

APPENDICES

APPENDIX A

Anatomical Gift By A Living Donor

I am at least 18 years of age and make this anatomical gift to take effect upon my death. The marks in the appropriate squares and words filled into the blanks below indicate my desires.

1. I give: _____ my body; _____ any needed organs or parts; _____ the following organs or parts, _____
_____;

2. To the following person, agency, or institution: _____ any person, tissue bank, or institution authorized by law; _____ the Anatomy Board of Maryland; _____ the following named physician, hospital, tissue bank or other medical institution _____
_____;

3. For the following purposes: _____ any purpose authorized by law; _____ transplantation; _____ therapy; _____ medical research and education.

Dated: _____ City and State _____

Signed by the Donor in the presence of the following who sign as witnesses:

Witness

Signature of Donor

Witness

Address of Donor

Name of Deceased _____ Date of Death _____
 Address _____ City _____ State _____

ITEMIZED FUNERAL SERVICE SELECTIONS

1.	Professional Services		
	a. Professional and Staff services	\$ <u>1225.00</u>	
	b. Preparation & Care of remains	\$ <u>605.00</u>	
			\$ <u>1830.00</u>
2.	Merchandise Selected		
	a. Casket	\$ <u>2395.00</u>	
	b. Vault or Outer Enclosure	\$ <u>750.00</u>	
	c. Clothing	\$ <u>21.00</u>	
			\$ <u>3166.00</u>
3.	Use of Facilities		
	a. Use of funeral home for visitation and/or funeral service	\$ <u>610.00</u>	
	b. Auxiliary facilities including Selection Room, Preparation Room, Register Book, Acknowledgment Folder, etc.	\$ <u>40.00</u>	
			\$ <u>650.00</u>
4.	Motor Equipment		
	a. Removal of remains to Funeral Home	\$ <u>225.00</u>	
	b. Hearse	\$ <u>220.00</u>	
	c. Limousine	\$ _____	
	d. Flower Car	\$ _____	
	e. Transportation	\$ _____	
			\$ <u>445.00</u>
5.	Items ordered later:		
	a. Newspaper notices	\$ <u>85.00</u>	
	b. Flowers	\$ _____	
	c. _____	\$ _____	
	d. _____	\$ _____	
	e. _____	\$ _____	

Both parties agree any items ordered later shall become a part of this agreement and shall be inserted therein. \$ 85.00

TOTAL \$ 6176.00

PLEASE NOTE: The only warranties express or implied, granted in connection with the goods sold with this funeral service, are the express written warranties, if any, extended by the manufacturers thereof. No other warranties and no warranties of merchantability or fitness for a particular purpose are extended by the funeral director.

In consideration of the fulfillment of the foregoing funeral arrangements, I/We hereby acknowledge receipt of a copy of same and agree to pay the Funeral Home on or before 60 days from the date of service, the amount of \$ _____, according to the above amount. If not paid within 60 days of service, I/We agree to pay interest at the rate of one per cent per month on the unpaid balance until paid in full. The liability which I/We hereby assume is undertaken without regard to any liability imposed by law on the estate of the deceased and others.

WITNESS: _____ SIGNED: _____
 _____ ADDRESS _____

HOME BUDGET RECORD

Column A

Month of _____, 20____

GROSS INCOME						
Week	1	2	3	4	5	Total
Salary						
Wages						
Commission						
Other						
Other						
Total Income						

WITHHOLDINGS						
Week	1	2	3	4	5	Total
Fed Inc Tax						
FICA						
Medicare						
State Inc Tax						
Unemp. Tax						
Health Ins.						
Life Ins.						
Contributions						
Other						
Other						
Total Withholdings						

MONTHLY FINANCIAL PICTURE	
Total Gross Income	
Less Withholdings	
Net Spendable Income	

Net Spendable Income	
Planned Budget	
Actual Expenditures	
Over/Under Spendable	

▲ TOTAL SPENT
▲ PLANNED MONTHLY BUDGET

1	2	3	4	5	6	7	8	9	10	11	12
HOME MAINTENANCE			WARDROBE			TRANSPORTATION			PERSONAL		
FOOD	Supplies	Maint.	Misc.	Clothing	Laundry - Cleaning	Gas / Oil	Car Maint	Fare/Tolls/ Parking	Beauty Barber	Drugs Sundries	Family Allowances
1											
2											
3											
4											
5											
6											
7											
8											
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APPENDIX D

Identify the sources of anticipated monthly income payable to your survivors upon your death (it usually takes at least 60 days for these monthly entitlements to begin).

Husband's Death

<u>Source</u>	<u>Estimated Monthly Payment</u>
_____ Social Security	\$ _____ (see Appendix G)
_____ Veteran's Benefit	\$ _____ (see Appendix X)
_____ Civil Service	\$ _____ (see Appendix X)
_____ Retirement Plan	\$ _____
_____ Employer: _____	\$ _____
_____ Employer: _____	\$ _____
_____ Survivor Annuity	\$ _____
_____ Ins. Co.: _____	\$ _____
_____ Ins. Co.: _____	\$ _____
_____ Life Insurance*	\$ _____
_____ Company: _____	\$ _____
_____ Company: _____	\$ _____
_____ Retirement Accounts	\$ _____
_____ IRA:	\$ _____
_____ 401(k): _____	\$ _____
_____ Other: _____	\$ _____
_____ Other	\$ _____ (see Appendix F)

Wife's Death

<u>Source</u>	<u>Estimated Monthly Payment</u>
_____ Social Security	\$ _____ (see Appendix G)
_____ Veteran's Benefit	\$ _____ (see Appendix X)
_____ Civil Service	\$ _____ (see Appendix X)
_____ Retirement Plan	\$ _____
_____ Employer: _____	\$ _____
_____ Employer: _____	\$ _____
_____ Survivor Annuity	\$ _____
_____ Ins. Co.: _____	\$ _____
_____ Ins. Co.: _____	\$ _____
_____ Life Insurance*	\$ _____
_____ Company: _____	\$ _____
_____ Company: _____	\$ _____
_____ Retirement Accounts	\$ _____
_____ IRA:	\$ _____
_____ 401(k): _____	\$ _____
_____ Other: _____	\$ _____
_____ Other	\$ _____ (see Appendix F)

*If life insurance is to be paid in a lump sum, do not list it here. Only list life insurance which is to be paid out in monthly installments.

Identify the sources of anticipated lump sum death benefits.

Husband's Death

<u>Source</u>	<u>Estimated Amount</u> (assume ordinary death)
_____ Employer	
_____ Group life insurance	\$ _____
_____ Individual life insurance	\$ _____
_____ Pension plan benefits	\$ _____
_____ Other death benefits	\$ _____
_____ Personal life insurance	
Insurer: _____	\$ _____
Policy No: _____	
Insurer: _____	\$ _____
Policy No: _____	
Insurer: _____	\$ _____
Policy No: _____	
_____ IRAs, 401(k)s, etc.	\$ _____
_____ Buy/Sell Agreements	
1) _____	\$ _____ (see Appendix F)
2) _____	\$ _____
_____ Other	\$ _____ (see Appendix F)
TOTAL	\$ _____

Wife's Death

<u>Source</u>	<u>Estimated Amount</u> (assume ordinary death)
_____ Employer	
_____ Group life insurance	\$ _____
_____ Individual life insurance	\$ _____
_____ Pension plan benefits	\$ _____
_____ Other death benefits	\$ _____
_____ Personal life insurance	
Insurer: _____	\$ _____
Policy No: _____	
Insurer: _____	\$ _____
Policy No: _____	
Insurer: _____	\$ _____
Policy No: _____	
_____ IRAs, 401(k)s, etc.	\$ _____
_____ Buy/Sell Agreements	
1) _____	\$ _____ (see Appendix F)
2) _____	\$ _____
_____ Other	\$ _____ (see Appendix F)
TOTAL	\$ _____

HUSBAND'S DEATH
 Identify liabilities which are to be liquidated or paid off immediately (as soon as possible) following death.

CREDITOR	Amount of Liability	ASSET* TO BE LIQUIDATED OR SOURCE OF MONIES** TO BE USED TO PAY OFF LIABILITY					Applicable Buy/Sell Agreements, Special Instructions or Market or Other Peculiarities Related to Sale	Is Completing This Sale Within 3 Months of Death Realistic
		Source/ Asset	Present Fair Market Value of Asset or Face Value of Insurance.	Cost of sale or liquidation	Projected income taxes liability from sale	Net Sale Proceeds		
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____

WIFE'S DEATH

*Be sure to consider whether the family residence should be sold.
 **Example: Life Insurance; Creditor Insurance; Buy/Sell Agreements.

SOCIAL SECURITY BENEFITS FOR SURVIVORS¹

How You Earn Survivors Benefits

When you die, certain members of your family may be eligible for survivors benefits **if** you worked, paid Social Security taxes, and earned enough “credits.” You can earn a maximum of four credits each year. The number of credits you need depends on your age when you die. The younger a person is, the fewer credits are needed to be eligible for survivors benefits but nobody needs more than 40 credits (10 years of work) to be eligible for any Social Security benefits.

Under a special rule, benefits can be paid to your children and your spouse who is caring for the children even though you don’t have the number of credits needed. They can get benefits if you have credit for one and one half years of work in the three years just before your death.

How Much Are Benefits?

How much your family can get from Social Security depends on your average lifetime earnings. That means the higher your earnings, the higher their benefits will be.

How Much Will You Get?

The amount of your benefit is based on the earnings of the person who died. The more he or she paid into Social Security, the higher your benefits will be.

The amount you will get is a percentage of the deceased’s basic Social Security benefit. The percentage depends on your age and the type of benefit you are eligible for. The typical benefit for children is 75%.

¹Social Security Administration, SSA Publication No. 05-10084, April 1995.

APPENDIX G

Earnings Record and Estimate of Benefits

To review your earnings record and get an estimate of benefits based on current and projected earnings, write:

Social Security Administration
Wilkes-Barre Data Operations Center
P.O. Box 7004
Wilkes-Barre, Pennsylvania 18767-7004

You may use the card shown on the opposite page (Form SSA-7004 SM (4/95)), available at your local social security office, or request the same information in a letter.

You will not get a detailed answer, but social security has an internal coding that will tell the computer to give a more detailed response. “QC” written on the card will give the number of quarters credited to your account and show if you have worked enough for benefits. If you are age 60 or older, “estimate” written on the card will tell the computer to estimate what benefits you might receive based on your earnings.

CAUTION: There is a statutory limit of 3 years, 3 months, and 15 days to correct your record of earnings. Therefore, persons should check earnings every 3 years. The government assumes no responsibility for accuracy.

Request for Earnings and Benefit Estimate Statement

Please check this box if you want to get your statement in Spanish instead of English.

Please print or type your answers. When you have completed the form, fold it and mail it to us. (If you prefer to send your request using the Internet, contact us at <http://www.ssa.gov>)

1. Name shown on your Social Security card:

First Name _____ Middle Initial _____
Last Name Only _____

2. Your Social Security number as shown on your card:

--

3. Your date of birth (Mo.-Day-Yr.)

--

4. Other Social Security numbers you have used:

--

--

5. Your sex: Male Female

For items 6 and 8 show only earnings covered by Social Security. Do NOT include wages from State, local or Federal Government employment that are NOT covered for Social Security or that are covered ONLY by Medicare.

6. Show your actual earnings (wages and/or net self-employment income) for last year and your estimated earnings for this year.

A. Last year's actual earnings: (Dollars Only)
\$, .

B. This year's estimated earnings: (Dollars Only)
\$, .

7. Show the age at which you plan to stop working.
 (Show only one age)

8. Below, show the average yearly amount (not your total future lifetime earnings) that you think you will earn between now and when you plan to stop working. Include performance or scheduled pay increases or bonuses, but not cost-of-living increases. If you expect to earn significantly more or less in the future due to promotions, job changes, part-time work, or an absence from the work force, enter the amount that most closely reflects your future average yearly earnings.

