Structured Gifting to Children & Grandchildren

Presented by:

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Issues to Consider for Children

1. Intestate Distribution to Children
2. Direct Transfers to Children
   a. Custodian Accounts
   b. Children’s names on title
3. Guardian of Person vs. Guardian of Estate
4. Trusts for Children
5. Irrevocable Trusts for Education or Gifting Purposes
6. Life Insurance Policies Benefiting Children
7. Annual Gifting to Children
8. 529 Plans (will not be covered, seek advice of financial advisors)

Direct Transfers to Children

- **Custodian Accounts**
  - Set up and managed by an adult for the benefit of a minor.
  - Assets placed in the account are considered an irrevocable gift and become the property of the child.
  - Washington law—accounts turned over to the children at age 18
    - unless testamentary gift, then at age 21
    - or at the time of nomination of custodian, extended to age 25

Children Holding Title

- Guardian of child generally is the guardian of the estate of the child unless a court appoints otherwise.
- Children get full control at age 21 if the assets are from inheritance
- Irrevocable
- Gift Tax applicable at time of gift

What happens if the parent(s) or grandparents do not have an estate plan?

Intestate succession (default state law): WA law

- Community property to spouse
- Separate property: half to spouse, half to children
- If spouse does not survive, all to children.
- If no spouse or children, to parents. If parents deceased, to siblings.
- Children go to a court-appointed guardian without input from deceased parents.

Guardian of Person vs. Guardian of Estate

- Guardian of the Person
  - Cares for the child in person on a daily basis
- Guardian of the Estate
  - Manages the assets belonging to the child
- The will may specify the same person or a difference person to act as guardian of the person and of the estate.

Trusts for Children

- The Trustor(s) must place assets (i.e. house, stock accounts, bank accounts, etc.) in the name Trust either while living (for living trusts) or through the use of a will (testamentary trusts).
- The Trustor(s) name a specific person to manage the trust assets and dictates when assets are distributed.
- Trusts for children may be made revocable, irrevocable, or testamentary (part of a will or living trust to be made effective upon death of parent or another adult).

Elements of a Trust for Children

- Name Trustee and Alternate Trustee
- Specify distribution
  - While in school or before a set age
  - Distribution at designated ages
    - (e.g. 10% of trust assets @ age 25; 25% @ 30)
    - Final distribution and termination of trust
  - Final distribution at designated age
  - Special conditions for distribution; discretion for trustee not to distribute.

Testamentary Trusts for Children

- A separate section inside a will or a living trust (owned by the creators of the trust—e.g. parents, grandparents etc.)
- May be changed anytime during the life of the creator of the will or trust

Irrevocable Trusts for Children

- Separate trust created and funded during the life of the creator of the trust
- Trust assets may only be used for the children
- Income may be taxed separately or to parents while children are minors
- If the children file separate returns, then distributions made to children are taxed to them at their bracket.

Life Insurance Planning

- Provide more liquid assets;
- Generally recommended for young couples without much savings who have young kids to provide for
  - (usually low premiums of high death benefit);
- Give heirs more options for division

Life Insurance Planning

- Favorable Protection Under State Law

  RCW 48.18.410
  - Beneficiaries are entitled to the proceeds against the creditors and representatives of the insured
  - Proceeds shall also be exempt from all liability for any debt of such beneficiary, existing at the time the proceeds or avails are made available for his own use.

