

LAW FIRM OF KUCZEK & ASSOCIATES
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Did you ever leave
baby-sitting instructions?



What type of instructions would
you leave if you were going
away forever?



We believe:

- You should **control** your own property.
- You should be able to give **what** you want, to **whom** you want, **when** you want, the **way** you want.
- You should be able to do all this at the **least possible cost** to you.

Three Evils of Estate Planning

1. Living Probate (Disability / Guardian)
2. Death Probate (Death)
3. Death Taxes

A Maze of Complex Legal Issues

- Probate Law
- Civil Law
- Tax Law
- Trust Law
- Real Property Law
- Debtor-Creditor Law

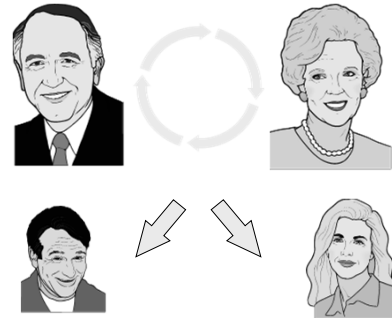


Bob and Pam



- \$2,000,000 estate.
- All property owned jointly.

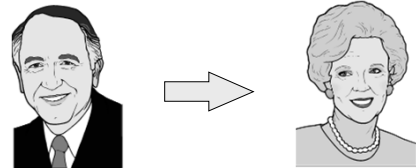
Bob and Pam's Estate Planning Goals



Some Estate Planning Choices:

- Do Nothing.
- Hold assets in Joint Tenancy.
- Use a Simple Will.
- Create a Living Trust.

JOINT TENANCY



100%
ownership

100%
ownership

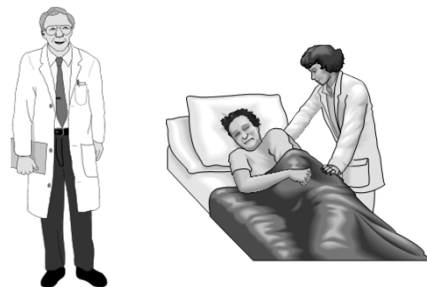
- When the first spouse dies, the surviving spouse gets the entire asset.

SIMPLE WILL

- A set of written instructions directing how your assets are disposed of when you die.



Bob becomes mentally disabled



Coma

Who will manage Bob's property?

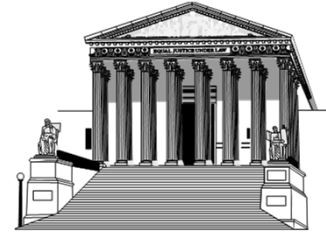
Joint Tenancy?



Simple Will?



LIVING PROBATE



(Disability / Guardian)

Living Probate

(Conservatorship or Guardianship)



- A lawsuit designed to protect those who are mentally disabled.

Disadvantages of Living Probate

- Expensive
 - Court Costs
 - Legal Fees
- Time Consuming
 - Record Keeping
 - Court Reports
- Humiliating



Bob Dies



Who will distribute Bob's property?

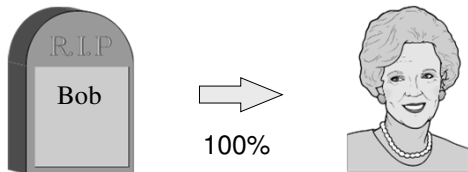
Joint Tenancy?



Simple Will?

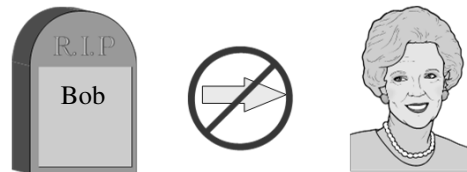


Death of a Joint Tenant



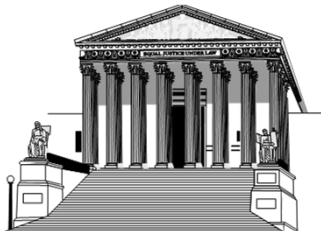
- Survivor receives assets immediately upon death of first joint tenant.

Simple Will



- No distribution until the Will is probated.

DEATH PROBATE



Death Probate

- The legal process of transferring assets to one's heirs.



Purpose of Probate

- Pay off creditors.
- Change title of assets to names of beneficiaries.



Changing title



Bob's name



Pam's name



What happens in Death Probate?

- Place to resolve disputes.
- Will contests.
- Inventory and appraise assets.
- Distribute assets to beneficiaries.

