



# Basic Estate Planning

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## Disclaimer

Mr. Cotter is not an attorney. His presentation is for informational and educational purposes only and should not be considered legal advice. Legal counsel competent in estate matters should be consulted before acting on any concepts discussed.

# Basic Steps in the Estate Planning Process

1. Choose Team
2. Gather Information
3. Analyze Data
4. Team Makes Recommendations
5. Decide and Implement
6. Periodic Reviews

## Potential Team Members

Select as needed:

1. Attorney
2. CPA or other tax professional
3. CFP<sup>®</sup> professional
4. Trust officer
5. Insurance professional
6. Planned giving specialist

## Gather Information

- Goals and objectives
- Names and ages of heirs
- Special needs to be considered
- Your assets and liabilities
- Your insurance coverages and named beneficiaries
- Projected growth or shrinkage of estate
- Potential personal representative/trustee

## Analyze Data

- Pretend death occurs today.
- What happens to your estate, your business, your family?
- What if you die ten years from now?
- What are the income and estate tax implications?
- Your team analyzes data and provides you with the results.

## Team Makes Recommendations

- Review suggestions made by team.
- Understand shortcomings of current plan and ways to address them.

## Decide and Implement

- Select plan that best fits your needs and goals.
- Sign essential documents (e.g. wills, trusts, beneficiary designation forms).
- Apply for insurance if needed.
- Change investments and or the titling of property as necessary.

## Periodic Review

- Your estate will change over time in size and composition.
- Your family and their needs may change. (births, deaths, marriage, divorce, disability, legal issues)
- Tax and other laws change frequently.
- Your plan should be reviewed when changes occur in any of these areas. Some advisors recommend an annual review.

## Items to Discuss Before Meeting with an Attorney

- Guardian for minor children
- Personal representative (executor)
- Living trust
- Trustee (corporate or individual)
- Distributions to children (outright?)
- Final heirs (contingent beneficiaries)
- Charitable bequests
- Other questions (death tax reduction, living arrangements for minor children)

## Ways Estate Assets are Transferred

- Operation of Law (joint tenancy)
- Contract (beneficiary designations, POD, TOD)
- Last Will and Testament (Probate)
- Living (Inter Vivos) Trust
- Intestacy Statute (Probate)

# Revocable Living Trust

## Advantages:

- Assets in the trust not subject to probate administration. Usually saves attorney's fees. Also grants more privacy as to who gets assets, when they receive them and how much they get
- Professional management available if grantor becomes incompetent, disabled or wants to delegate management duties
- Successor trustee can step in at death or incapacity of grantor without red tape or delay
- Annual court accountings, with accompanying legal fees, not required
- Trustee can collect life insurance proceeds immediately after grantor dies and can (if trust permits) use proceeds to care for family members without need for court approval.

# Revocable Living Trust

## Disadvantages:

- Creditors may not be cut off as quickly as they are in probated estates
- A little more effort is required to transfer assets into the trust and records should be kept of transactions by the trustee
- Attorney usually charges a higher fee to establish a living trust as opposed to a will with a testamentary trust.

# Incapacity

- Durable power of attorney
- “Living Will”
- Health care power of attorney
- Successor trustee
- Disability income insurance
- Planning for costs of long term care

## Need for Long-Term Care

- More than half of those over age 75 have some type of impairment that may require them to have assistance at some level.

Source: US Census Bureau  
2006 American Community Survey

## Need for Long-Term Care

A survey done by USAA found:

- 48% believe assisted living or nursing home care costs less than \$30,000 per year.
- 23% believe all of their long term care needs will be met by government programs.
- **REALITY:** Nursing home care costs over \$60,000 per year. Government programs provide very limited benefits except to those who are impoverished.

# Long-Term Care Funding Options

- Personal Resources
  - Out-of-Pocket
  - Reverse Mortgage
  - Accelerated Death Benefits
  - Private Health Insurance
  - Long-Term Care Insurance
- Government Resources
  - Medicare
  - Medicaid

# Transferring Retirement Account Assets

A large percentage of family wealth is held in tax-deferred retirement accounts. These pose special challenges.

- Traditional IRA
- Roth IRA
- 401(k)
- 403(b) Tax Sheltered Annuity
- Profit Sharing Plan
- 457 Deferred Compensation

## Possible Beneficiaries

- Spouse under 59 ½
- Spouse over 59 ½
- Non-spouse (children, other relative, friend)
- Charitable organization

## Where Problems Occur

- Distribution rules are complicated and misunderstood
- Financial advisor orientation towards accumulation versus distribution
- Many IRA custodians not capable of and/or do not allow for sophisticated distribution planning

A significant amount  
of this money will be  
drained by  
unnecessary taxation



## Tax Traps

- Estate Taxes
- Income Tax
- Generation Skipping Transfer Tax
- Early Withdrawal Penalty
- Minimum Distribution Penalty Tax



## What is at Stake?

- Ability to minimize erosion of assets due to income and estate taxes
- Ability to preserve and extend tax-deferred status of IRAs
- Ability to provide for future generations

## Required Minimum Distributions (RMDs)

- Apply only to Traditional IRAs
- Roth IRA owners may leave account untouched during their lifetime

