

Estate Planning + Elder Law

BURROUGHS | ELIJAH
ATTORNEYS



"I don't have an estate."

- ✓ Property
- ✓ Investments
- ✓ Personal + Household Items
- ✓ Life Insurance + Retirement Accounts



Essential Estate Planning Goals

- >> Incapacity
- >> End of Life



ESSENTIAL ESTATE PLANNING DOCUMENTS

- ✓ Durable Power Of Attorney
- ✓ Health Care Directives
- ✓ Last Will and Testament

Estate Planning Tools

Will

DRAFT AROUND
STATUTORY
DEFAULTS

Special Needs Trust

PROTECTION OF
INDIVIDUALS
WITH SPECIAL NEEDS

Revocable Trust

PROBATE
AVOIDANCE

Irrevocable Trust

PROBATE AVOIDANCE
LONG TERM CARE
PLANNING

Last Will + Testament

THE CENTERPIECE OF MOST
TRADITIONAL ESTATE PLANS

What is a will?

A list of instructions that answers three general questions:

- ✓ Who are the beneficiaries?
- ✓ What are they going to get?
- ✓ Who is in charge after you're gone?
Executor (*Georgia*) / Personal Representative
(*South Carolina*)

The will is only effective upon death.

Probate Property + Non-Probate Property

PROBATE PROPERTY

- Real estate
- Stocks + bonds
- Single-owner bank accounts
- Household items and personal effects

vs.

NON-PROBATE PROPERTY

- Beneficiary designations
 - Life insurance policies
 - Retirement accounts
- Joint with right of survivorship
- Trust assets

Probate / Estate Administration



**Last Will +
Testament**



Probate Court

Probate Process

-
- STEP 1 Will is filed
 - STEP 2 Family notified
 - STEP 3 Executor or Personal Representative is appointed by judge
 - STEP 4 Inventory of estate assets
 - STEP 5 Pay debts + taxes
 - STEP 6 Distributions to beneficiaries

