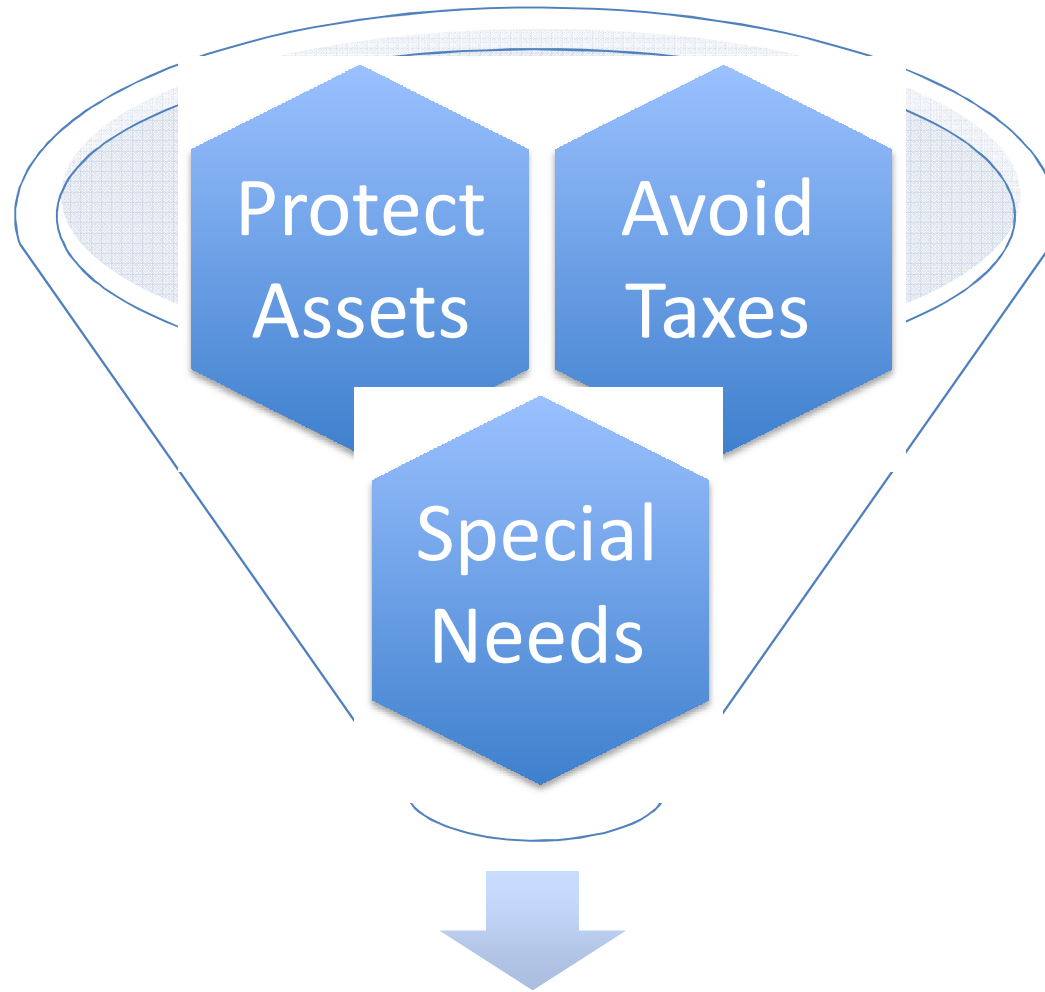
*Qualified Terminable Interest Property (more on this later)

Estate Planning 101

Recap

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Why Plan?



