

**HOUSTON INVESTOR'S ASSOCIATION**

**ESTATE PLANNING SEMINAR**

Presented by

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Texas Board of Legal Specialization

January 18, 2014

- I. Over the Fiscal Cliff & Back: "Permanent" Changes in Estate & Gift Tax Exemptions"
- II. The Power of Planning: 3 Scenarios Using the Same Estate
- III. Pros and Cons of Revocable Living Trusts
- IV. Beneficiary Designations Can Destroy Your Wills
- V. How To Protect Your Children's Inheritance from Lawsuits, Divorcing Spouses & Additional Estate Taxes: Lifetime Trusts

## “PERMANENT” CHANGES IN ESTATE AND GIFT TAXES

1. **Estate Tax Exemption equals \$5,340,000** in 2014 and is indexed for inflation (married couples with net worth plus death benefit of life insurance exceeding the Estate Tax Exemption should consider Tax Planned Wills or Tax Planned Revocable Living Trusts with Bypass Trust)
2. **Annual Exclusion Gifting** (increased from \$13,000 to \$14,000 per person/year in 2013; no change for 2014)
3. **Lifetime Gift Tax Exemption** (equals \$5,340,000 in 2014 and is indexed for inflation)
4. **Portability:** If one spouse dies without using up his or her estate tax exemption (currently \$5,340,000), the unused portion may be transferred to the surviving spouse if elected by the executor of the first-to-die spouse's estate. This election can only be made by filing a federal estate tax return (Form 706) in a timely manner.

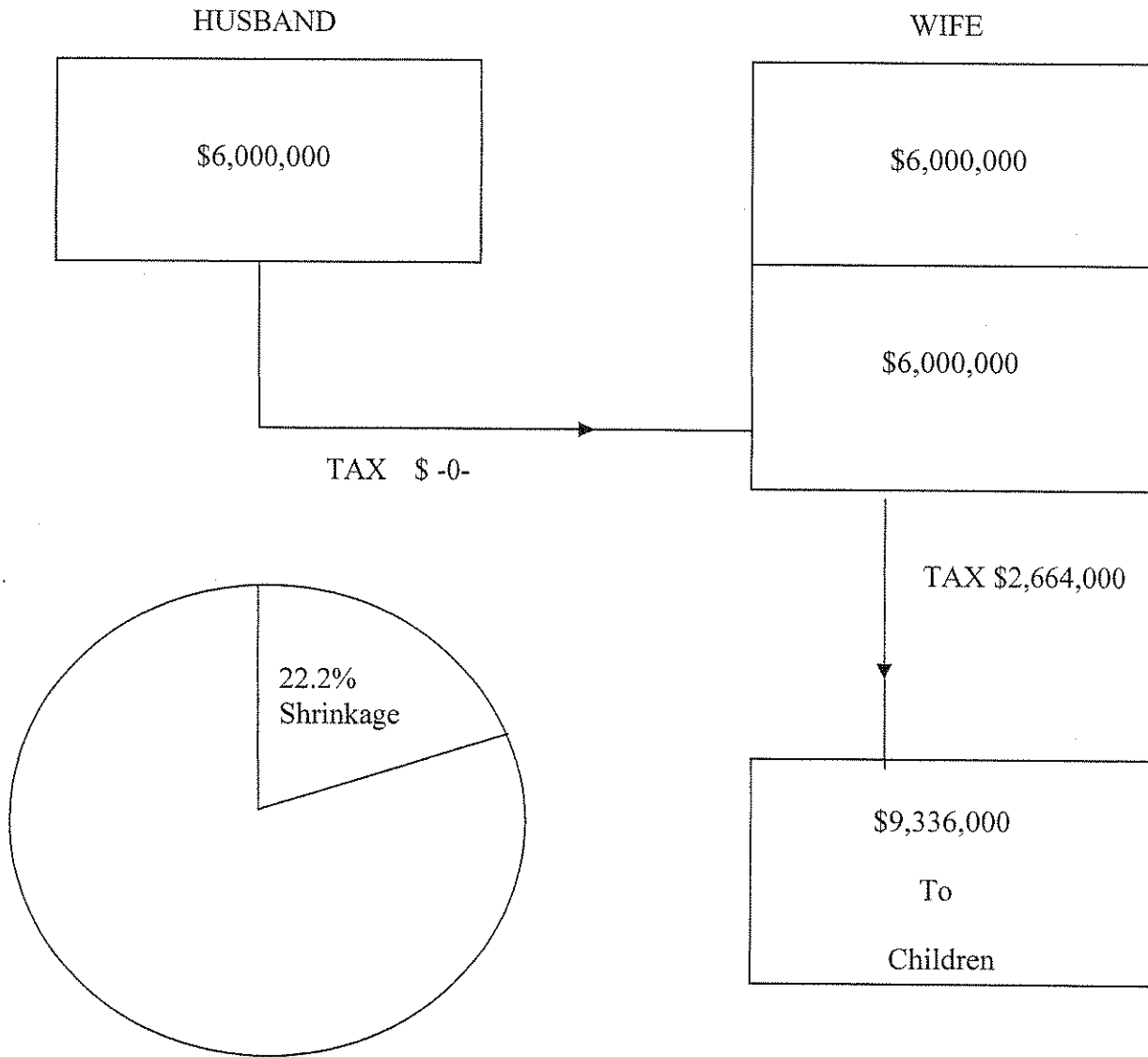
**Case Scenario:** John and Mary Newyear have \$8,000,000 in assets when John dies in 2014. He has a simple “I love you” Will leaving everything outright to Mary. None of John's exemption is used since the bequest to Mary qualifies for the federal unlimited marital deduction. When Mary Newyear dies in 2015 with \$8,000,000 in assets, no estate taxes will be due (if John's estate filed the Form 706) because Mary's estate has her exemption (which we assume has grown by inflation to \$5,450,000) plus John's unused exemption (\$5,340,000) due to “Portability.”