Probate Challenges



Family drama



Only controls certain
assets known as
probate property



Delays



Property in
multiple states



Business assets



Minor and/or
special needs
beneficiaries

Testamentary Trusts



Sarah's Estate

Home \$150,000

Life Insurance \$100,000

Probate Property

Will

Home \$150,000

Held for Minor Children's Benefit

Home \$150,000

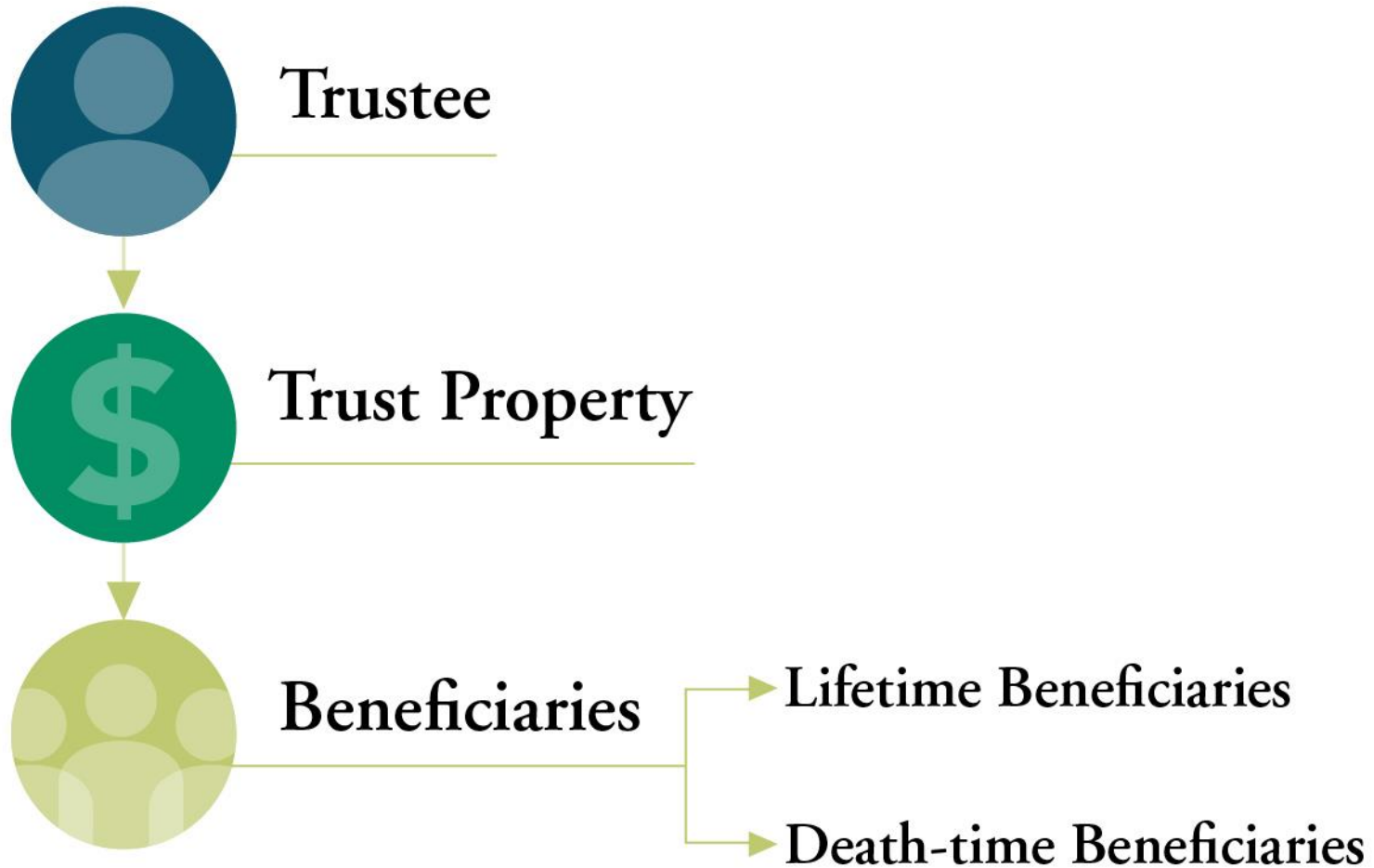
Non-Probate Property

Outright to Children

Life Insurance



Revocable Trust



Why Consider a Revocable Trust

- ✓ **Probate Avoidance**
- ✓ **Privacy**
- ✓ **Cost**
- ✓ **Family Dynamics**

Family Dynamics

- Addiction
- Troubled marriages
- Minor beneficiaries
- Money management issues
- Special needs beneficiaries
- Blended families

**Last Will +
Testament**



**Revocable
Trust**

	Last Will + Testament	Revocable Trust
<i>During Life</i>	Not effective until death	Established during life
	No lifetime provisions	Lifetime provisions for all trust property
<i>After Death</i>	Disposes of probate property	Disposes of trust property
	Probate Court	Probate can be avoided

Special Needs Trust

- ✓ Preserve means tested benefits
- ✓ Control of assets to supplement SSI and Medicaid



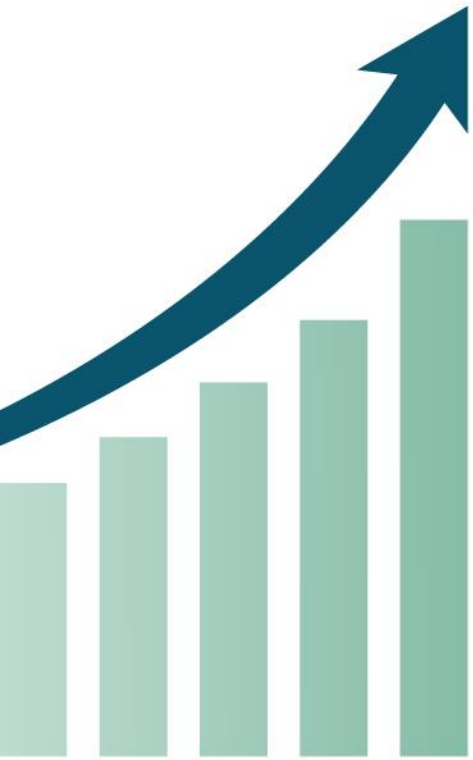
Long Term Care Planning

70%

of people who reach age 65 will
require some level of care services
at some point in their lives

*1. U.S. Department of Health and Human Services, National Clearinghouse
for Long-Term Care Information, www.longtermcare.gov, September 2008*

Cost of Long Term Care



- ✓ In-Home Care
- ✓ Assisted Living
- ✓ Memory Care
- ✓ Skilled Nursing Facility

Long Term Care Benefits

**VA Aid +
Attendance**

Medicaid

BENEFIT CRITERIA

Wartime Service	Income
Health	Net Worth
Income	Health
Net Worth	

VA Aid + Attendance

WARTIME SERVICE

- 90 days active duty
- At least 1 day during a specific "wartime period"



- No dishonorable discharge

VA Aid + Attendance

HEALTH

The veteran or surviving spouse must meet one of these 3 criteria.