If you don't expect any significant changes, show the same amount you are earning now (the amount in 6B).

Future average yearly earnings: (Dollars Only)
\$, .

9. Do you want us to send the statement:
- To you? Enter your name and mailing address.
 - To someone else (your accountant, pension plan, etc.)? Enter your name with "c/o" and the name and address of that person or organization.

Name _____

Street Address (Include Apt. No., P.O. Box, or Rural Route) _____

City _____ State _____ Zip Code _____

Notice:

I am asking for information about my own Social Security record or the record of a person I am authorized to represent. I understand that if I deliberately request information under false pretenses, I may be guilty of a Federal crime and could be fined and/or imprisoned. I authorize you to use a contractor to send the statement of earnings and benefit estimates to the person named in item 9.



Please sign your name (Do Not Print)

Date _____ (Area Code) Daytime Telephone No. _____



About The Privacy Act

Social Security is allowed to collect the facts on this form under Section 205 of the Social Security Act. We need them to quickly identify your record and prepare the earnings statement you asked us for. Giving us these facts is voluntary. However, without them we may not be able to give you an earnings and benefit estimate statement. Neither the Social Security Administration nor its contractor will use the information for any other purpose.

Paperwork Reduction Act Notice and Time It Takes Statement

The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB control number. We estimate that it will take you about 5 minutes to complete this form. This includes the time it will take to read the instructions, gather the necessary facts and fill out the form.

Mailing Address

Social Security Administration
Wilkes Barre Data Operations Center
PO Box 7004
Wilkes Barre PA 18767-7004

Request for Earnings and Benefit Estimate Statement

Thank you for requesting this statement.

After you complete and return this form, we will--within 4 to 6 weeks--send you:

- a record of your earnings history and an estimate of how much you have paid in Social Security taxes, and
- estimates of benefits you (and your family) may be eligible for now and in the future.

We're pleased to furnish you with this information and we hope you'll find it useful in planning your financial future.

Social Security is more than just a program for retired people. It helps people of all ages in many ways. Whether you're young or old, male or female, single or with a family--Social Security can help you when you need it most. It can help support your family in the event of your death and pay you benefits if you become severely disabled.

If you have questions about Social Security or this form, please call our toll-free number, 1-800-772-1213.

Kenneth S. Apfel

Kenneth S. Apfel
Commissioner of Social Security



INSURANCE AND ESTATE PLANNING

In estate planning, insurance may serve several purposes. These include:

- Providing a source of funds for you in case of your need for assisted care, for example, nursing home or other assisted living costs;
- Replacing the economic worth or earning power of the deceased income earner or homemaker;
- Providing cash to pay estate expenses, death taxes, final medical and funeral expenses and debts;
- Preserving the estate from being “forced” to sell assets in order to meet estate settlement costs.

If life insurance is to be used in estate or financial planning, the following need to be considered:

- On whose life should policies be taken out and how long should they be kept in force;
- Who should own the policies; pay the premiums; be the beneficiary(ies);
- When should a person consider transferring ownership of a policy or changing a beneficiary;
- What type of supporting documents are needed in conjunction with estate planning and life insurance (e.g., Wills, trust instruments, etc.)?

Selecting a Beneficiary

There are several options in the choice of a beneficiary. They include:

- Spouse, child(ren), parent, etc.
- Executor/administrator of insured
- A trust
- Custodian of minor’s funds
- Charitable organization

It is usually better to choose beneficiaries other than the executor of your estate. Also, insurance proceeds may be divided and paid to more than one party.

Insuring a Wife

Since women tend to outlive husbands by several years, it is not uncommon to have only a small amount of life insurance on one’s wife. This is especially so when the wife is not the principal breadwinner or is a full-time homemaker. But is this a realistic plan?

Consider the economic value of homemaker services. Review Part B, Chapter Six. If both spouses are income earners, how will you manage with only one spouse’s income? Consider too the loss of income tax splitting benefits and the loss of the unlimited Federal estate and gift tax marital deduction. How do these affect you?

APPENDIX H - cont.
Basic Types of Life Insurance

There are various kinds of life insurance which may be used for different purposes. The types, key features and key uses follow:

<u>Types</u>	<u>Key Features</u>	<u>Key Uses</u>
Whole Life (sometimes called straight, ordinary or permanent life)	*Level premium *Level or increasing death protection. *Cash accumulation. *Owner determines the length of premium paying period.	*Offers protection with some savings (cash accumulation). *Family coverage and guaranteed future insurability.
Term	Pure death protection; low <u>initial</u> cost; no surrender value.	Need for protection is temporary.
Endowment	Level premium; accelerated cash surrender value.	Means of accumulating (“saving”) a desired amount of money in a fixed period of time and providing level protection in case death precedes fixed period of time (example: saving for retirement funding, education funding, prepayment of mortgage funding).
Survivor Whole Life	Insures two lives; can pay on first or second death; has cash surrender value,	With spouse or business co-owner to provide cash for payment of death taxes or business obligations.
Variable Life	Level premium; surrender value and death benefit tied to investments.	Accumulate cash tax-free; estate plans.
Universal Life	Flexible premium; level or increasing death benefit; has surrender value; has withdrawal benefit.	Permanent needs; tax-free growth of cash; estate plans.

Payment of Death Proceeds

Typically insurance companies will pay or begin paying life insurance benefits for personal policies (not group policies) within 30 days following receipt of a complete claim form and supporting documents. Your insurance agent will be able to help you with this.

This is not true generally of personal policies less than two years old or of employee or association group policies; since these policies may be contested by the insurance carrier, they typically take a longer period to investigate and process the claim.

Annotated Code of Maryland
Estates and Trusts Article

§5-104. APPOINTMENT OF PERSONAL REPRESENTATIVE

The following is the order of priority in Maryland for persons seeking appointment as Personal Representative/Executor

- 1) The executors named in a Will admitted to probate;
- 2) The surviving spouse and children of a decedent dying without a Will, or the surviving spouse of a decedent dying having a Will;
- 3) The residuary legatees;
- 4) The children of a testate decedent who are entitled to share in the estate;
- 5) The grandchildren of the decedent who are entitled to share in the estate;
- 6) The parents of the decedent who are entitled to share in the estate;
- 7) The brothers and sisters of the decedent who are entitled to share in the estate;
- 8) Other relations of the decedent who apply for administration;
- 9) The largest creditor of the decedent who applies for administration;
- 10) Any other person having an interest in the proper administration of the estate of a decedent who applies for administration;
- 11) Any other person.

Guardian of the Person

§13-701. TESTAMENTARY APPOINTMENT OF GUARDIAN OF A MINOR.

Unless prohibited by agreement or court order (example: a divorce decree), the surviving parent of a minor may appoint by will one or more guardians and successor guardians of the person of an unmarried minor. The guardian need not be approved by or qualify in any court.

§13-702. COURT APPOINTMENT OF GUARDIAN OF A MINOR.

If neither parent is serving as guardian of the person and a Will has not appointed a guardian of the person, any person interested in the welfare of an unmarried minor may petition the court to become guardian of the person. If the minor has attained his or her 14th birthday, and if the person otherwise is qualified, the court shall appoint a person designated by the minor, unless the decision is not in the best interests of the minor. There is no priority in Maryland as to who shall be appointed. The court's chief concern is to determine what is in the minor's best interest.

§13-703. BOND; ACCOUNTING; COMPENSATION.

The guardian of the person of a minor shall not be required to post any bond or to file any accounts. Unless otherwise provided by the will appointing a guardian of the person, he shall not be entitled to any compensation for serving as guardian of the person.

APPENDIX I - cont.

Guardian of Minor's Property

NOTE: These persons shall be appointed by the Court and may be required to be bonded at the discretion of the Court.

§ 13-207. PERSONS ENTITLED TO APPOINTMENT AS GUARDIAN.

(a) *Priorities.* — Persons are entitled to appointment as guardian for a minor or disabled person according to the following priorities:

(1) A conservator, committee, guardian of property, or other like fiduciary appointed by any appropriate court of any foreign jurisdiction in which the minor or disabled person resides;

(2) A person or corporation nominated by the minor or disabled person if the designation was signed by the minor or disabled person after his 16th birthday, and, in the opinion of the court, he had sufficient mental capacity to make an intelligent choice at the time he executed the designation;

(3) His spouse;

(4) His parents;

(5) A person or corporation nominated by the Will of a deceased parent;

(6) His children;

(7) The persons who would be his heirs if he were dead;

(8) A person or corporation nominated by a person who, or institution, organization, or public agency which, is caring for him;

(9) A person or corporation nominated by a governmental agency which is paying benefits to him;

(10) Any other person considered appropriate by the court.

(b) *Waiver and substitution.* — A person specified in a priority in subsection (a) (1), (3), (4), (6) or (7) may waive and nominate in writing a person or corporation to serve in his stead. A nominee of a person holding a priority has the same priority as the person making the nomination.

(c) *Selection by court.* — Among persons with equal priority, the court shall select the one best qualified of those willing to serve. For good cause the court may pass over a person with priority and appoint a person with less priority or no priority.

(d) *Nonresident not disqualified.* — Nonresidence does not disqualify any person from serving as guardian. Any nonresident who is appointed cannot qualify until he has on file with the register or clerk an irrevocable designation by him of an appropriate person who resides in the state on whom service or process may be made in the same manner and with the effect as if it were served personally in the state on the nonresident.

For Parents of Children with Special Needs¹

If you are the parent of a child with special needs you face unique considerations not confronted by others. During your lifetime you will be able to provide the needed care and support for a disabled child, but when you are no longer here there is a serious question as to how your child's needs will be met. Children with special needs often need support and guidance for the rest of their lives.

Steven K. Riemer, a prominent Boston attorney who has extensive experience in the field of estate planning for these children, feels strongly that this area of estate planning has been largely ignored. Attorney Riemer has agreed to share the following guidelines for parents of children with special needs to consider:

The primary objectives in planning the estate of parents with a disabled child are:

1. To create an environment in which the disabled child may reach his maximum potential and happiness.
2. The management of financial assets available for the child's benefit which is integrated with federal and state programs.
3. The selection of a guardian as well as others (trustees) who understand the child's needs and are willing to devote their time to seeing to his welfare.
4. The creation of a plan which is flexible enough to meet changes in the law as well as other circumstances.

In planning for the needs of their disabled child, parents are also concerned with how to provide for the needs of their normal children, and in this conflict parents are faced with the following agonizing questions:

1. Should all children be treated equally?
2. Should the disabled child be favored to the exclusion of the other children?
3. Should the disabled child be excluded completely from the parents' estate plans, and be allowed to become eligible for public assistance?

Most parents want to benefit their children equally. However, they feel that the needs of the disabled child are more important than the needs of their normal children and therefore they may favor large bequests or even bequests of their entire estate to their disabled child. What appears to be a simple solution raises other problems:

1. Handicapped individuals may be entitled to certain benefits under federal and state programs. Those benefits are based upon need and therefore bequests to disabled children may make them ineligible for these benefits.
2. Parents who wish to maintain their child in a private facility may have a moderate-sized estate whose funds could be easily exhausted. Then the child would become dependent on public assistance. So the normal children have not benefitted from their share of the estate and the benefit to the disabled child may be minimal.

Clearly, the estate planner's dilemma in representing parents with a handicapped child is to devise a plan whereby the parents can provide for the needs of their handicapped child without affecting bequests to their other children and without rendering the handicapped child ineligible for federal and state benefits which are based on need.