## Federal Estate & Gift Tax Exemptions

Calendar Year	Estate Tax Exemption Amount	Gift Tax Exemption Amount	Highest Estate Tax Rate
2001	\$675,000	\$675,000	55%
2002	\$1,000,000	\$1,000,000	50%
2003	\$1,000,000	\$1,000,000	49%
2004	\$1,500,000	\$1,000,000	48%
2005	\$1,500,000	\$1,000,000	47%
2006	\$2,000,000	\$1,000,000	46%
2007	\$2,000,000	\$1,000,000	45%
2008	\$2,000,000	\$1,000,000	45%
2009	\$3,500,000	\$1,000,000	45%
2010	taxes repealed or \$5,000,000	\$1,000,000	0% or 35%
2011	\$5,000,000	\$5,000,000	35%
2012	\$5,120,000	\$5,120,000	35%
2013	\$5,250,000	\$5,250,000	40%
2014 and beyond	*\$5,340,000	*\$5,340,000	40%

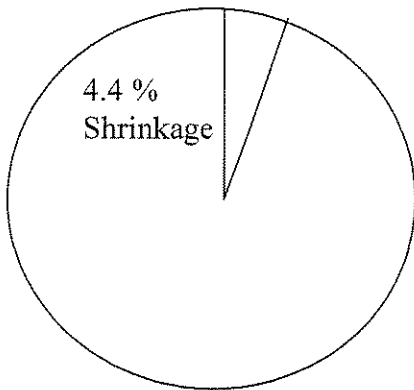
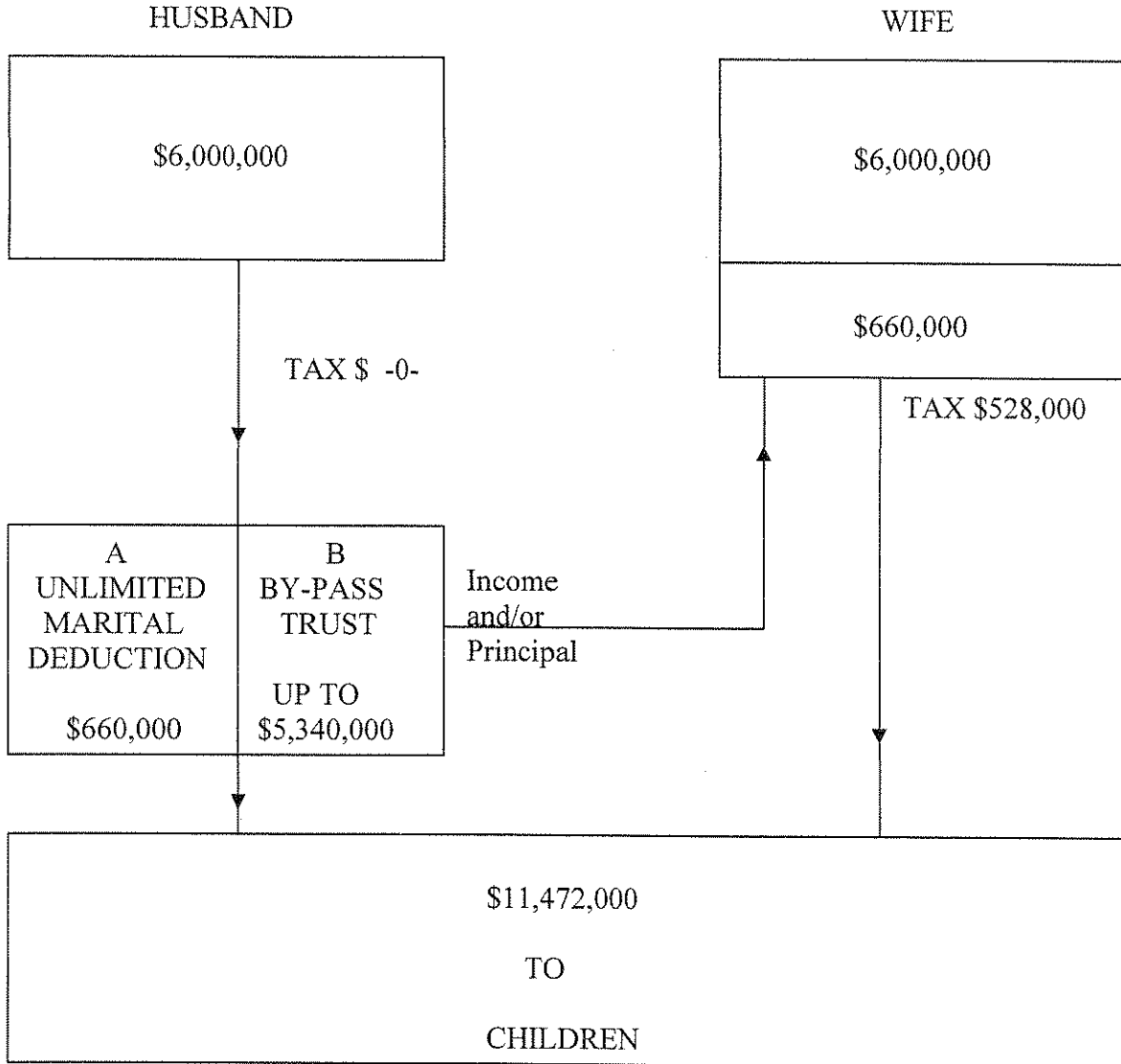
\*The Estate Tax Exemption and the Gift Tax Exemption are now indexed for inflation under the American Taxpayer Relief Act of 2013 effective January 1, 2013.