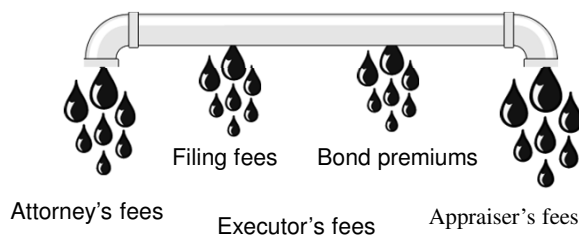


Probate is expensive

- Attorney's Fees
- Executor's Fees
- Appraiser's Fees
- Filing Fees
- Bond Premiums

(Assuming non-independent administration)

Probate is like a leaky pipe



How probate fees are calculated



- Reasonable Compensation
- Percentage of the Estate

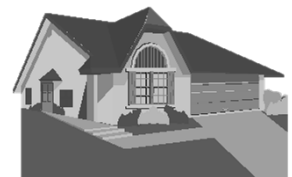
Reasonable vs. Percentage

- Reasonable Fee
 - Whatever the probate judge says is fair.
 - includes Illinois, Florida, Michigan, Wisconsin
- Percentage
 - Based on assets in the gross estate
 - California - 4% variable
 - Nevada - 4% variable

ILCS 755 ILCS 27-2; FL Probate Code 733.6171; MI Probate Code; WI Probate Code 851.40; CA Probate Code 10810; NV Probate Code 150.060

What is your equity?

- \$300,000 fair market value of house
- \$299,000 mortgage
- **Equity = \$1,000**



What is the Probate Fee?



$$\$300,000 \times 4\% = \underline{\$12,000}$$

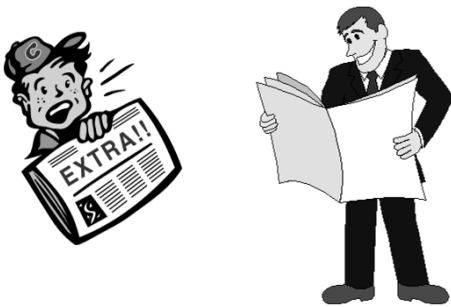
Disadvantages of Probate

- Public record.
- Excessive time delays.
 - Average time is 1 to 2 years.
- Probate in every state where there is property.
- Additional costs and fees.



"How long does probate take" - www.Legalmatch.com

Probate is Public



Multiple Probates



- Additional Cost, Time and Inconvenience.

DEATH TAXES



Two kinds of Death Taxes



- Federal Estate Tax
- Illinois Estate Tax

Illinois Estate Tax

- Illinois has its own estate tax - starting at 9.6% and increasing to 16.0% (effective rate up to 28.0%).
- Estates under \$4,000,000 are exempt



35 ILCS 405

Federal Estate Tax

- The Federal Estate Tax Rate is 40% for estates over \$11.7 million.
- \$11,700,000 Exemption.
- Unlimited Marital Deduction (Trap!)



26 USC Chapter 11(a)

Federal Estate Tax Credit Amount

- 2002 to 2003 - \$1,000,000
- 2004 to 2005 - \$1,500,000
- 2006 to 2008 - \$2,000,000
- 2009 - \$3,500,000
- 2010 - repealed; replaced by carryover basis - no stepped-up basis
- 2011 and 2012 - \$5,120,000
- 2013 - \$5,250,000 (indexed for inflation)
- 2014 - \$5,340,000
- 2015 - \$5,430,000
- 2016 - \$5,450,000
- 2017 - \$5,490,000
- 2018 - \$11,200,000
- 2019 - \$11,400,000
- 2020 - \$11,580,000
- 2021 - \$11,700,000
- 2022 - ???

"Sunsets" back to
\$5,000,00 + inflation
in 2025

Federal Gift Tax Exemption

- Annual Exclusion is \$15,000 (indexed for inflation)
- Lifetime Exclusion is \$11,700,000 (indexed for inflation)

26 USC Chapter 12(a)

CAUTION

If your estate is
below \$4,000,000:

- Do you have Federal Estate Tax?
- Do you have Illinois Estate Tax?
- Do you have Probate?

CAUTION

If your estate is
below \$4,000,000:

- You are still stuck with Living Probate.
- You are still stuck with Death Probate.

Joint Tenancy or Simple Will



- Unlimited Marital Deduction means no Federal Estate Tax due on the death of the first spouse.

Pam is now a widow



- Pam's estate is worth \$2,000,000.