¹A Survivors Manual To:, by Charlotte Kirsch, copyright (c), 1981, reprinted by permission of Doubleday and Co., Inc.

What Type Trust Would Be Most Appropriate?

Clearly you must discuss all of the issues pertaining to your situation with an experienced attorney who is very familiar with the issues that arise when planning an estate which involves children with special needs. In most instances, it will be advisable to establish a “sprinkling” trust for the benefit of the disabled child and normal children. The trustee would be empowered to use as much of the trust property for the benefit of any of the children as it deemed appropriate in its sole discretion. Although the trust’s primary purpose would be to provide for the needs of the disabled child, distribution of income and principal could be used to benefit other children in the event of their financial need, arising from illness or other financial emergencies. It is the ability to “sprinkle” income and principal among all children which results in the trust being referred to as a “sprinkling” trust.

Distributions of trust property do not necessarily have to be limited to the severe financial need of the normal children, but could be more liberal depending upon the size of the estate, and provided distributions do not affect the primary purpose of the trust, namely, to provide for the security of the disabled child. Distributions might be made more liberally while normal children are minors and become more restrictive after they reach eighteen, twenty-one or some other specified age. The final decision of whether distributions should be made to the normal children would rest solely with the trustee, and language should be provided in which the trustee is held harmless for any distributions it makes in good faith. However, It should be clearly stated in the trust that the primary purpose and objective of the trust is the welfare of the disabled child, to ensure for his happiness, and to provide all services that will assist him in leading as much of a normal life which is possible, and no distributions should be made to non-disabled children that might deter from this purpose. This trust would normally terminate upon the death of the disabled child, with the remaining trust property being distributed equally among surviving brothers and sisters.

Avoiding Standard Trust Language

Standard “boiler plate” language should not be used in either parents’ Wills or trusts because it may result in unexpected and unwanted consequences. For example, “I leave all of my tangible property, other than cash, securities or the like (e.g. furniture, automobiles, personal effects) in equal shares to my children” will not be appropriate when one of the children is institutionalized and has no use for these items, whose value may result in his net worth being increased to exceed the permitted limit for eligibility for government benefits.

Again, I cannot recommend too strongly that you check with your attorney before taking any steps on this issue.

Estate Planning for the Disabled Child

The type of plan which is most appropriate will depend upon the degree of retardation and the size of the parents’ estate. If the child is severely handicapped, he will probably require continual supervision and care, and will have little likelihood for self-support, resulting in his dependency upon federal and state benefits. *Planning for such a child presents the most difficult problems because it is necessary to balance between funds the parents would like to make available for the child and federal and state benefits which will be denied if the child’s income or net worth exceeds the permitted limits. If the estate is large, and the parents desire and are able to afford private institutionalization, then public assistance does not become a factor in planning the estate, nor does the concern of providing for the other children present difficulties if the parents can afford to provide for all children.*

On the other hand, *if the estate is very small, planning is somewhat simplified, since in most cases the child will become dependent upon public assistance.*

It is with the moderate-size estate where the problems of balancing between private funds available under the parents’ Will and public benefits become clearly apparent.

Alternatively, if the child is moderately disabled, he will be able, in most cases, to support himself and lead a normal life within his capabilities. In such cases, the child will not be dependent upon federal or state benefits and in most cases would not be able to qualify for the benefits based on need because of income generated from his employment. In such instances, estate planning becomes somewhat easier.

In most cases, the best vehicle in which to leave property for the benefit of a disabled person is the trust. *It is necessary to draft the trust in such a manner as not to disqualify the child for potential federal and state benefits and to permit the normal children to participate in the trust’s assets, if appropriate.*

TRUSTEE AND GUARDIANSHIP FEES PAID FOR
MANAGEMENT AND DISTRIBUTION OF PROPERTY

GENERAL COMMENTS: Trustee and Guardianship fees are generally regulated by state law in the absence of specific limitations imposed by agreement or other governing instrument. In some cases, fees must be approved on a case by case basis by an appropriate court. Even when a family member or friend serves as trustee or guardian they are entitled to fees.

EXAMPLE FEES:

MANAGEMENT FEE (computed as follows):

Part A - On income collected each year from assets other than real estate, ground rents and mortgages fees shall be:

6-1/2% on the first \$10,000 of income;
5% on the next \$10,000,
4% on the next \$10,000,
3% on the excess.

Part B - On income collected each year from real estate, ground rents & mortgages fees shall be 6% of all income collected.

Part C - Principal: Fees are payable at the end of each year upon the value of the principal or corpus held in trust at the end of the year as follows:

4/10 of 1% on the first \$250,000 (or \$ 4 per \$1,000) of principal;
1/4 of 1% on the next \$250,000 (or \$ 2.50 per \$1,000);
3/20 of 1% on the next \$500,000 (or \$ 1.50 per \$1,000);
1/10 of 1% on the excess.

DISTRIBUTION FEE: The minimum fee on distributions of principal is ½ of 1% of the principal distributed.

APPENDIX L

ESTATE PLANNING SUPPORTING DOCUMENTS CHECKLIST

Document	Who needs this?	Do You Have it?	Where is It located?	Document	Who needs this?	Do You Have It?	Where is it located?
Wills (& codicils, if any)	P	_____	_____	Insurance Policies Life	I	_____	_____
Trust Agreements (and amendments, if any)	O, T	_____	_____	Home	O	_____	_____
Funeral Instructions		_____	_____	Health	I, O	_____	_____
Birth Certificate		_____	_____	Long Term Care	I	_____	_____
Self	S, Y	_____	_____	Lease Agreements	P	_____	_____
Spouse	I	_____	_____	Stock Certificates	P	_____	_____
Surviving Children	S, Y	_____	_____	Bond Certificates	P	_____	_____
Children from an earlier marriage	P, S, Y	_____	_____	Business Agreements	P	_____	_____
Adoption Papers	P, S	_____	_____	Annuity Contracts	P	_____	_____
Marriage Certificate		_____	_____	Bankbooks	P	_____	_____
Current	P, S, Y	_____	_____	Bank Statements (most recent)	P	_____	_____
Previous	P	_____	_____	Stock Brokerage, Mutual Fund and Other Investment Statements (most recent)	O, P, T	_____	_____
Divorce Decree	P, S	_____	_____	Mortgage Agreements	O, P	_____	_____
Change of Name	P	_____	_____	Loan Agreements / Promissory Notes	O, P	_____	_____
Naturalization Papers	P	_____	_____	Income Tax Returns (most recent)	T	_____	_____
Social Security Card	I, S	_____	_____	Booklets on Employment Benefits	I	_____	_____
Military Service	Y	_____	_____	Retirement Plan Summary	O	_____	_____
Papers		_____	_____	Gift Tax Returns (for any year filed)	T	_____	_____
VA Claim Number	V	_____	_____	Any forms designating beneficiary of life insurance or retirement accounts or plans	I, O	_____	_____
Car Registration, Title Certificate	O, P	_____	_____				
Property Deeds	O, P	_____	_____				
Real Property Tax Assessment Notices or Bills	O	_____	_____				

Explanation of How Papers are Used:
 I - Insurance Claim S - Social Security Claim
 O - Ownership change T - Tax Authorities
 P - Probate Y - Veterans Claim

CHAPTER SIX¹

Getting Help!

“Friends and relatives did so much for me right after my husband died that I didn’t want to ask them to do any more. Besides, I was never one to ask for help with anything. To me asking for help was like saying I was... helpless. So, I was too proud for my own good.”

(Widow, age 57)

Never be afraid to ask for help! The strongest, most secure, most highly educated people (including professional helpers too) are often completely bewildered at this special time in their lives. If you share these feelings it is probably because you are facing a situation that you have never experienced before.

Many of you will find help from close family and friends. But because the American family is often scattered hundreds or even thousands of miles apart, you may feel that help is far away or not available. If that is the case then you might take some time right now to make a map of your helping network.

Your helping network can be divided into four parts:

1. The kind of people in your network whom you are already using for help.
2. The kind of people who are already in your network who *can* be used for help, but are not currently being used by you that way.
3. New people you can add to your helping network who have never been used before, but can be used.
4. Groups of people whom you have never used before but you can use now because you share a common experience.

Now you have a helping network! Let’s take it another step. With the people you currently know, who are fair-weather friends and who are foul-weather friends? It’s okay to have both! Fair-weather friends have been there for you in the past when things are going great and foul-weather friends are there for you only when the going gets rough. Now, you don’t necessarily have to categorize people according to their previous behavior patterns, but don’t expect people to stray far from their patterns and don’t be angry if they don’t.

Actually you will need two kinds of help.

1. You will need personal help in understanding your emotions and making adjustments to a new life-style.
2. You will need procedural help to guide you through the red tape of handling your affairs.

“A guy at work lost his wife a few years ago. I felt comfortable asking for his help with all the red tape. Once you learn what you need and where to go it’s not nearly as confusing as some unfamiliar situations I’ve been in.”

(Widower, age 49)

¹A Survivor’s Manual To:, by Charlotte Kirsch, copyright (c), 1981, reprinted by permission of Doubleday and Co., Inc.

APPENDIX M - cont.

Personal Help

This is available from many sources, and most importantly from within yourself. First of all, don't feel victimized. Respect yourself, your ideas and your capability for making decisions. When you ask yourself why you made a decision that you are somewhat displeased with, ask yourself, "Where did I get that thought?" Take the time to know yourself and to place value on your own ideas. Don't feel so helpless. Whether you want to figure something out for yourself or turn to a professional, try to feel strong so you really can help yourself.

Many survivors will agree that the best advice they would give to another survivor is to talk, talk, talk.

"It's hard at first," one woman said, "and I broke down all the time, but once I started talking I really felt better." Another suggestion is to take small steps. Don't make any important decisions right away because you may regret them later. Also try to keep active and to get out of the house. But beware of driving if you are taking tranquilizers! In fact, even if you are not on medication you may be distracted, hence you increase the risk of having an accident. If you were working when you became a survivor, try to get back to work (at least part-time) as soon as you feel up to it. If you are not working, get busy and find something to do. But again, try to take as much time as you can to sort out your feelings and *grieve your loss*.

Whom can you talk to? Look around and you will see that you are surrounded by people who have said, "If there is anything I can do, please call me." *Your helping network*. Take them up on it and give them a call. Then start talking and try to keep the dialogue going. Many survivors tell us that "the people who helped me the most were the ones who were just willing to listen to me unburden myself."

Don't try to do too much. You can cause greater problems for yourself. Set a series of small, close goals as you progress. *And you will progress because you are helping yourself*.

Your best form of personal help for yourself and for other survivors around you is to talk. It is a myth when we say "She isn't ready to talk about it" or "Leave him alone, he needs to be by himself." For a short time, yes. Everyone needs his own private space. For a long period of time—never. The sooner the loss is faced and feelings are expressed, the sooner the survivors can pick up their lives and will feel better. This doesn't mean that anyone should force themselves on a survivor, but it does mean that it is time to let go of those old images of expected behavior of leaving bereaved people alone. You have taken the first step by finding personal help, and now it is time to find *procedural* help.

Help from Lawyers

Often, but not always, you will need a lawyer to assist you in probating the estate (we'll tell you what that is like in Chapter Eight). You may also need a lawyer to advise you on other issues that arise, such as changing ownership registrations or making out a new Will for yourself. It is great if you already have a trusted attorney—perhaps you found one if you did your Contingency Day planning, but if you currently have an attorney who specializes in corporate or criminal law and has little experience with probate matters, perhaps you should look for a new one.

Be careful! Law schools are pouring out graduates by the thousands every year. Perhaps a member of your family or one of their close friends is a lawyer. Do not automatically choose your attorney for either of the above reasons unless he or she meets the above criteria. *You need a lawyer who is very familiar with probate, estate and tax law*.