\$12,000,000 TOTAL GROSS ESTATE



77.8% PASSES TO CHILDREN

**\$12,000,000 TOTAL GROSS ESTATE**  
**WITH TRUST IN WILLS**

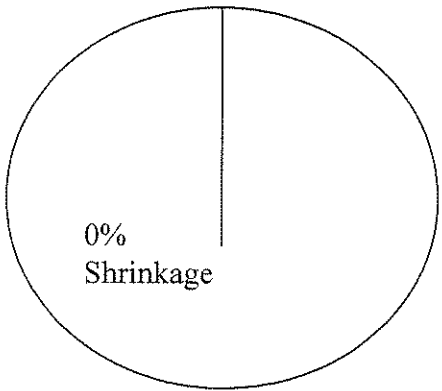
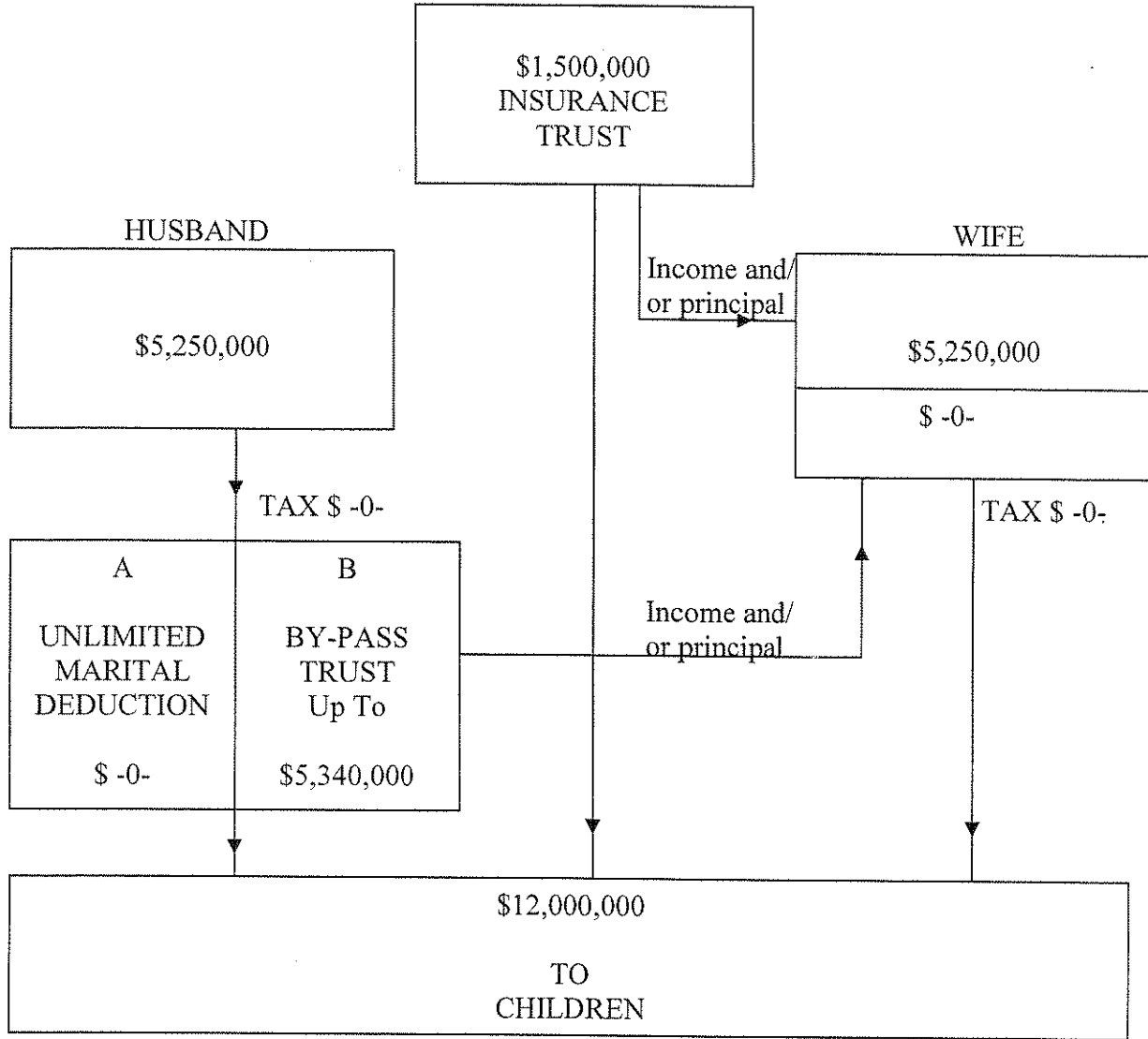


\$2,136,000 IN TAX SAVINGS

95.6% PASSES TO CHILDREN

Assumption: \$5,340,000 Federal Estate Tax Exemption

**\$10,500,000 TOTAL GROSS ESTATE**  
**PLUS \$1,500,000 IN INSURANCE TRUST**  
**WITH TRUST IN WILLS**



\$2,664,000 IN TAX SAVINGS

100% PASSES TO CHILDREN

Assumption: \$5,340,000 Federal Estate Tax Exemption

## REVOCABLE LIVING TRUSTS

### Advantages

1. **Avoiding Probate for assets in trust**
2. **Avoiding Ancillary Administration (for Out-of-State real property)**
3. **Avoiding Anticipated Will Contest (his, her and our children)**
4. **Mobility (for individuals subject to transfer or planning to retire outside Texas)**
5. **Management during Disability**
6. **Privacy**