Surviving spouses generally live for an additional 7 years after the death of the first spouse.

Pam's Estate will grow

- Inflation averages 3% a year.
- Value of homes increase an average of 5% a year - *varies greatly*.
- Stock Market grows an average of 9.4% a year.

www.inflationdata.com; www.realestateabc.com; www.observationsandnotes.blogspot.com

In 10 years, Pam's Estate will be worth \$4,000,000



Pam becomes disabled



Who will manage Pam's property?

Joint Tenancy?



Simple Will?



Living Probate

(Conservatorship or Guardianship)

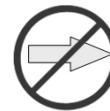


- Which child will the court choose as Pam's guardian?

Pam Dies



Simple Will



- All assets owned by Pam must go through Probate.

Total Probate Fees

Average Probate Fees = 4%

Bob's death = \$ 40,000

Pam's death = \$ 80,000

TOTAL = \$ 120,000



Total Probate Fees

Average Probate Fees = 4%

Bob's death = \$ 40,000

Pam's death = \$ 160,000

TOTAL = \$ 200,000

What if ?

Subtract Bob's probate = (\$ 40,000)

2% fee for Pam's probate = \$ 80,000

Is \$80,000 inexpensive?

Estate Taxes



- Estate Taxes are due 9 months after the date of death.

Summary of Joint Tenancy and Simple Will

Avoid Living Probate?

Joint Tenancy: No

Simple Will: No

Avoid Death Probate - 1st death?

Joint Tenancy: Yes

Simple Will: No

Summary of Joint Tenancy and Simple Will

Avoid Death Probate - 2nd death?

Joint Tenancy: No

Simple Will: No

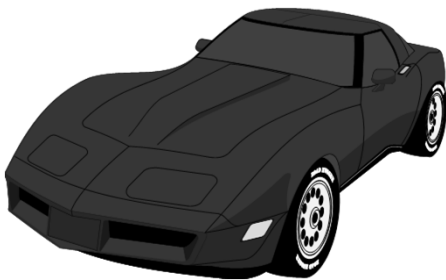
Avoid Federal Estate Tax

Joint Tenancy: No

Simple Will: No

Additional undesirable features of Joint Tenancy

- Gift Tax potential.
- Can pass property to unintended heirs.
- Advantages creditors.
- Offers no control.
- No instructions to your family.



One example of A LIVING TRUST

Created By:

LAW FIRM OF
KUCZEK & ASSOCIATES

Look out for Boilerplate or “one size fits all”

- One price for all.
- Fee quoted prior to thorough consultation.
- No funding assistance.
- Probate in disguise.
- General practitioner.

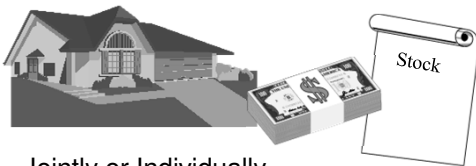
All Different Types of Cars All Different Types of Trusts

To Meet Unique:

Needs
Wants
Desires
Aspirations

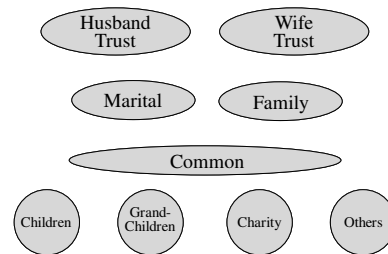
Have it your way!

The problem with Probate is that property is owned by you



- Jointly or Individually.
- Is there a better way to own and control property?

Create your own instructions!



- Change the names of your accounts to the name of your trust.

Both Spouses Alive:



- Take Care of Me.
- Take Care of My Spouse.
- Take Care of My Dependents.
- Let My Trustees/Spouse Sign for Me.

Both Spouses Alive:



One Spouse Alive:



- Take Care of My Spouse.
- Take Care of My Dependents.
- Minimize Taxes.
- Let My Trustees/Spouse Sign for Me.

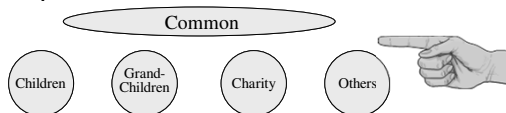
Both Spouses Alive:



One Spouse Alive:



Neither Spouse Alive:



- Let Our Trustees/Children Sign For Us.