“A friend of my husband always did what little legal work we had, so I felt it was right to go to her when my husband passed away. Well, did she ever botch things up. The estate was relatively uncomplicated and yet it took her nine months to get all the paperwork ready to *begin* the probate process. In the meantime, I had no idea where I stood financially.”

(Widow, age 59)

“I had only used a lawyer once in my life—when I was arrested for drunken driving. The guy was a top criminal lawyer and told me that *criminal law* was what he did best, but that his buddy who did a lot of estate work could be better for me. So I did like he said and we sailed right through the paperwork. I’ve never forgotten how much I thought of the first guy for playing it straight with me.”

(Widower, age 44)

Interviewing a Prospective Lawyer

Don’t be afraid to ask a prospective lawyer how much experience he has in estate work. If s/he replies, “I’ve had several cases,” that could mean two or three and you may not want to be a guinea pig. (This does not mean that the lawyer did a poor job handling those two or three cases.)

A good way to find a lawyer suitable to your needs is through your local bar association or another lawyer referral service. Legal aid societies may be of help, but your funds must be limited and you must meet their criteria for being able to give help.

Now, you are at the lawyer’s office. Discuss the general nature of the work you want performed. The lawyer will take notes—and so should you. Above all, ask what the fees are likely to be and feel free to discuss your needs with another lawyer if you don’t feel satisfied or comfortable or feel this lawyer is too expensive. *Now watch out!* The lawyer may tell you that s/he takes a percentage of the estate as a fee. The usual rate is 3 to 5 percent. Here’s the catch. Most Americans have much of the value of their estates in life insurance. You don’t need a lawyer to collect from a life insurance policy; you can do this yourself.

If the deceased owned the policy (the owner is usually but not always the premium payer) it will be included in the estate for the purpose of figuring the estate taxes. But the attorney’s work regarding life insurance is merely to write down the total amount of proceeds. That usually involves writing down several numbers and adding them to the worth of the total estate. So, if the value of the estate is under \$250,000 and it is relatively an uncomplicated estate I feel an attorney should not be entitled to a percent of your life insurance proceeds for adding a few numbers onto a sheet. Look for an hourly rate or flat fee if the estate is small and there are no complications. Larger or more complicated estates do require more work and lawyers certainly are entitled to larger fees for doing this work.

APPENDIX M - cont.

What to Look For When Seeking Financial Advice

Most survivors know a lot of people who are likely to make suggestions on how to manage or invest money. What you need right now is competent, reputable help from someone who has a great deal of experience with investments.

Red flag! A good financial adviser generally cannot tell you how to use your money. The adviser can make *recommendations* and can give you their point of view on the soundness of your plans, but they will encourage *you* to make the final decision. If anyone tries to push you into an investment ... take your money and run!

Red flag! You really must weight the objectivity of your financial adviser. Your investment decisions may directly affect the income of your adviser. So naturally they will want your decisions to favor them, as well as yourself.

A relatively safe source of advice is a certified public accountant. If they have experience in personal financial counseling they should be able to answer your investment and tax questions and help you choose alternative actions as well as familiarizing you with different investments. Features of different investments are covered in Chapter Four.

There is no such thing as a get-rich-quick scheme that works. Well-meaning friends and relatives may tell you about their friend who made a mint in stocks, or real estate, or coffee options. Well, you can make a lot of money in stocks and real estate and you can also lose your last dime. Sit down and think, "Can I afford to lose any money???" The answer should be "no," so don't torture yourself by even considering these investments. If you are fantasizing about becoming a real estate tycoon, wait, learn and listen and take small steps. *Not now, but in a little while!* How about coffee options? Here's a little brainteaser: Where do you throw used coffee grounds? Down the drain - in the garbage? Enough said. Yes, some people have made a lot of money in these investments, and a well-managed portfolio of stocks can be an excellent hedge against inflation, but take your time to understand fully what you are doing and then never put all your eggs in one basket!

Some life insurance companies (primarily the largest) offer beneficiary counseling programs.* If you need help with your budget or want to know about different settlement options you may have available to you under the terms of your policies, it is a good idea to get this information before you make your final investment decisions. There is usually no fee for their services. Some insurance companies offer a variety of exceptionally good booklets which may help you adjust to a new financial situation, so you should ask your agent to get them for you.

In summary, we have focused on getting personal and procedural help in this section. With your helping network out there working for you you should be ready to start receiving those benefits you applied for.

*Aetna Life and Casualty's Benefits Planning Sales and Service is the most comprehensive. No fees are charged.

When Can You Expect to Receive Life Insurance Benefits?

Because life insurance benefits are paid directly to a named beneficiary and are excluded from the probate process, if you are the beneficiary you can expect to receive your checks within one month. There may be a delay in receiving accidental death (double or triple indemnity) payments since many insurance companies will want to investigate the accident, but in most cases that delay will only last for a few months. In Chapter Five we looked at different settlement options from insurance companies.

GIFT TAX LAW SUMMARY

Federal Gift Tax

To prevent wholesale circumvention of the federal estate tax, a federal gift tax is imposed on lifetime transfers of property between individuals for less than full consideration. The same graduated tax rates and unified credit applicable at death by the federal estate tax are applied to lifetime gifts by the federal gift tax. Also, the federal gift tax is cumulative in nature, applying to the aggregate of all gifts made to all donees during the donor's lifetime. The donor is responsible for paying the tax.

Much of the burden that the federal gift tax would otherwise create is avoided by the following specific exclusions:

1. An annual exclusion of \$11,000, as indexed for inflation, per donee is allowed for gifts of present interests in property. In addition, gift-splitting by a husband and wife allows married couples to give away up to \$22,000 per donee each year totally free of federal gift tax consequences.
2. An unlimited exclusion is provided for amounts paid on behalf of a donee (a) directly to a qualifying educational institution for school tuition or (b) directly to an individual or organization providing medical care. Tuition and medical exclusions are in addition to the \$11,000 annual exclusion and are permitted whether or not the donor and donee are related.
3. Any amount of property may be transferred by gift to one's spouse entirely free of federal gift tax.

State Gift Tax

In addition to the federal gift tax, a gift tax is imposed at the state level in the following sixteen states:

California	Minnesota	Oregon	Vermont
Colorado	New York	Rhode Island	Virginia
Connecticut	North Carolina	South Carolina	Washington
Louisiana	Oklahoma	Tennessee	Wisconsin

As in the case of the federal gift tax, state gift taxes are intended to prevent the use of lifetime giving to entirely circumvent death taxes. Accordingly, state gift taxes generally apply to lifetime transfers for less than full consideration. In most cases, a particular state's gift tax only applies to gifts of property actually located in that state. However, in the case of intangible property, the applicable state gift tax law is typically that of the state in which the donor is a permanent resident, as opposed to the state in which the intangibles happen to be located.

In some states, such as Oklahoma, Rhode Island and South Carolina, the gift tax is structured similar to its federal counterpart. The gift tax laws of most other states are purely of the state's design and resemble the structure of the state's inheritance tax more than the federal gift tax.

APPENDIX O

GIFTS TO MINORS CHART Comparative Forms of Giving to Minors

Our clients often inquire as to the best form or method of giving or transferring property to or for the benefit of minor children. Such gifts are motivated by the desire to help provide for such children and, in many cases, to save paying income and estate taxes. Many forms of giving are available; each with its own advantages and disadvantages. The particular form to be used in a particular situation will vary depending on a variety of considerations.

To help in evaluating the alternative forms of giving, our office has prepared the accompanying summary and comparison. This summary is based on current federal law and general principles of state law affecting minors and trusts. To determine the most suitable form of giving in a specific situation, it is recommended that additional advice and counsel be obtained regarding specific applicable law.

Law Office of Ronald R. Holden
Annapolis, Maryland 21401

NOTE 1 Various "short-cut" or informal types of gifts to minors (e.g., transfer into some unusual form of the donor's or parents' names as an "earmarking" device, or transfer into the name of a parent "in trust for" the minor, etc.) probably will not be treated as a complete gift for either income or estate tax purposes, and may involve many uncertainties as to the availability of the funds for the minor, ownership (and taxation) in the event of the death of the minor or the parent or the donor, the availability of the \$11,000 annual exclusion if the transfer is treated as a complete gift, taxpayer account numbers, information returns, liability to the minor when he attains age 18, etc.

Monies paid on behalf of another individual directly to a tax exempt educational institution as tuition or to any party providing medical care to such other individual are not subject to gift taxation and do not affect the \$11,000 annual exclusion.

NOTE 2 After age of majority (18 in Maryland and most states), the child may "voluntarily" create a new trust for himself to last to a later age. (All income will thereafter be taxable to him alone, regardless of whether accumulated or distributed, and even though used for his support, and the trust assets will be included in his taxable estate on his later death even if he dies while the trust is still in effect).

NOTE 3 Alternative methods of making distributions of trust income or principal which are required (or permitted) to be made to a child may be provided in the trust (to be utilized in the trustee's discretion in the child's best interests), as, for example, payment to the child himself, to his legal guardian, to his parent (as "natural" guardian, for the child's benefit), to a custodian for the child under the Uniform Transfers to Minors Act, into a bank or other account in the child's sole name, or application of the funds to the payment of any educational, medical or other proper expense of the child, or to the purchase of stocks, bonds, insurance or other properties of any kind, the ownership of which is in the sole name of the child. As the Uniform Transfers to Minors Act of most states seems to contemplate that "custodial property" includes only direct gifts specifically authorized under the Act, and reinvestments thereof, there may be some legal and tax uncertainty involved in paying trust funds to a custodian (and thus care should be used in the drafting and administering of such a provision if the use of a custodian is contemplated).

Up to \$11,000 per year in gifts to a trust which would otherwise be classified, at least in part, as a future interest, can qualify as present interest gifts for annual exclusion purposes (with only nominal disadvantages to the beneficiary) if the trust includes a provision giving the beneficiary (even a minor) an unrestricted right, from the time any gift is made to the end of the current calendar year, to demand distribution to himself of the amount given to the trust, subject, however, to a noncumulative annual \$5,000 limit on such withdrawals (Crummey v. Comm'r., 397 F. 2d 84 (CCA 9, 1968) and Rev. Rul. 73-405). With such a clause:

1. The first \$11,000 of gifts each year will be deemed to be the equivalent, for the donor's annual exclusion purposes, of an outright gift to the trust beneficiary having such withdrawal right.
2. Such beneficiary will be treated for income tax purposes as the "owner" of that fractional part of the trust's assets which the withdrawable amount represents of the total trust assets (i.e., taxable on that fractional part of the trust's ordinary income and capital gains—determined on the basis of the beneficiary's (not the trust's) taxable year), but only during such period as the withdrawal right is actually exercisable but unexercised.
3. On such beneficiary's death, only any then unwithdrawn currently withdrawable amount will be subject to estate tax. Amounts which were withdrawable in prior years (as to which the withdrawal rights have lapsed) will be exempt from such beneficiary's estate (and gift) tax under the so-called "5 and 5" exception to the rules taxing lapsed general powers of appointment (IRC Sections 2041 and 2514).