VA Aid + Attendance

INCOME

Spending income on qualifying expenses:

- ✓ Assisted Living
- ✓ In-Home Care
- ✓ Skilled Nursing Facility
- ✓ Other Recurring Un-reimbursed Medical Expenses

Net Worth Limit

\$127,061

- ✓ Three Year Look Back Period
- ✓ Assets of both spouses are included
- ✓ Anything that can be converted to cash is a countable resource
- ✓ Exclusions: Home, personal property, term life insurance (no cash value), Burial plot(s)

Medicaid

THE BASICS



Who Qualifies for Medicaid?

Income Cap

- Qualified Income Trust Account
- Spousal Diversion

Net Worth Cap

Who Qualifies for Medicaid?

MARRIED COUPLE

\$128,420
Georgia

\$68,000
South Carolina

OR

SINGLE
\$2,000

Medicaid Spend Down

Liquid Assets

\$350,000 for example

SINGLE

\$2,000

MARRIED

\$128,420

Georgia

\$68,000

South Carolina

Exempt

Residence

Vehicle

Irrevocable

Burial Policy

Term Life

Qualified Retirement

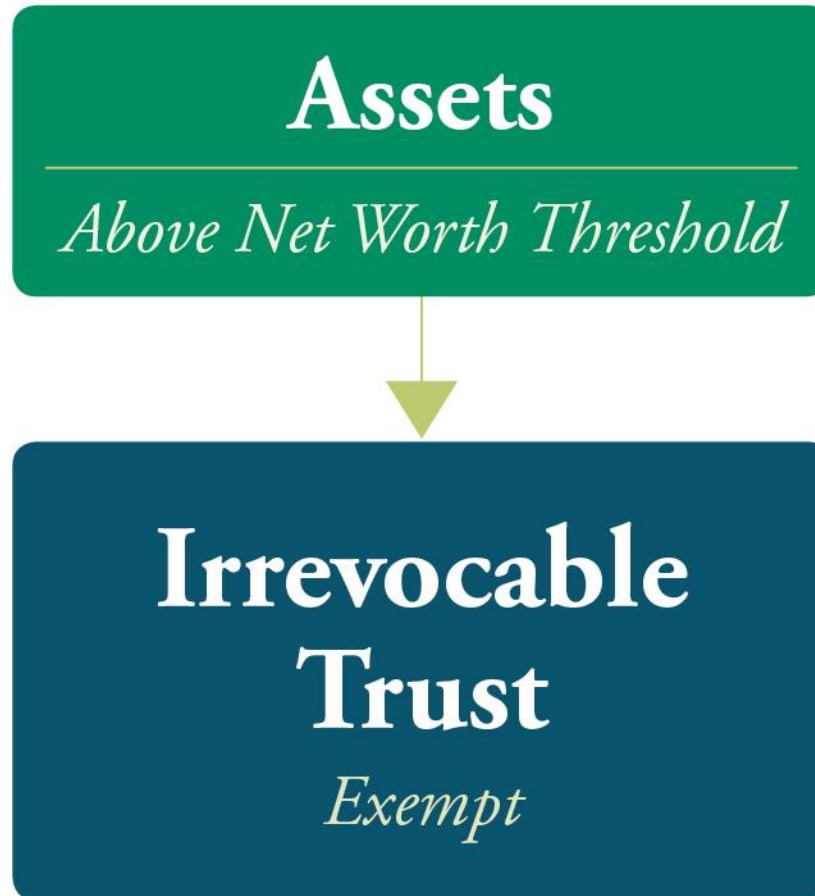
*Accounts**

Estate Recovery

Asset Transfers

- [X] **Five-year look-back period**
- [X] **Client loses control**
- [X] **Exposure to children's creditors, divorces, lawsuits**
- [X] **Capital Gains**

