

# Why Everyone Needs Estate Planning

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# Applicable Death Taxes & Probate Law

- Federal Estate Tax Exemption
  - \$3,500,000 in 2009
  - \$5,000,000 in 2010, Subject to Opt Out Election
  - \$5,000,000 in 2011
  - \$5,120,000 in 2012 (Maximum Estate Tax Rate – 35%)
  - \$1,000,000 in 2013 (Maximum Estate Tax Rate – 55%)
- No Nebraska Estate Tax
- Nebraska County Inheritance Tax
  - 0% Spouse and Charities
  - 1% FMV of Property (*over \$40,000*) to Grandparents, Parents, Siblings, Children, Grandchildren and More Remote Lineal Descendants
  - 13% FMV of Property (*over \$15,000*) to Uncles, Aunts, Nieces and Nephews
  - 18% FMV of Property (*over \$10,000*) to More Remote Relatives and Others
- Probate if Decedent Dies with \$50,000 in Individual Name or \$30,000 in Real Estate in Individual Name

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# Estate Plan Documents

- Will
- Joint Revocable Trust or Separate Revocable Trusts
- Health Care Directive/Power of Attorney  
(a/k/a *Living Will*)
- Financial Power of Attorney
- Gift Power of Attorney (*optional*)
- List to Dispose of Certain Tangible Personal Property
- Assignment of Tangible Personal Property
- Asset Transfer Instructions
- Real Estate Transfer Documents
- Estate Flowchart Illustration

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# Will

- Designates Personal Representative (*Corporate or Individual*)
- Appoints Guardians for Minor Children
- Passes any Probate Assets to Your Revocable Trust (*i.e., “pour-over” Will*)
- Revocable and Amendable (*unless you become incapacitated*)

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# Joint Revocable Trust or Separate Revocable Trusts

- Designates Trustee (*Corporate or Individual*)
  - Successor Trustee Manages Assets Upon Incapacity or Death
- Disposes of Property After Death to Descendants, Family Members, Charities or Other Persons
  - Property Need Not Pass Outright to Beneficiaries
  - Property May be Held in Trust with Distributions at Various Ages or Dates/Especially When Held for Minor Children or Grandchildren
  - Property May be Held in Trust for Life for Beneficiaries with Issues and Concerns
  - Ability to Provide Different Terms for Different Beneficiaries
  - Certain Property (*e.g., Business Assets*) May Pass to Certain Beneficiaries
- Potential to Avoid Probate if the Appropriate Assets are Properly Titled in Trust and Proper Beneficiaries are Designated
- Potential to Avoid Court Appointed Conservatorship in Case of Incapacity

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# Joint or Separate Revocable Trust

## *During Your Life:*

- No Trust Income Tax Returns During Settlor's Lifetime
- Settlor is Considered Owner of Trust Assets for Income Tax Purposes (*same control, powers and rights*)
- Trust Uses Settlor's Social Security Number as Federal ID#
- Revocable and Amendable (*unless you are incapacitated*)

## *Upon Your Death:*

- Irrevocable
- Trust Becomes a Separate Taxpayer and Must File Separate Income Tax Returns Until Termination
- Trust Obtains Separate Federal ID#