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FORM OF GIFT	GIFT TAX ASPECTS	LIMITATIONS ON WHO MAY BE FIDUCIARY	INVESTMENT LIMITATIONS	ACCOUNTINGS
1. OWNERSHIP IN CHILD'S NAME ALONE (with no reservations or restrictions whatsoever.) See Note 1, (at left).	A complete gift. The \$11,000 annual exclusion is available as to the whole gift (unless the donated property itself, by its very nature, is a future interest). A life insurance policy is a present interest.	There is no fiduciary (and parent as "natural guardian" has no authority to deal with child's assets). In most respects a minor is, practically speaking, unable to deal with his property (can't sell, vote, contract, etc.).	Almost anything can be held in the child's name, but all holdings are unseizable and "frozen", except "E" Bonds which can be cashed by a child. Also, in some states such as Maryland, bank accounts are withdrawable by the child if he opened the account.	None required.
2. GUARDIANSHIP property.	(Same as in No. 1 above).	Determined by applicable state law. In Maryland, guardian may be a nonresident, and child over 14 may nominate who he wishes as guardian. Guardian may be required to be bonded and this can involve expense.	Guardian may invest in whatever a "prudent investor" as trustee would invest in.	Annual, formal court accounts are required.
3. CUSTODIANSHIP under Uniform Transfers to Minors Acts.	(Same as in No. 1 above).	Any adult or bank may be the initial custodian. A custodian may designate his successor, but if he does not, on the death, resignation or incapacity of a custodian, the child, if over age 14, may appoint a successor, or if he or she does not or cannot, if there is a guardian, he shall be custodian, but otherwise a court must appoint a successor. The donor (and perhaps the parent) should not be custodian, for if he is, the custodial property will be included in his taxable estate should he die while acting as custodian.	Custodian may invest in whatever a "prudent investor" as trustee would invest in. Court papers are not needed.	Records must be kept (and a court account might possibly be required). No bond generally required.
4. SECTION 2503(c) Age 21 Irrevocable Trust	(Same as in No. 1 above). Possible to qualify only income portion or principal portion of trust.	Any adult person or persons and/or bank can be Trustee or Trustees, and successors can be provided for, but neither the donor nor the child's parents should be a Trustee unless some other Trustee has sole discretion regarding distributions (otherwise the trust property will be included in the donor or parent's taxable estate should he die before the trust terminates). Also, for the same reason, neither the donor nor the child's parent should hold the power to remove and substitute Trustees.	Investment discretion of Trustees can be as broad or as narrow as the trust agreement provides (tax risks are involved if trust property is leased or loaned to donor or if a family partnership interest or insurance policy on donor's or a trustee's life is held in trust). Unless a nominee is used to hold title to trust assets, many copies of the trust agreement may be needed.	Determined by applicable state law. In Maryland, only private records need be kept; no court approval required to make disbursements; and no bond is required.
5. SECTION 2503(b) MANDATORY DISTRIBUTION OF INCOME (for life or term of years) IRREVOCABLE TRUST	A complete gift. The \$11,000 annual exclusion is available only as to the value of the right to income (not as to value of the remainder) - except where child is given a "Crummey" type right to withdraw.	Because of the estate taxability (and perhaps income taxability) of discretions to distribute principal, neither the donor nor the child's parent should be a Trustee having such discretions. Unless such discretions are quite restricted, they should be given only to an "independent" Trustee. Any provision for removal and substitution of Trustees must be drawn with care (see No. 4 above).	(Same as in No. 4 above, except that, for the right to income to have its anticipated value for \$11,000 annual exclusion purposes, investment discretions must not be so broad as to permit investments totally without current income).	(Same as in No. 4 above).
6. OTHER IRREVOCABLE TRUSTS WHERE DISTRIBUTION OF INCOME IS DISCRETIONARY RATHER THAN MANDATORY.	A complete gift. No \$11,000 annual exclusion (except where there is a "Crummey" type right to withdraw provisions).	Because of the estate taxability (and perhaps income taxability) of discretions to distribute principal, neither the donor nor the child's parent should be a Trustee having such discretions. Unless such discretions are quite restricted, they should be given only to an "independent" Trustee. Any provisions for removal and substitution of Trustees must be drawn with care (see No. 4 above).	(Same as in No. 4 above).	(Same as in No. 4 above).
7. SHORT TERM IRREVOCABLE DISCRETIONARY DISTRIBUTION OF INCOME TRUST.	A complete gift of the value of the right to income only. No \$11,000 annual exclusion.	(Same as in No. 6 above).	(Same as in No. 4 above). If trust property is mortgaged or is depreciable, there may well be additional tax problems.	(Same as in No. 4 above).
8. 529 PLANS.	Generally can contribute up to \$55,000 for a beneficiary in a single year (\$110,000 for married couples) without federal gift tax consequences, provided no additional gifts are made to that minor over a five year period.	529 Plans are state administrated.	Investment limitations vary by plan.	Periodic accountings.

USES OF FUNDS FOR CHILD	TAXATION OF INCOME	AGE AT WHICH CHILD TAKES CONTROL OF PROPERTY	IF WHO RECEIVES PROPERTY?	CHILD SUBJECT TO PROBATE?	DIES SUBJECT TO DEATH TAX?	COMMENTS
All investments are "frozen" until age of majority (18 in Maryland and most states). Dividend and other checks can probably be properly negotiated only by deposit in child's bank account. The child can withdraw from "E" Bonds (after age 12) and (in some states such as Maryland) bank accounts be opened. (He might then spend funds unwisely, although this might be avoided if he gives his parents the passbooks and bonds for safekeeping).	All income is reported on child's 1040 (signed by minor or parent or custodian). Unless the child is able to make bank withdrawals (or there is a custodian with funds available), the cash to pay the tax will probably have to be donated by parent or someone.	Bank accounts opened by the minor (in some states such as Maryland) and "E" Bonds (after age 12) may be available for the child's control. Other assets are available at age of majority (age 18 in most states such as Maryland). See Note 2 (at left).	Determined by applicable state intestacy law. In most states (such as Maryland), a person who is not at least 18 cannot make a Will.	Yes (except F.O.D. registered "E" Bonds and life insurance policies with successor owner designated).	Yes.	This type of ownership may be switched into guardianship at any time. If guardian is appointed, all of child's assets (except custodian assets and perhaps Bonds and bank accounts) must be administered by the court approved guardian. Savings accounts, "E" Bonds, mutual funds and life insurance are types of assets that are often suitable for long term "frozen" ownership in child's name.
Child's assets and funds may be used for his education support, etc. subject to Court approval. Unspent income is reinvested by guardian.	All income is reported on child's 1040 (signed by minor or parent or guardian) and tax paid by guardian's check.	Age of majority (in most states such as Maryland, age 18) property is transferred to child. See Note 2 (at left).	(Same as in No. 1 above).	Yes.	Yes.	Once a guardianship starts in some states (such as Maryland) there is practically no way to end it until age 18 or death of the child. Generally guardian is entitled to same compensation as Trustee.
Custodian shall use so much of custodial property for support, education and benefit of minor as custodian deems advisable without regard to parent's or minor's other resources. Income not used is accumulated and reinvested by custodian. No court approval required to make disbursements.	All income is reported on child's 1040 (and tax paid by custodian or minor or guardian) except to the extent income is used to discharge a legal obligation of some other person (e.g., parent's obligation to support child), which income is taxed to that person. The extent of a parent's legal obligation of support is not certain. Depending on the parent's station in life and re-sources, it may include college, private schools, etc.	In Maryland, the donor can choose age 18 or 21 as the age for transfer of unexpended custodial property. Note 2 (at left) applies upon pertinent age being attained.	The estate of the child. The particular recipients are determined by the child's Will, if one exists. If no Will, recipients are determined by the applicable state's intestacy law.	Yes.	Yes.	Custodianship can exist as to some assets even though guardianship also exists for other assets. There can be only one custodian of an asset, but different assets may be under different custodianships. The beneficiary of all custodian held life insurance must be the minor, minor's estate or the custodian as custodian for the minor. Custodial property and accounts are registered in the name of "(custodian's name) as custodian for (minor's name) under the (applicable state) Uniform Transfers to Minors Act." Custodian (unless also the donor) is entitled to reasonable compensation determined by applicable state's standard. In Maryland, a custodian who is not also the donor is entitled to same compensation as a Trustee.
The Trustees must have a broad discretion permitting both principal and income to be expended to or for the minor. Disbursements may be limited to support, care, education, comfort and welfare. To the extent not paid out by Trustee, income will be accumulated and reinvested, always available for future distribution. See Note 3 (at left) re alternative ways of making trust distributions to or for the benefit of a minor. Must be separate trust for each child.	To the extent income remains in the trust, it is taxed to the trust (a separate taxpayer). Distributed income is reported on child's 1040 (for the year in which the trust fiscal year ends) except to the extent it is used to discharge a legal obligation of some other person (e.g. parent's obligation to support the child) which income is taxed to that person (for that year) - see No. 3 above. On trust's termination, no income accumulations during child's minority are "thrown back" to the years when earned, but otherwise they are, and the distributee's income taxes for those years are recomputed (and tax paid or refunded as the case may be).	As to any discretionary distributions not spent for but made to child before age 18, see No. 1 above. At age 21 all principal and undistributed income must be paid to the child or continued in trust with the beneficiary having the right to terminate the trust at all times after age 21. See Note 2 (at left).	On child's death, trust must terminate and its assets must go to his estate (to be distributed as in No. 3 above) unless the trust gives the child an unrestricted "general power of appointment" (even though in most states, such as Maryland, a general power of appointment is not exercisable before age 18).	Yes, unless trust gives the minor a "general" power to appoint and beneficiary has the legal capacity to validly exercise the power of appointment.	Yes.	With a trust gift, if all income and accumulated income may be expended to or for the child in the unrestricted discretion of the Trustee, and are required to be paid to the child at age 21 or, on his prior death, to his estate (or general power appointee or taker in default) the value of the right to the trust income for the period of the trust will qualify for the \$1,000 annual gift tax exclusion under I.R.C. Section 2503 (c) even though the trust principal is not subject to such conditions. See suggestion in No. 6 below regarding "prior years" payments, etc." Property transferred to the trust not included in donor estate if trust carefully drafted.
All income must be paid to the child or for his benefit at least annually until trust terminates. Trustees may have broad (or narrow) discretion to pay out principal to the child or for his benefit (but not to anyone else) or even terminate trust early by payment to child. See Note 3 (at left) re alternative ways of making trust distributions to a minor.	Same as in No. 3 above although the Trustees may pay the child's tax as a part of the trust's distributions, and the trust income is taxed on the child's 1040 (for the year in which the trust fiscal year ends) except to the extent it is used to discharge a legal obligation of some other person (see No. 3 above re support obligations).	As to any distributions not spent for but made to child, see No. 1 above. Principal can be retained in trust for the child's life or be paid out at any age designated in trust (or earlier in the discretion of Trustee if the trust so provides).	Trust will designate who receives the principal (i.e., the "remainder") on child's death (and can give the child a "special" power to appoint such recipient).	No (unless remainder goes to the child's estate). Accrued but undistributed income may be subject to probate.	No (unless remainder goes to child's estate or he has a "general" power to appoint) - except for accrued but undistributed income paid to child's estate.	The value of a child's lifetime right to income varies from 91.6% (at age 40) to 98.9% (at age 1) of the value of the donated property. Thus, very little of the gift fails to qualify for the \$11,000 annual exclusion until after the child reaches "middle age". See suggestion in No. 6 below regarding "prior years" payments, etc."
Trustee could have broad (or narrow) discretion to pay out income (and principal) to or for the benefit of the child during minority. After age 18 such discretions could continue for the duration of the trust (it would end on attainment of some age or on death of beneficiary or successor beneficiary) or income might be required to be paid regularly after age 18. Income not paid out would be accumulated. (More than one beneficiary could be named with an "Independent Trustee" having discretion to "spray" distributions among them). See Note 3 (at left).	(Same as in No. 4 above).	As to any discretionary distributions not spent for but made to the child before age 18 see No. 1 above. At age 21 all principal and undistributed income must be made to the child. See Note 2 (at left).	Trust will designate who receives the principal (including accumulated income) on child's death (and may give the child a "special" power to appoint such recipient) or the trust may just continue for the benefit of other beneficiaries.	No (unless remainder goes to the child's estate).	No (unless remainder goes to the child's estate).	Prior years' payments of income into child's "E" Bonds or bank accounts can perhaps be used by him for his support and education without tax to parent (or better yet, loaned to parent to provide funds for such purposes, thus not "wasting" the past gifts). If there is a guardian, such use of funds may not be possible. Prior year's payments of income to the custodian for the child may be loaned to the parent (so long as the custodian is not the parent and the loan is repaid) on an interest bearing installment note (thus providing the parent with cash for high educational expenses, etc.)
Trustee would have broad (or narrow) discretion to pay out income to or for the benefit of the child (and perhaps to other or successor beneficiaries of the trust) or to accumulate it for later distribution to child (or other beneficiaries). Trust principal is "frozen" as it must go back to the donor when trust ends. However, there may be a discretion to invade principal for any beneficiary with the donor's consent, but such an invasion will be a new taxable gift. See Note 3 (at left) re alternative ways of making trust distribution to a minor.	(Same as in No. 4 above).	As to any discretionary distributions not spent for but made to child before 18, see No. 1 above (principal reverts to donor at end of trust).	Trust will designate who receives any accumulated income (if trust terminates) or possible future income (if trust continues). Principal does not pass to anyone other than donor (or his appointee).	No.	No.	A discretion to distribute principal to beneficiary may exist, but its exercise will be a taxable gift (so no such distribution should be permitted without donor's consent). Capital gains are taxed to donor even though he does not get property back until trust ends (except where such gains are classified as "income", and this may create gift tax problems). Because of the donor's retained reversionary interest in trust principal, a "Crummey" type right of withdrawal provision is not appropriate in a short term trust.
Funds can only be used for "qualified higher education expenses" incurred by beneficiary. Section 529 describes the types of higher education expenses that qualify.	Disbursements for "qualified higher expenses" are free of federal income taxation.	Never.	A beneficiary as permitted by the plan.	No.	No, except to the extent contributions have not been excluded by annual gift tax exclusion.	None.