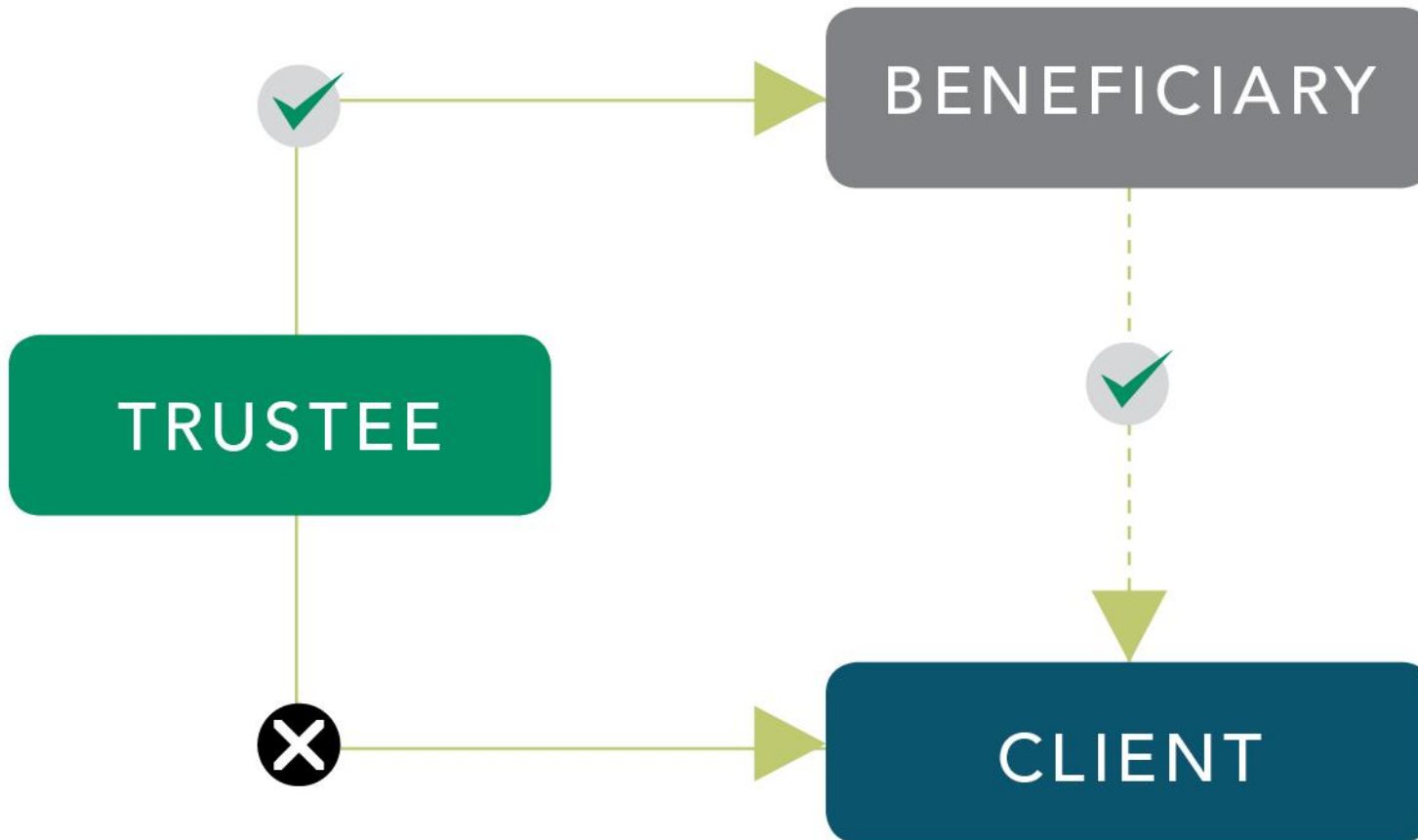
Irrevocable Trust



Irrevocable Trust

- ✔ **Retains Control**
- ✔ **Avoids Probate**
- ✔ **Shelters Assets**
- ✔ **Preserves Basis Step Up**
- ✔ **Trust Assets Remain Available**

Irrevocable Trust Distributions



Estate Planning Tools

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Make An Appointment Today

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