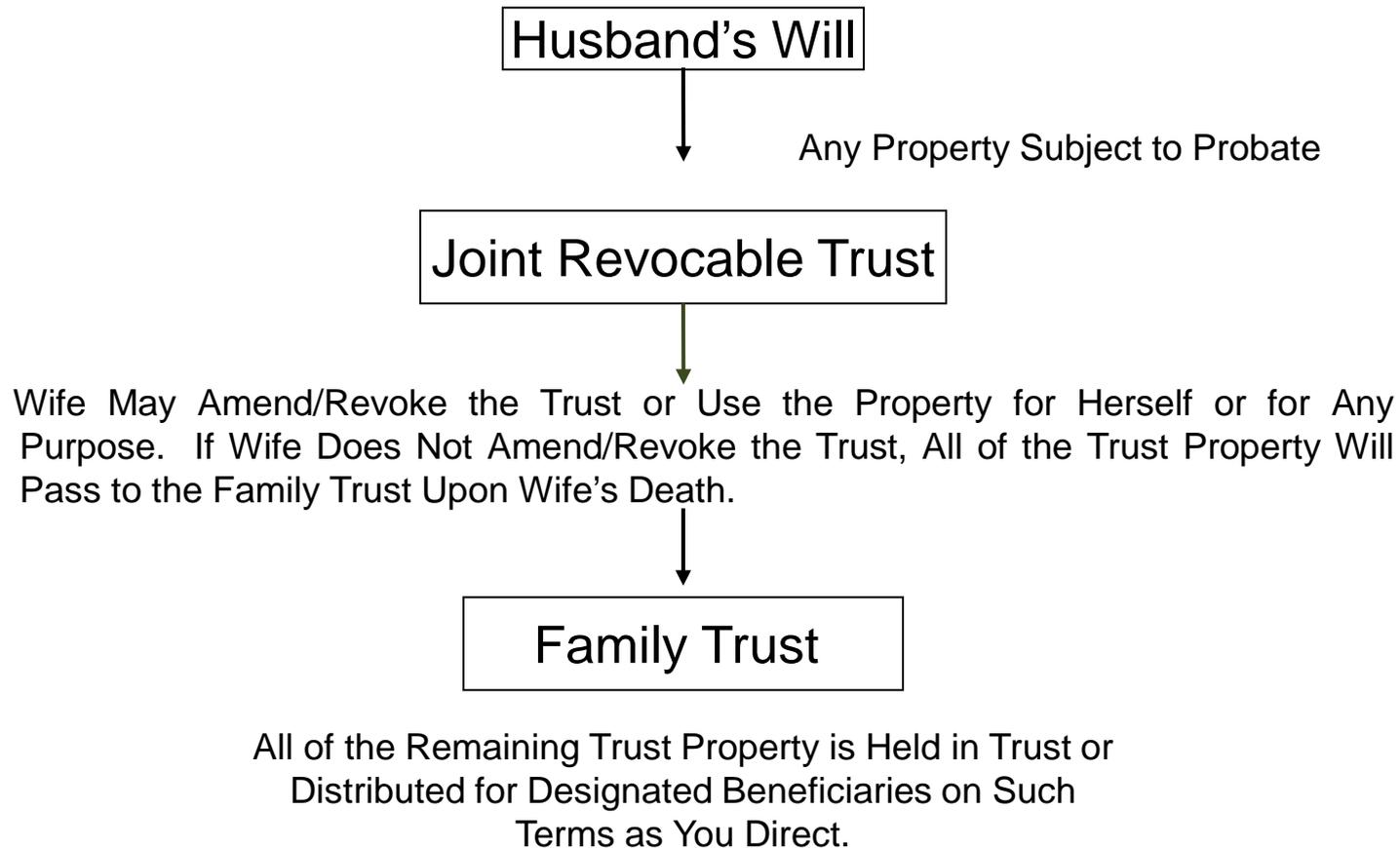
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# Estate Flowchart Illustration

- Illustrates the Flow of Your Assets in Accordance with the Terms of Your Unique Estate Plan

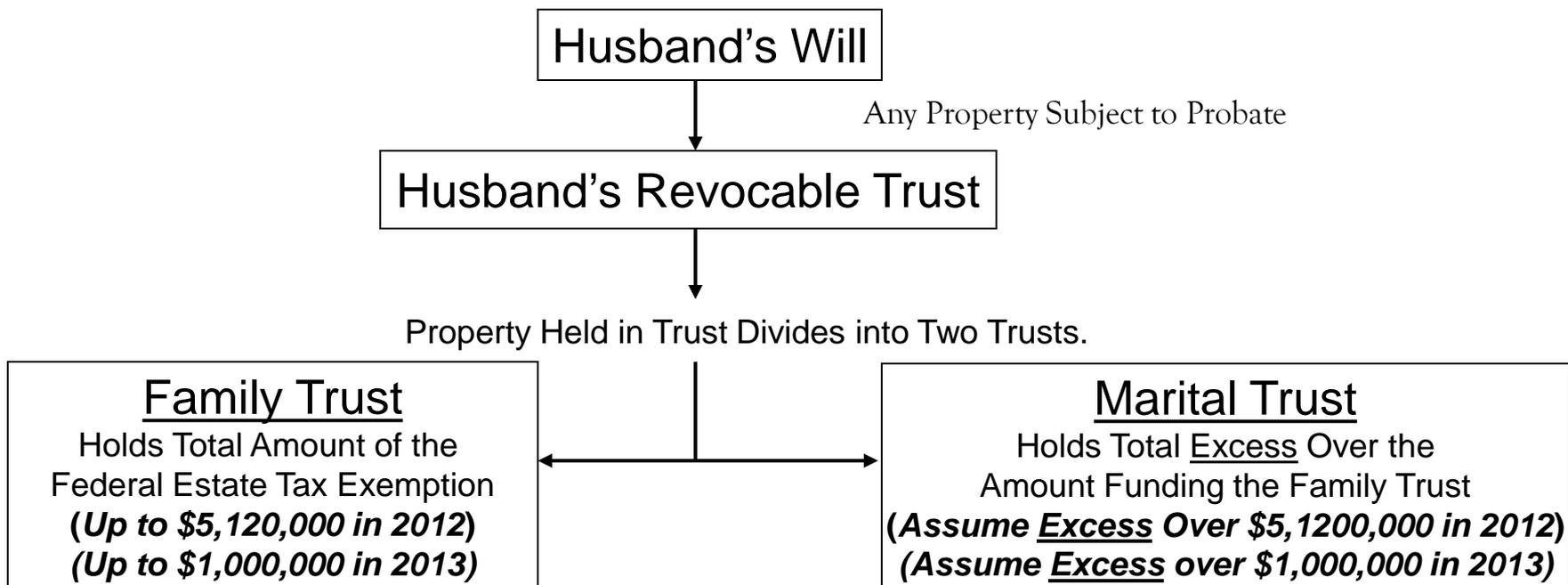
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# Flowchart - Joint Revocable Trust



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# Flowchart - Separate Revocable Trusts



1. During Wife's Life: Income and Principal of Trust for Wife and Children for their Health, Education, Support and Maintenance.
2. After Wife's Death: Property is Held in Trust or Distributed for Designated Beneficiaries at Such Times and on Such Terms as You Direct.