APPENDIX P

MARYLAND INHERITANCE (SUCCESSION) TAX
(Tax-General Article, Title, 7 Subtitle 2)

Tax Rate

1. 0% when beneficiary is decedent's grandparent, parent, spouse, brother, sister, lineal descendant (e.g. children and grandchildren) or spouse of a lineal descendant.
 - Does include stepparents and stepchildren.
 - Tax is due from recipient of property transferred, but the duty to collect and pay the tax is placed on the fiduciary transferring the property, where a fiduciary is involved.
2. 10% - All other Beneficiaries (except charities and government).
3. Rates apply regardless if Will exists.

Property Included

All property of the deceased, except non-Maryland real estate and tangible personal property permanently located outside of Maryland, however titled or however passing, shall be subject to Maryland Inheritance Tax.

- A proportionate share of property owned jointly is included.
- Gifts in contemplation of death (2 year rule) are included.
- Property over which decedent has dominion at his death or has reserved a beneficial interest is included (e.g., revocable trusts or irrevocable trusts where creator-decedent gets income during life).
- Proceeds from life insurance policy death benefits are not included in the estate unless paid to the estate; therefore, they are not subject to tax or other obligations of the estate.
- The inheritance tax does not apply to the receipt of an annuity or other payment under a public or private employees' pension or benefit plan if the annuity or other payment is not taxable for federal estate tax purposes.

MARYLAND ESTATE TAX
(Tax-General Article, Title 7, Subtitle 3)

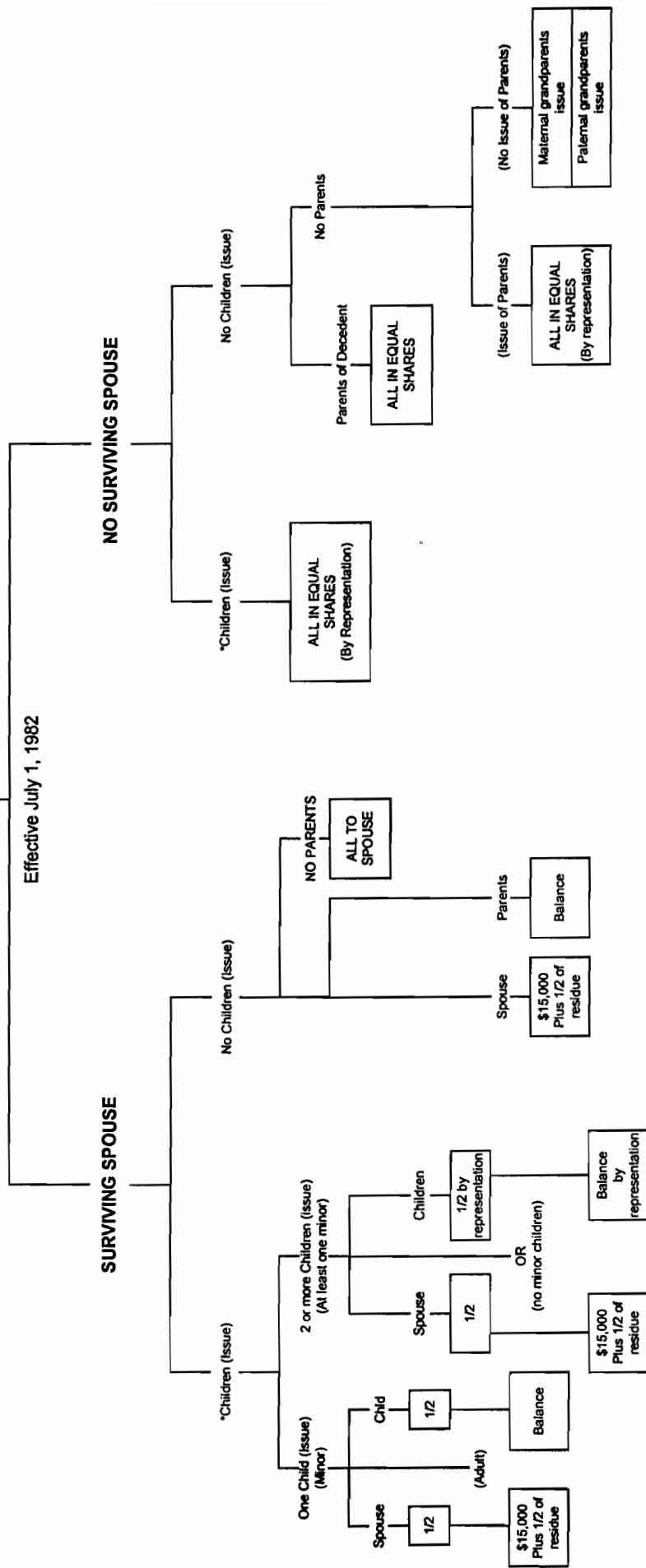
This tax recaptures tax otherwise saved by virtue of the federal estate State Death Tax Credit.

MARYLAND GENERATION-SKIPPING TAX
(Tax-General Article, Title 7, Subtitle 4)

This tax recaptures tax otherwise saved by virtue of the federal estate Generation Skipping Transfer Tax State Tax Credit.

MARYLAND DESCENT & DISTRIBUTION

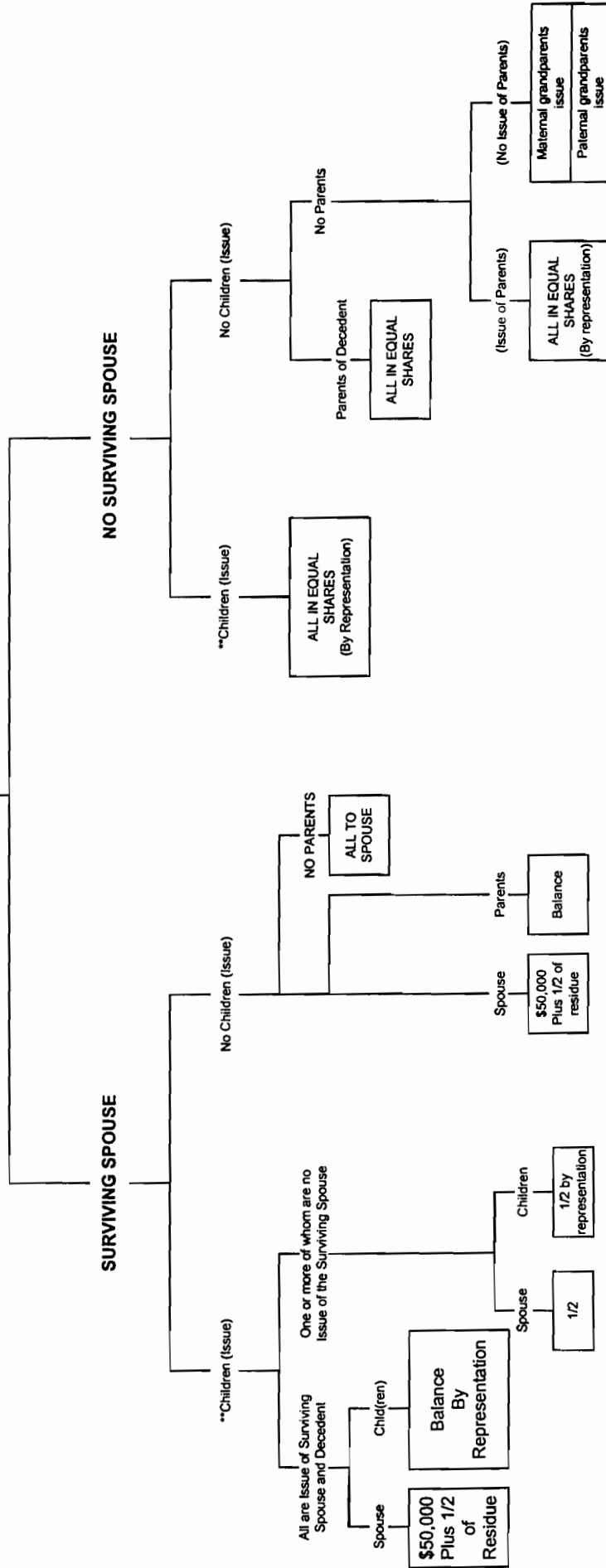
DECEDENT (MARYLAND)



*Includes unborn children; issue means every living lineal descendant except a lineal descendant of a living lineal descendant