Life Insurance Planning

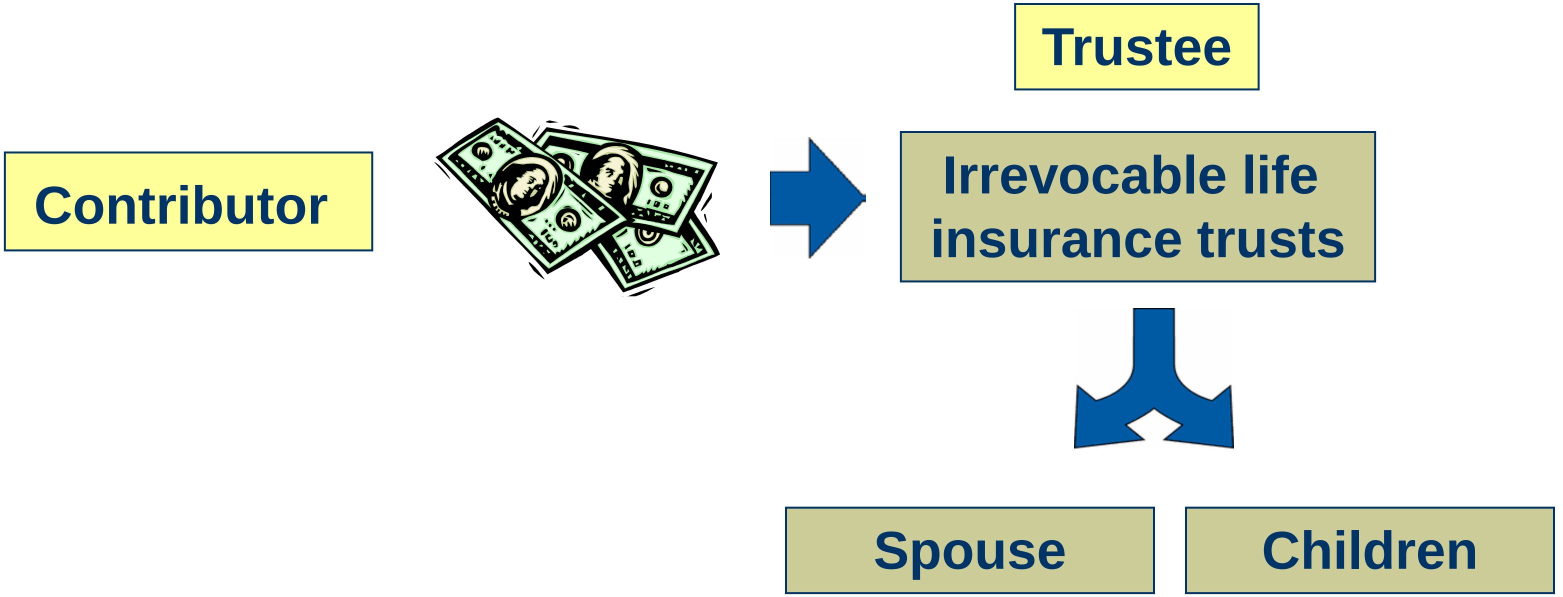
- Disadvantages of purchasing life insurance
  - Additional financial burden of paying annual premiums for the life insurance policy
  - If the life insurance policy is owned by the decedent, the proceeds will increase the likelihood that a small to medium-sized estate will be taxable