1. During Wife's Life: All Income to Wife. Principal to Wife for Health, Education, Support and Maintenance.
2. Upon Wife's Death: All of the Remaining Property Passes to the Family Trust.

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# Health Care Directive/Power of Attorney

- Designates Agent
- You Direct What Medical Treatment You Want (or Do Not Want) in Case of Terminal Illness, Irreversible Coma or Persistent Vegetative State
- Agent Makes Health Care Decisions Upon Your Incapacity
- Agent Makes Life/Death Decisions Upon Certain Physician Determinations (*irreversible coma/terminal illness*)
- Helps Minimize Court Involvement in Your Health Care Decisions & Legal Costs
- May Indicate Intention for Organ Donation
- Revocable and Amendable (*unless you are incapacitated*)

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# Financial Power of Attorney

- Designates Agent (*Corporate or Individual*)
- Agent May Act for You Regarding All Financial Matters
  - Pay Bills and Expenses, File Claims, Collect Amounts Due, Transfer Your Property to Your Trust For Probate Avoidance, etc.
- Works Hand-in-Hand with Your Funded Revocable Trust to help Minimize Court Involvement Upon Your Incapacity & Legal Costs
- Revocable and Amendable (*unless you are incapacitated*)

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# Gift Power of Attorney

- Designates Agent (*Corporate or Individual*)
- Agent May Start or Continue a Gift Program for You Upon Your Incapacity for the Benefit of Designated Beneficiaries (*typically spouse, children and grandchildren*)
- Allows Agent to Help Reduce Your Estate Below the Federal Exemption Amount Through Gifts
- Revocable and Amendable (*unless you are incapacitated*)

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# List to Dispose of Certain Tangible Personal Property

- Distributes Jewelry, Furniture, Collections, Household Goods, Art (*and similar personal items*) to Specific Family Members or Other Persons
- Revocable and Amendable (*unless you become incapacitated*)

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# Assignment of Tangible Personal Property

- Transfers Personal Property to Your Revocable Trust to Avoid Probate
- Revocable and Amendable (*unless you are incapacitated*)

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# Asset Transfer Instructions

- Instructions for Proper Titling of Your Assets
- Instructions for Beneficiary Designations of Certain Assets (*such as life insurance, IRAs, 401(k) Plans*)
- If Followed, Helps Avoid:
  - Wasting Federal Estate Tax Exemption
  - Unequal Distributions to Beneficiaries (*unless intended*)
  - Probate

*We Can Assist You With This Process*

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# Real Estate Transfer Documents

- Transfers Nebraska Real Estate to Revocable Trust for Probate Avoidance
- Your Mortgage/Debt is Not Transferred
- Transfers Real Estate Outside of Nebraska to Revocable Trust to Avoid Costly Ancillary Probates

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# Examples of Additional Specialized Estate Planning Documents

- Special Needs Trust
- Irrevocable Life Insurance Trust (“*ILIT*”)
- Charitable Lead or Remainder Trust (“*CLAT*” or “*CRUT*”)
- Limited Liability Company (“*LLC*”) for Rental and Investment Real Estate and Other Investments
- Pre-Nuptial/Post-Nuptial Agreements
- Buy-Sell Agreements for Business

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# Steps to Implement Your Estate Plan

- Call Jeff or his assistant, Kate Johnson, for an Appointment (402-341-3070)
- Complete Fact-Finder (*in booklet*)
- Decide on Trustees/Agents/Executors and Disposition Terms
- Meet with Jeff at His Office or Other Location
- Draft Estate Plan Documents Will Be Sent
- Review Drafts of Estate Plan Documents
- Discuss/Revise Documents (*if necessary*)
- Sign Final Documents
- Re-Title Assets and Designate Beneficiaries

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# Review of Your Estate Plan

Your Plan Should be Reviewed Periodically, Especially When Any of the Following Events Occur:

- Changes in Intentions
- Marriage or Divorce
- New Children or Grandchildren
- Issues With Certain Beneficiaries
- Death of Beneficiary
- Any Other Major Events

Bottom Line: *Estate Planning is a Continuous Process and Everyone Needs to Do It.*

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# **It is Not Complicated**

If You Provide Us With Input on Your Intentions and Your Assets, Then We Will  
Do the Rest for You

***Estate Planning is Our Specialty***

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# Questions

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# Thank You

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