UNIFORM PROBATE CODE* DESCENT & DISTRIBUTION

DECEDENT



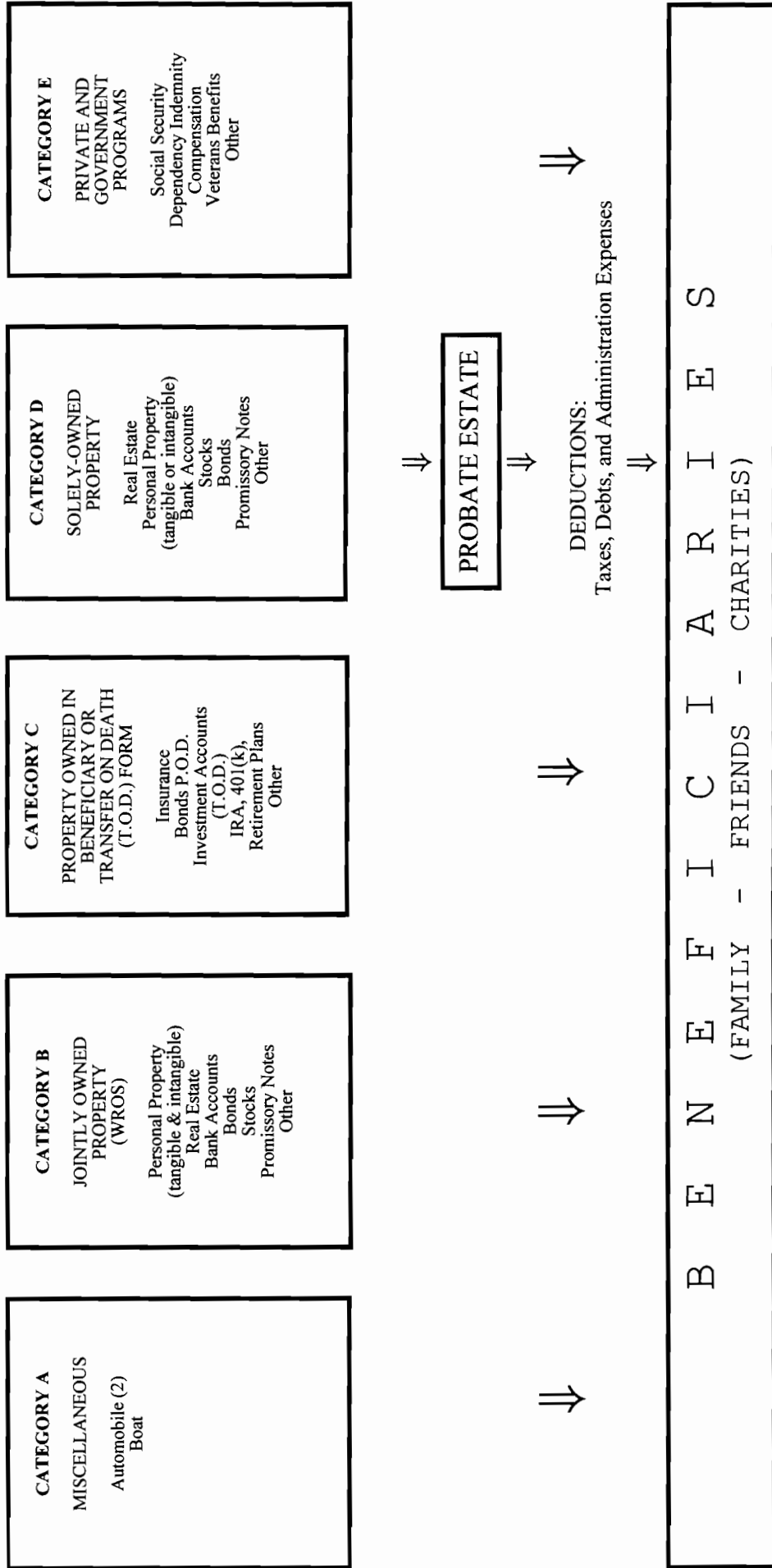
**includes unborn children; issue means every living lineal descendant except a lineal descendant of a living lineal descendant

*Adopted in Alaska, Arizona, Colorado, Florida, Hawaii, Idaho, Maine, Michigan, Minnesota, Montana, Nebraska, New Mexico, North Dakota, South Carolina, South Dakota and Utah

THE "PROBATE ESTATE"

WHICH PROPERTIES MUST BE PROBATED?

The purpose of this illustration is to show which properties pass to estate beneficiaries directly (without passing through probate) and which properties must be probated.



APPENDIX S

ILLUSTRATIVE BOND PREMIUMS

All Bonds are to be paid in full before the issuance of the bond.

<u>Amounts</u>	<u>Premiums</u>
\$ 5,000	\$ 100
25,000	\$ 135
50,000	\$ 260
100,000	\$ 460
250,000 - up	computed by bond company formula

SUMMARY OF EXECUTOR'S / PERSONAL REPRESENTATIVE'S RESPONSIBILITIES

I. Locate Legal Documents and Assets

1. Locate and examine Will, if there is one.
2. Determine the assets and debts of the decedent. Make security arrangements and arrange for new or additional casualty insurance coverage. Notify creditors and postal service.
3. Determine how assets are titled?

Is probate necessary?	<u>Yes</u>	<u>No</u>	<u>Maybe</u>
a. Real estate held jointly with right of survivorship (WROS)		x	
b. Joint bank accounts (WROS)		x	
c. Savings bonds with co-owner "OR" "P.O.D."		x	
d. Investment accounts with T.O.D. designation		x	
e. One motor vehicle			x
f. Small estate			x
g. Untitled personal property			x
h. Safety deposit box			x
i. Business agreements	x		
j. Life insurance death benefit			x
k. Retirement benefits			x

II. Steps in Formal Probate

1. Present Will to court; prove Will--witnesses; court appoints executor; required bond is posted.
2. Pay court costs.
3. File Petition for Probate, Information Report, List of Interested Persons, Consents and Acceptance, Inventory.
4. Publish legal notice to creditors and claimants.
5. Handle and process claims for and against the estate.
6. Keep careful (& separate) records.
7. File periodic and final accounting.
8. Pay debts, expenses, claims and taxes.
9. Distribute assets as required.

III. Executor/Administrator's Tax Duties

Tax Returns which may be due:

- a. Federal Estate Tax / Generation Skipping Transfer Tax
- b. State inheritance and/or estate tax
- c. Decedent's final personal income tax return
- d. Fiduciary (Estate's) income tax return
- e. Gift Tax Returns

APPENDIX U

UNIFIED FEDERAL ESTATE AND GIFT TAX RATES

Applicable to Estates of Decedents Dying
after December 31, 1997 and Gifts made after December 1997
(Taxpayer Relief Act of 1997)

Annual Exclusion for Gift Taxes - a Taxpayer may exclude \$11,000 of gifts of present interests in property made by an individual (\$22,000 per married couple) to each donee during a calendar year.

<u>Value of Property Subject to tax</u>	<u>Tax (before deducting credit)</u>	<u>Rate on next bracket</u>
Under \$10,000	18%	-----
\$ 10,000	\$ 1,800	20 %
20,000	3,800	22
40,000	8,200	24
60,000	13,000	26
80,000	18,200	28
100,000	23,800	30
150,000	38,800	32
250,000	70,800	34
500,000	155,800	37
750,000	248,300	39
1,000,000	345,800	41
1,250,000	448,300	43
1,500,000	555,800	45
2,000,000	780,800	49
2,500,000	1,025,800	50 ¹

Effective after December 31, 1998, all gifts are indexed annually for inflation and rounded up to the next lowest multiple of \$1,000.

¹This maximum rate declines to 45% as indicated in the table below.

Regarding Federal Estate and Generation-Skipping Transfer Taxes the exclusion amount as of January 1, 2002 becomes \$1,000,000 and that amount is periodically increased through 2009 in accordance with the following Table. In 2010 the Federal Estate and Generation Skipping Transfer taxes are repealed.

Table - Tax Rates and Applicable Exemption Amounts

Calendar year	Estate and GST tax death-time transfer exemption	Highest estate and gift tax rates
2002	\$ 1 million*	50 %
2003	\$ 1 million*	49 %
2004	\$ 1.5 million	48 %
2005	\$ 1.5 million	47 %
2006	\$ 2 million	46 %
2007	\$ 2 million	45 %
2008	\$ 2 million	45 %
2009	\$ 3.5 million	45 %
2010	N/A (taxes repealed)	Top individual. Rate under the bill (gift tax only)

* plus a \$60,000 inflation adjustment to the Generation Skipping Transfer Tax Exemption in year 2002 and 2003 only.

SUMMARY OF TRUST CHARACTERISTICS

Kind of Trust	Key Features	Key Advantages	Key Income Tax Consequences	Key Gift Tax Consequences	Key Estate Tax Consequences
Testamentary	Created by Will.	Investment and control may be supervised.	Taxable to beneficiary if current income is distributed. If income accumulates to trust, the trust will be taxed. If income accumulates first to trust, then to beneficiary on distribution, special throw-back rules may apply.	None.	Included in estate of creator. Possible to avoid tax on death of beneficiary.
Revocable	Created during lifetime; may be revoked.	Avoids probate. Investment and control may be supervised.	Trust income taxable to creator.	None.	Included in estate of creator.
Irrevocable	Created during lifetime; cannot be revoked.	Avoids probate. Investment and control may be supervised.	Taxable to beneficiary if current income is distributed. If income accumulates to trust, the trust will be taxed. If income accumulates first to trust, then to beneficiary on distribution, special throw-back rules may apply.	Taxable to creator. Annual exclusion is available for gifts of present interest.	Not taxable unless creator retains powers that would cause trust to be taxed in the estate.
Charitable Remainder	Irrevocable. May be created during lifetime or at death.	Provides income for one or two lives, then remainder goes to designated charity. Charitable contribution deduction for value of remainder interest.	Trust income taxable to income recipient. Sometimes capital gains tax may apply.	Possible gift tax on value of income stream.	Possible estate tax on value of income stream.

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Survivor Benefits Under the Civil Service Retirement System¹

Survivor Annuities Upon Death of a Current Employee

Your widow or widower, former spouse (if any), and children may qualify for a survivor annuity if your death occurs while you are employed subject to the Civil Service Retirement System provided you completed at least 18 months of civilian service.

Surviving Spouse

To qualify for a survivor annuity, your spouse must have been married to you a total of 9 months. That requirement does not apply, though, if there is a child born of the marriage or your death is accidental.

If your surviving spouse qualifies, he or she will receive annually 55 percent of the amount you would have received if you had retired at the time of your death (this is called the “earned annuity”) or the lesser of: 22 percent of your highest 3 years’ average salary or 55 percent of the amount your annuity would have been if you had continued working until age 60 at the “high-3.”... [See formula below]

A spouse’s survivor annuity begins on the day after your death. (It may be paid to a person other than your spouse if a qualifying court order has awarded all of the survivor annuity to a former spouse.) It ends at the end of the month preceding the month in which the survivor dies or remarries before age 55.

If your surviving spouse remarries before age 55 and the annuity terminates, the survivor annuity may be restored if the remarriage ends by death, annulment, or divorce.

Formula for “Earned Annuity”

The “earned annuity is simply the sum of 1.5 percent of the highest 3 years’ average salary (high-3) times the first 5 years of service, plus 1.75 percent of the high-3 times the next 5 years, plus 2 percent of the high-3 times service over 10 years.

As an illustration, if you had been employed for 12 years and died at the age of 40 (and assume a high-3 average salary of \$20,000), you obtain the “earned annuity” as follows:

.015 x 5 years	= 7.50 %
.0175 x 5 years	= 8.75 %
.02 x 2 years	= 4.00 %
Earned annual annuity	20.25 % (\$4,050)

Another illustration, if you were age 56 at the time of death and had been employed for 24 years, the computation, using the same formula and average salary, would look like this:

.015 x \$20,000 x 5 years	= 7.50 %
.0175 x \$20,000 x 5 years	= 8.75 %
.02 x \$20,000 x 14 years	= 28.00 %
Earned annual annuity	44.25 % (\$8,850)

Children

Children qualify for survivor annuities if they are under 18 and unmarried. A child 18 or older may also qualify for a survivor annuity if incapable of self support because of a disability incurred prior to age 18. In addition, a son or daughter 18 or older may be eligible for a survivor annuity up to age 22 if he or she is a full-time student at a high school, college, or other recognized educational institution. Each child of a surviving spouse or former spouse will be entitled to a monthly benefit of \$310. Each child who has no surviving parent or whose surviving parent was never married to you, will be entitled to a monthly benefit of \$372. These amounts are reduced proportionately if more than three children are eligible for survivor annuities. The amount of children's benefits (like retiree and spouse annuities) are periodically increased by cost of living increases.

The rates above are applicable from December 1, 1994, through November 30, 1995.

The survivor annuity to each qualified child begins the day after your death and ends when the child reaches 18 (unless a student or disable child as described above), marries, or dies. The survivor annuity to a student ends when he or she marries, dies, attains age 22, or ceases to be a full-time student. The survivor annuity to a disabled child ends if the child becomes capable of self-support, marries, or dies.