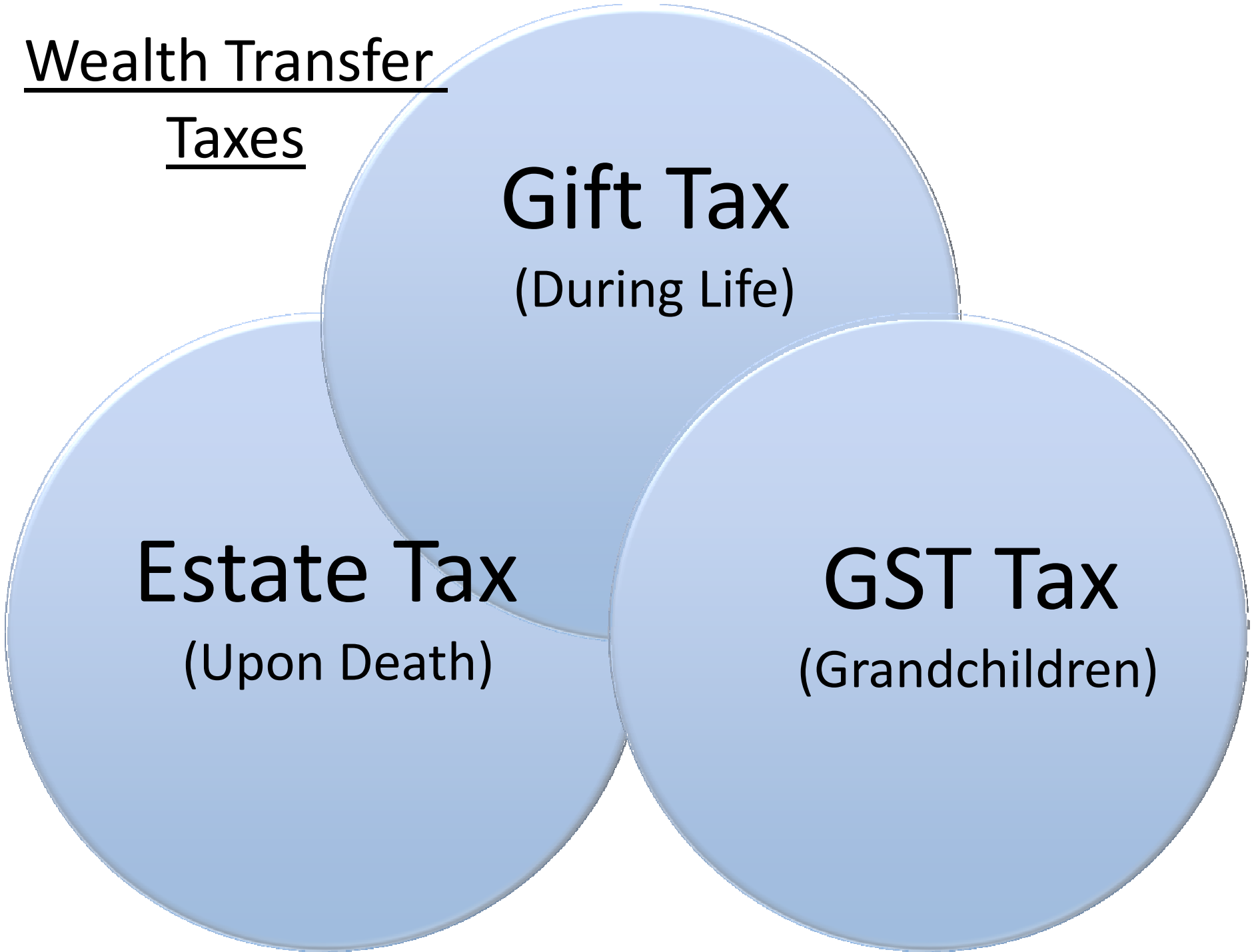
Achieve Financial/Personal Goals

Wealth Transfer
Taxes

Gift Tax
(During Life)

Estate Tax
(Upon Death)

GST Tax
(Grandchildren)



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Protection of Assets



Spouse

The diagram consists of four colored circles arranged in a diamond shape. 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'. The circles are set against a light blue background that has a darker blue shadow beneath them.

Children

Special
Needs

Creditors

Trusts Superior to Joint Tenancy



Double Step-Up in Basis



Fractional Discounting



Preservation of Exemption

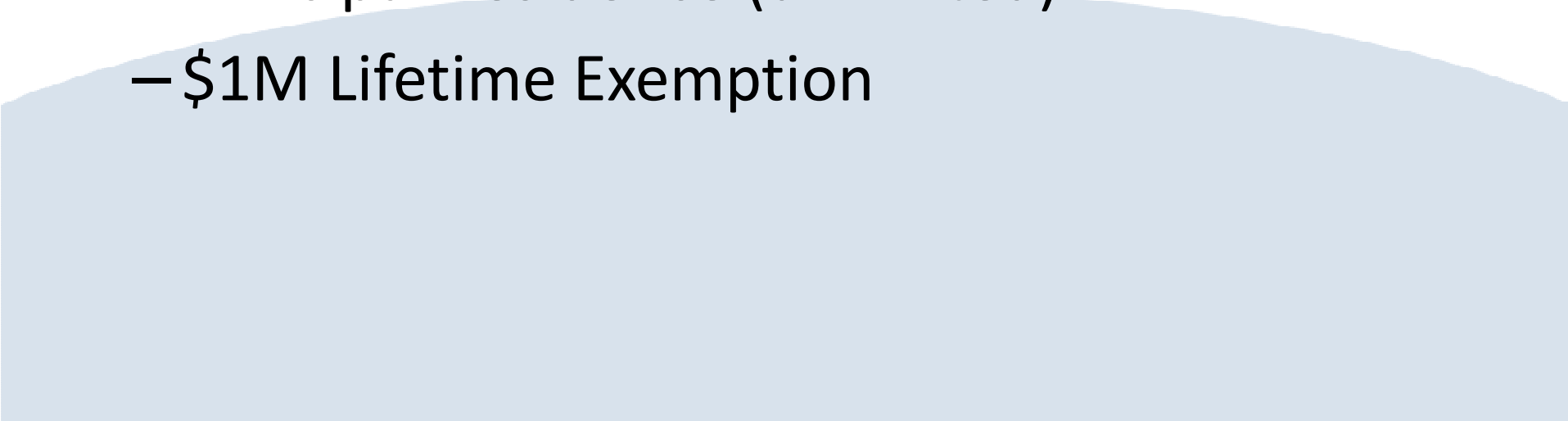


Creditor Protection



Control of Assets

Property Tax Issues

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

Business Succession Planning



Management/Ownership succession

- Handled via operating agreement and trust

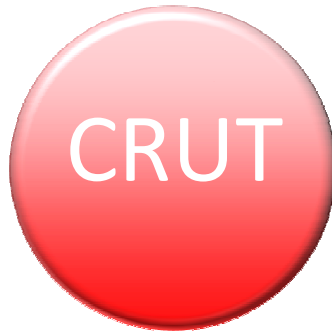
Charitable Giving

- 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



Sophisticated irrevocable trusts to
minimize estate/gift tax

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Examples

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

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**



Jerry Garcia



- Left a will (no trust)
- Named wife executor
- Problems:
 - Inundated with creditor's claims
 - 8 year probate
- Lesson:
 - Choose a good executor/trustee
 - Need trust to avoid probate

Next Steps

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

Estate Planning 101

Thank you for Listening

Rebecca Renzas, Esq.

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