Life Insurance Policies and Children

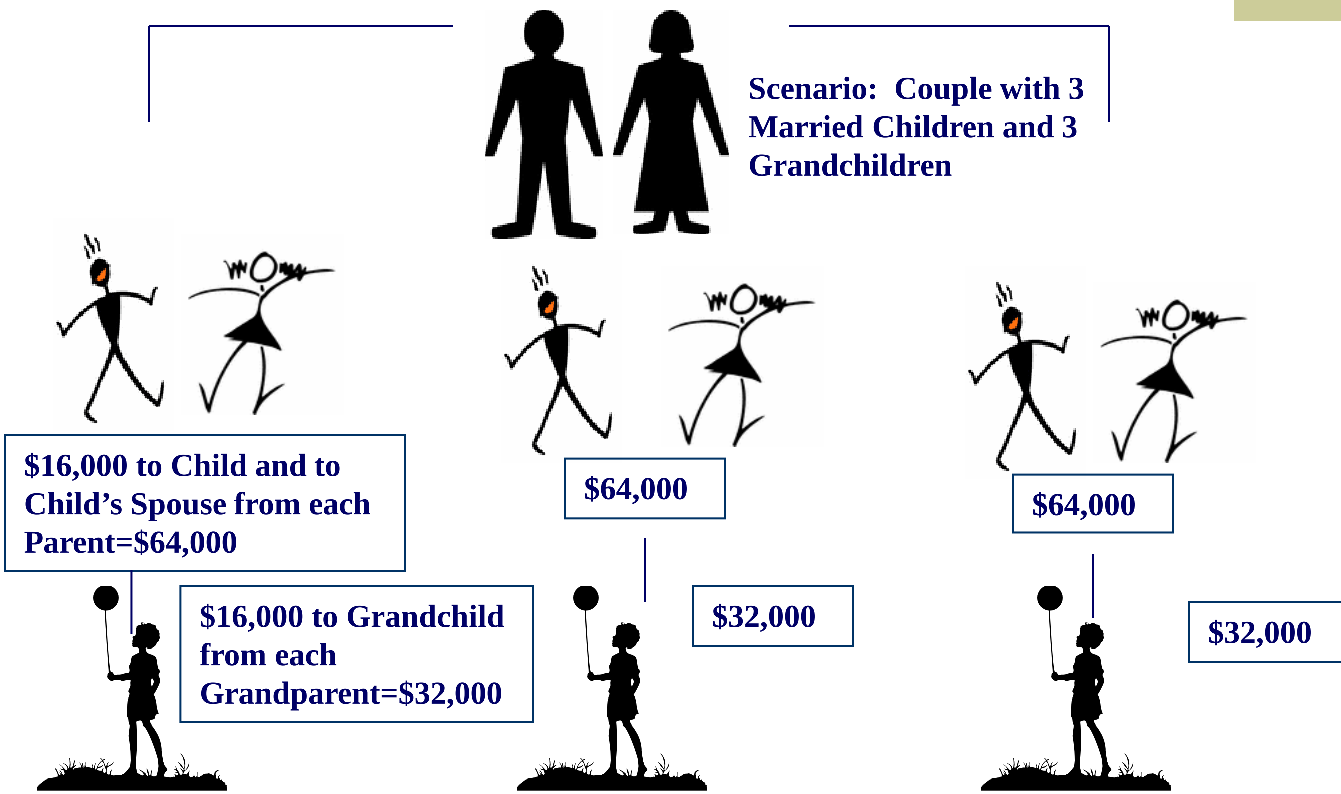
- Typical Beneficiary Designation (without planning):
  - “To my spouse, or if he or she is not alive, to my kids in equal shares.”
  - If spouse passes away, life insurance policy is distributed equally amongst kids.
  - No trust or management tool.
  - Not appropriate for parents with minor children.
  - Consider putting life insurance in irrevocable trust for tax and management purposes if estate is already taxable.

Life Insurance Planning

- Irrevocable Life Insurance Trusts



Annual Exclusion Gifts



$288,000 per year with no gift tax reporting or gift taxes

Running the numbers:

- $288,000 X 10 Years=$2,880,000 of tax free assets to children/grandchildren PLUS the growth of the assets
- Note: The federal exemption of $12.06M* and WA $2.193M* are still available at death IN ADDITION to these annual gifts.

*Tax year 2022. Is currently set to be adjusted on 1/1/2026.

Disadvantages of Gifting

- Loss of control
- Subject to divorce
- Change of children's lifestyle and possibly goals, careers
- No assurance of equal division upon death

Structured Gifting

- Utilize gifting strategy and children’s trust to leverage federal/state estate tax exemptions
- Minimize assets subject to tax at death
  - Gain on assets already shifted to children/grandchildren
  - Protect gifts from divorce/creditors claims
  - Protect principal from children’s spending/extravagant lifestyles

Disclaimer

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This presentation represents the point of view of Chang Law Group PC.