A child's annuity will be paid to his or her guardian if one has been appointed by a court. If no guardian is appointed, OPM may make the payment to the person who has the care and custody of the child.

APPENDIX W

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION for active duty military

Effective January 1997, a flat rate applies to the compensation due unto survivors of active duty military. Rate or Rank no longer apply to computations of indemnity compensation.

A surviving spouse is entitled to \$833 per month. An additional \$200 are received for each dependant child under the age of 18 living with the surviving spouse. An additional \$179 is received for each child between the ages of 18-23 who is a college student. A higher allowance is provided if a child is disabled, \$354.

If there is no surviving spouse but there are surviving children, the following rates apply.

- 1 surviving child \$355 per month
- 2 surviving children \$255 each per month.
- 3 surviving children \$220 each per month.
- 4 surviving children \$196 each per month.
- 5 or more surviving children \$129 each per month.

Retired Military

Under the Maximum Survivor Benefit plan a surviving spouse (and/or dependent children) are paid (as taxable income) approximately 55% of the retiree's retirement pay at the time of his/her death; subject to Social Security offset when surviving spouse attains age 62. Not true subject to SBP chosen by retiree.

A GLOSSARY OF COMMONLY USED ESTATE PLANNING TERMS

Administrator - A person designated by a court to carry out the terms of a Will, where the Will fails to name an executor or personal representative, or the executor or personal representative named is unable to act as such, or a decedent dies intestate.

Administratrix - A female administrator.

Advance Directive for Health Care - A written direction to physicians and health care providers to either withhold or continue life sustaining medical procedures which are employed solely to artificially prolong one's life.

Annuity - A contract designed to take a specified amount of money and pay it back (plus earnings) to one over a selected period of time. The specified amount can be paid-in in regular investment payments during one's working years or in one large sum (frequently life insurance proceeds are used for this). The selected period over which the money is paid back may be from 10 years to life. The shorter the term the higher the payment.

Attorney-in-Fact - An agent; one appointed to act on behalf of the principal (not necessarily or even typically a lawyer).

Bequest (or Legacy) - A gift made by Will.

Bond - An instrument binding the surety to pay a stated sum of money in the event the fiduciary misapplies assets.

By Representation - See **Per Stirpes**

Chose In Action - A right to personal property that is not in the owner's possession, but that is recoverable by a lawsuit. (Examples: A right to recover 1) a debt; 2) damages for an injury; 3) possession of an automobile wrongfully held by another, etc.)

Clifford Trust - A form of irrevocable trust intended to shift income from a high bracket income taxpayer to a low bracket income taxpayer for a period of ten years or more after which it reverts to the person creating the trust.

Codicil - A legal instrument that modifies a prior Will.

Common Disaster - The simultaneous death of two or more persons, usually husband and wife.

Community Property - A form of property ownership existing in only nine states (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin.) It is property acquired during marriage by either a husband or a wife; such property is deemed one-half owned by each in common with the other. Property which is received by gift or inheritance is not community property.

Contest - To dispute or challenge by legal proceedings.

Corpus - The main body, capital, principal sum of a trust as distinguished from income or earnings.

Crummey Trust Powers - An irrevocable right in a person to withdraw from a trust an amount specifically structured to qualify for the Federal Gift Tax present interest exclusion.

Custodian - One charged with the proper care, keeping and distribution of property belonging to another.

Death Taxes - Estate Tax (Federal and State) is a tax on the right to transfer property at death. Estate is liable.
State Inheritance Tax is a tax on the right to receive. Recipient is liable.
State and Federal Taxes are both imposed; each tax involves different calculations.

Decedent - A deceased person.

Declaration of Trust - A written statement by a party declaring that certain specified property is held by that person in a trust form of ownership.

Devise - A gift of real property (land, buildings, etc.) made by Will.

Disability - A state where one is no longer able due to physical, emotional or mental condition or disease to provide for his or her personal well being.

Disclaimer - The act of not accepting property to which one is entitled as the result of another's death.

Discretionary Trust - A trust structured to permit a trustee unlimited discretion to utilize the trust assets and/or income solely as the trustee deems will benefit a named beneficiary(ies).

Donee - The recipient of a gift.

Donor - One making a gift.

Dower and Curtesy - Related to the rights of a wife or husband to the estate of the deceased spouse.

Durable Power of Attorney - A power of attorney that becomes effective immediately upon its signing and is not impaired by the principal's subsequent disability.

Endowment - A fund set aside to or for the benefit of a charity which is held to produce income for the maintenance of the charity's purpose.

Endowment Insurance - A policy where the cash value equals the amount of insurance selected after a stated period of time. If one dies before the end of the stated time, the entire amount selected is paid.

Estate Tax - Tax on the right to transfer property to others at one's death.

Executor or Personal Representative - A person named in a Will to carry out its provisions, including paying debts, taxes and other obligations and distributing estate property to the named beneficiaries.

Executrix - A female executor.

Fiduciary - Person or corporation in a position of trust for benefit of others (Examples: Personal Representative, Executor, Custodian, Guardian, Trustee).

Forced Election - Right of a surviving spouse to elect to take his or her statutory share in decedent's estate rather than the entitlement given in the Will.

Gift Tax - Tax on the right to transfer property to another during one's lifetime.

Gift To Minors Act - A law adopted in many states providing for lifetime and at death gifts of money, stocks, and other property to minors; more particularly to one called a custodian who holds and manages the property for the benefit of the minor.

Grantor or Settlor - One who creates an inter vivos or living trust.

Guardian - An inclusive term for the "guardian of the person" of a minor, this is one who has physical custody of and the responsibility for raising a child; and the "guardian of a minor's estate", this is one responsible for managing the property and assets of a minor.

Holographic Will - A Will written entirely by a testator or grantor with his own hand. Generally valid on limited basis.

HR-10 - A law passed in 1962 which permits a tax deductible retirement plan to be established for self-employed individuals or partners. It is not available to corporate owners or their employees. The business owner or partner may invest 15% of his income or \$15,000.00 whichever is less.

Individual Retirement Account (IRA) - Permits an individual to establish his own tax deductible retirement plan even if there is a pension plan where he works. The amount of money put into the plan is regulated by the Internal Revenue Service and may not exceed 100% of one's income or \$2,000.00 (\$2,250.00 for certain married individuals), whichever is less. Each spouse may have an IRA up to \$2,000.00 if each has own income.

Inheritance Tax - Tax on the right to receive property upon the death of another.

Insured - One with respect to whom an insurance company assumes the obligation or risk on the occurrence of a specified event (e.g., death, sickness, disability) to pay a specified amount.

Intangible Property - Property other than real property which has no value of its own but represents or is evidence of value. Examples: certificates of deposit, stock certificates, bonds, promissory notes, negotiable instruments, coins and dollar bills.

Inter Vivos Trust - A trust set up to operate during the lifetime of the creator of the trust. (Also called Living or Lifetime Trust).

Intestacy - Refers to a decedent who left no valid Will.

Irrevocable - An act, agreement or declaration which may not be revoked, changed or modified.

Joint Tenancy With Right Of Survivorship - A joint holding by two or more persons of undivided property interests whereby the surviving joint owner(s) becomes owner of the whole.

Keogh Plan - Same as an **HR-10**.

Last Will and Testament - A document with which a person may dispose of his property at his death. Commonly called a Will.

Legacy (or Bequest) - A gift made by Will; more broadly, any property disposed of by Will.

Legatee - A person named in a Will to receive a legacy.

Life Estate - An interest in the use of, or income from, property during someone's life; then it goes to somebody else.

Life Insurance Trust - A trust set up for the sole or primary purpose of owning life insurance policies and/or receiving death benefits due from life insurance policies.

Living Trust - See **Inter Vivos Trust**.

Living Will - See **Advance Directive for Health Care**.

Mutual Fund - A pool of money received from many people with the same investment objectives. A group of professional investors, controlled by a Board of Governors, selects a wide variety of stocks, bonds or other securities to buy and sell for profit.

Noncupative Will - An oral Will; usually a death-bed Will, generally not valid.

Owner (of Life Insurance Policy) - One who controls all transactions and changes relating to the policy; may but need not be the insured; rights terminate when the insured dies.

Per Stirpes - Representatives of the branches of the descendants of a person (primarily children) who take only the share of an estate that their parents would have taken if living.

Personal Representative - See **Executor** or **Administrator**.

Pour-Over Will - An informal term describing a provision in a Will which directs certain property subject to the Will be paid or delivered unto a specified trust or trustee.

Power of Attorney - A written document by which one person (the principal) delegates to another (the attorney-in-fact) the authority to make certain decisions and perform certain acts on behalf of the principal.

Principal - Person who creates a power of attorney.

Probate - The process of filing a Will in a court and proving to the court that the Will was signed by the decedent with all the formalities required by law. More generally this term refers to all matters over which the Probate Court has jurisdiction.

Qualified Retirement Plan - A plan approved by IRS and DOL whereby current earnings can be invested for future pay out to eligible participants. The amount invested and the interest earned is not taxed by IRS until the money is taken out.

Qualified Terminable Interest Trust (QTIP) - Property passing in trust from a deceased for the benefit of his or her surviving spouse in which the survivor has a qualifying income interest for life.

Residuary Estate - That which remains after debts, expenses of administration, taxes, gifts, legacies, bequests and devises have been satisfied.

Revocable - An act, agreement or declaration which may be modified, changed or revoked. As an example, a Revocable Living Trust is a living trust which may be modified or revoked by the creator of the trust during his or her lifetime.

Self-Trusteed Trust - An arrangement established by agreement or declaration whereby the creator of a trust also acts as trustee.

Settlement Option - Manner in which an insurance company pays the beneficiary(ies). May be lump sum, monthly fixed income, or paid for a fixed period (example: 10 years or life).

Spendthrift Clause - A provision in a Will or trust prohibiting a beneficiary from selling his interest or pledging it to secure a loan, and preventing his creditors from seizing his interest.

Springing Power of Attorney - A power of attorney that is signed by the principal prior to disability, but does not become effective unless and until the principal becomes disabled. Can be thought of as a special form of durable power of attorney.

Tangible Personal Property - Property other than real estate which is capable of being touched or felt. See Intangible Property.

Tenancy by Entirety - A joint holding of undivided property interests by a husband and wife with respect to which the survivor becomes owner of the whole.

Tenancy In Common - Ownership interest in property by different persons all having the right to use and occupy the whole in common with other owners. At death, deceased person's interest passes to his heirs.

Term Insurance - Provides payment of a selected amount of insurance if insured dies within a certain number of years. At the end of the term, coverage expires and the insurer has no obligation to pay any cash value or death benefits; policy may permit renewal without requalification but at higher premium rates based on one's older age; normally does not permit renewal after age 65.

Testacy - Refers to a person who has died having a valid Will.

Testamentary Trust - A trust created in a Will; becomes effective at death.

Testator - A male who made a Will.

Testatrix - A female who made a Will.

Totten Trust - A trust in the form of a bank account which passes to the named beneficiary(ies) upon the death of the one establishing the account. May be revoked prior to death.

Trust - An arrangement whereby property is transferred to one party to be managed and held for the benefit of another.

Trust Agreement - A written agreement between two or more parties whereby a trust is created.

Trustee - An individual or corporation which manages and distributes property according to the terms of a trust.

Trust Officer - An officer in the trust department of a bank or other trust company.

Whole Life Insurance - Provides payment of a selected amount of insurance to a beneficiary at the insured's death; never needs to be renewed nor does the premium cost increase; accumulates cash value which may increase, be borrowed at favorable rates or returned if the policy is surrendered.

Will - See **Last Will and Testament**.