### Disadvantages

1. **Retitling assets**
2. **Maintenance**
3. **Expense**

**Note: A Revocable Living Trust is not protected from creditors, lawsuits and bankruptcy as it applies to you and your spouse while you are living. Most states (including Texas) do not allow you to create creditor protected trusts for yourself with your own assets.**

**Impact of Beneficiary Designations**  
**(with Tax Planned Wills in 2014)**

Scenario:

Tom & Mary Jones:

- 1) Married 35 years
- 2) Have two (2) children
  - (1) Jim - Age 32
  - (2) Jan - Age 28

What They Own:

- 1) Home (\$700,000)
  - 2) Two (2) Cars (\$100,000)
  - 3) Joint Bank & Brokerage Accounts (\$4,500,000) as JTWROS
  - 4) Household Furnishings (\$200,000)
  - 5) Closely Held Business (\$4,000,000)
  - 6) Retirement Plan & IRAs (\$1,000,000)  
Primary Beneficiary - Mary (Spouse)  
Contingent Beneficiary - Jim & Jan (children)
  - 7) Life Insurance Policy (\$1,500,000)  
Primary Beneficiary - Mary (spouse)  
Contingent Beneficiary - Jim & Jan (children)
- Total estate \$12,000,000

Questions:

A. What problems exist when Tom dies with By-Pass Trust in his Will?

- 1) Underfunded By-Pass Trust
  - a) JTWROS accounts to Mary outright
  - b) Retirement Plan & IRAs to Mary outright
  - c) Life Insurance to Mary outright
- 2) Additional estate taxes at Mary's death
  - a) With underfunded By-Pass Trust \$1,724,000
  - b) With fully funded By-Pass Trust \$ 524,000

B. What additional problem exist in which Tom & Mary die in a common accident?

- Note: (1) Bypass Trusts are also know as Credit Shelter Trusts or Exemption Trusts.
- (2) Jim (son) works in the family business and his name has been added to all the joint bank and brokerage accounts to assist his parents if they become incapacitated and to avoid probate when they die. Jan lives out-of-state so her name was not added to the accounts.



## **BENEFITS OF LIFETIME TRUSTS FOR CHILDREN CREATED AT PARENTS' DEATHS**

### **How it Works:**

1. Each child can be his or her own Trustee (manager of the Trust) at the age the parent selects
2. The Trustee can distribute as much income and principal as necessary for health, support, maintenance and education (i.e., food, clothing, housing, medical, vehicles, education, and vacations)

### **Advantages:**

1. Protection from creditors, lawsuits and bankruptcy
2. Protection from disgruntled or divorcing spouse
3. Protection from additional estate taxes upon beneficiary's death (subject to Generation Skipping Transfer (GST) tax exemption)

### **Disadvantages**

1. The Trustee must file a federal income tax return for each trust after parents are deceased
2. If a child has descendants, the Trustee should provide each adult descendant with financial statement of the trust annually since the descendants are secondary beneficiaries
3. Trusts are taxed at the highest marginal tax brackets if undistributed taxable income exceeds \$12,150. The Trustee should consider (i) investments which are tax-free or subject to long-term capital gains and/or (ii) income distribution to a beneficiary in a lower tax bracket

Houston Investment Association  
Estate Planning Seminar

Presented by  
The Law Offices of James R. Beck

January 18, 2014

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE : \_\_\_\_\_ ZIP : \_\_\_\_\_

PHONE:(    ) \_\_\_\_\_ EMAIL: \_\_\_\_\_

PREFERRED METHOD OF COMMUNICATION: PHONE or EMAIL (Circle One)

CRITIQUE OF TODAY'S DISCUSSION:

AREAS COVERED VERY WELL:

\_\_\_\_\_  
\_\_\_\_\_

SUGGESTIONS FOR IMPROVEMENT:

\_\_\_\_\_  
\_\_\_\_\_

AREAS OF INTEREST (PLEASE CHECK)

ESTATE PLANNING:

ESTATE & GIFT TAX EXEMPTIONS/PORTABILITY

TAX PLANNED WILLS and/or TRUSTS

REVOCABLE LIVING TRUSTS

LIFETIME TRUSTS FOR CHILDREN

OTHER (SPECIFY) \_\_\_\_\_

I WOULD LIKE COMPLIMENTARY CONSULTATION TO DISCUSS ONE OR MORE  
OF THE ESTATE PLANNING TOPICS ABOVE.

YES \_\_\_\_\_ NO \_\_\_\_\_