Single or Joint

Alive:



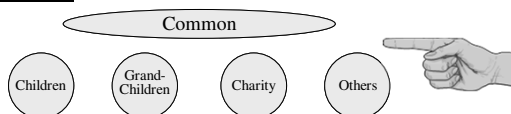
- Take Care of Me / Us.
- Take Care of My / Our Dependents.
- Let My/Our Trustees/Children Sign.

Single or Joint

Alive:



After Death:



- Let My/Our Trustees/Children Sign.

If you choose the people (Trustees) to sign your name, then the court will not.



A Living Trust has 3 positions

- Trustmakers
 - You.
- Trustees
 - Baby-sitters.
- Beneficiaries
 - Your loved ones.
 - People who spend the money.



Which would you rather be?

- Trustmaker?
- Trustee?
- Beneficiary?

How about all three?



Will you have a second chance?

Bob and Pam establish a living trust-centered estate plan

- They are the trustmakers.
- They are the co-trustees.
- They are the beneficiaries during their lifetimes.

Bob and Pam occupy **all three positions** of their living trusts.

While both Bob and Pam are
alive



- They have total control over their property.
- No new taxes.

While both Bob and Pam are
alive



- Same tax returns.
- Same social security numbers.
- Change their plans whenever they wish.

Bob becomes mentally disabled



Coma

Both Spouses Alive:

Bob's Trust

Pam's Trust



Upon disability of the first spouse,
there is no Living Probate

- No attorney's fees.
- No court hearings.
- No guardian's fees.
- Your needs are taken care of.
- Your instructions are carried out for your beneficiaries.

Bob Dies



- Does Bob's living trust avoid Death Probate?

Both Spouses Alive:



One Spouse Alive:



Upon the death of the first spouse, there is no Death Probate

- No attorney's fees.
- No court hearings.
- No executor's fees.
- No time delay.
- No public record.
- No probate in other states.

Estate Taxes



- Does Bob's living trust avoid Federal and Illinois Estate Taxes when Bob dies?

Upon the death of the first spouse, there are no Federal or Illinois Estate Taxes



Pam becomes disabled



Both Spouses Alive:



One Spouse Alive:



Upon the disability of the second spouse, there is no Living Probate.

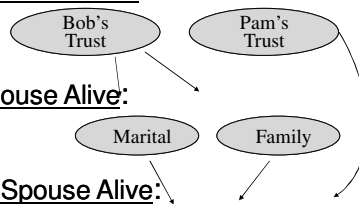
- No attorney's fees.
- No court hearings.
- No guardian's fees.
- Your needs are taken care of.
- Your instructions are carried out for your beneficiaries.

Pam Dies



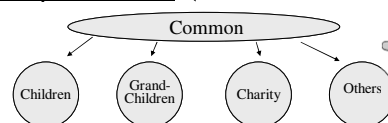
- Does Pam's living trust avoid Death Probate?

Both Spouses Alive:



One Spouse Alive:

Neither Spouse Alive:



Upon the death of the surviving spouse, there is no Death Probate

- No attorney's fees.
- No court hearings.
- No executor's fees.
- No time delay.
- No public record.
- No probate in other states.



What about Estate Taxes?

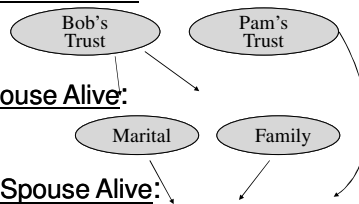


Estate Taxes are Lowered

- Utilize each spouse's exemption amounts.
- \$23,400,000 free from Federal Estate Taxes
- \$8,000,000 free from Illinois Estate Taxes

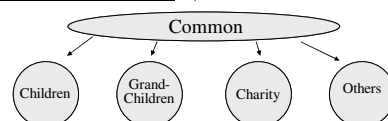


Both Spouses Alive:



One Spouse Alive:

Neither Spouse Alive:



Bob and Pam's Trusts survive and benefit their loved ones

- Benefits minors.
- Protects from divorce / in-laws.
- Benefits the elderly and special needs.
- Protects spenders.
- Protects your estate from creditors.
- Bloodline and grandchildren protection.
- Successful children



What if your Trust
survived for one hundred
years?

What if one of your
ancestors created a trust
for you 100 years ago?

DANGER

What would happen to your
loved ones if you did not
have the best instructions?

Please fill out your "Estate
Planning Seminar Evaluation
Sheet"



Would you like to learn more
without any cost?

- Review your current plan.
- Estimate your Probate costs.
- Estimate your Estate Tax liability.
- Design your instructions.
- Answer all your questions.