# Uniform Lifetime Table

Age	Divisor		Age	Divisor		Age	Divisor
70	27.4		81	17.9		92	10.2
71	26.5		82	17.1		93	9.6
72	25.6		83	16.3		94	9.1
73	24.7		84	15.5		95	8.6
74	23.8		85	14.8		96	8.1
75	22.9		86	14.1		97	7.6
76	22.0		87	13.4		98	7.1
77	21.2		88	12.7		99	6.7
78	20.3		89	12.0		100	6.3
79	19.5		90	11.4			
80	18.7		91	10.8			

## Exception to Uniform Table

- Spouse is sole beneficiary
- Spouse is more than 10 years younger
- Joint life expectancy used instead of Uniform Table
- Longer distribution period

## The 50% Penalty

- Problem: Insufficient RMD taken
- Result: 50% penalty tax

## The 50% Penalty

**Problem:** Insufficient funds left in IRA to take the RMD

**Result:** Must empty the account; 50% penalty tax not imposed

## Six steps to a good stretch

1. Open an IRA account
2. Name spouse or someone younger as beneficiary
3. Spouse rolls remaining assets to his or her own IRA when you pass away

## Stretch steps (cont'd)

4. Spouse names son or daughter as beneficiary
5. Son or daughter maintains IRA, names one of his or her children as beneficiary
6. Continued distributions until Beneficiary IRA exhausted

# Three generations of income

## First Generation

- Stephen retires at 65
- accumulated \$100,000 qualified retirement plan assets
- opens IRA rollover, names wife as beneficiary
- plans to wait until age 70½ for RMD

# First generation – Stephen

Initial Investment	\$100,000
Total distributions received	\$0
Federal tax paid	\$0
Net after taxes	\$0

**ACCUMULATION**

■ First generation

**DISTRIBUTION**

■ First generation

Stephen



Account values are hypothetical and do not represent performance of any investment.

# First generation – Eliza

Initial Investment	\$0
Total distributions received	\$145,620
Federal tax paid	\$18,543
Net after taxes	\$127,077

**ACCUMULATION**

■ First generation

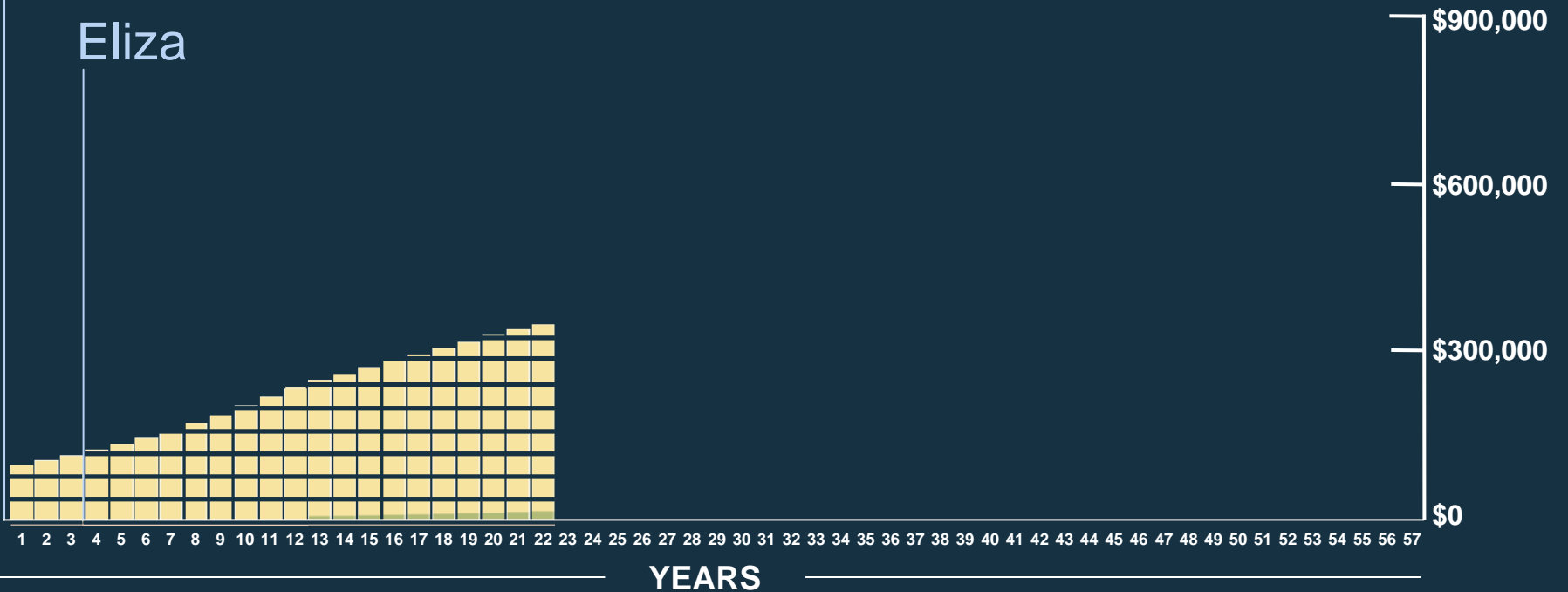
**DISTRIBUTION**

■ First generation

Stephen

Eliza

Annual Account / Distribution Value



Account values are hypothetical and do not represent performance of any investment.

# Second generation – Anne

Initial Investment	\$0
Total distributions received	\$922,494
Federal tax paid	\$169,739
Net after taxes	\$752,755

**ACCUMULATION**

- First generation
- Second generation

**DISTRIBUTION**

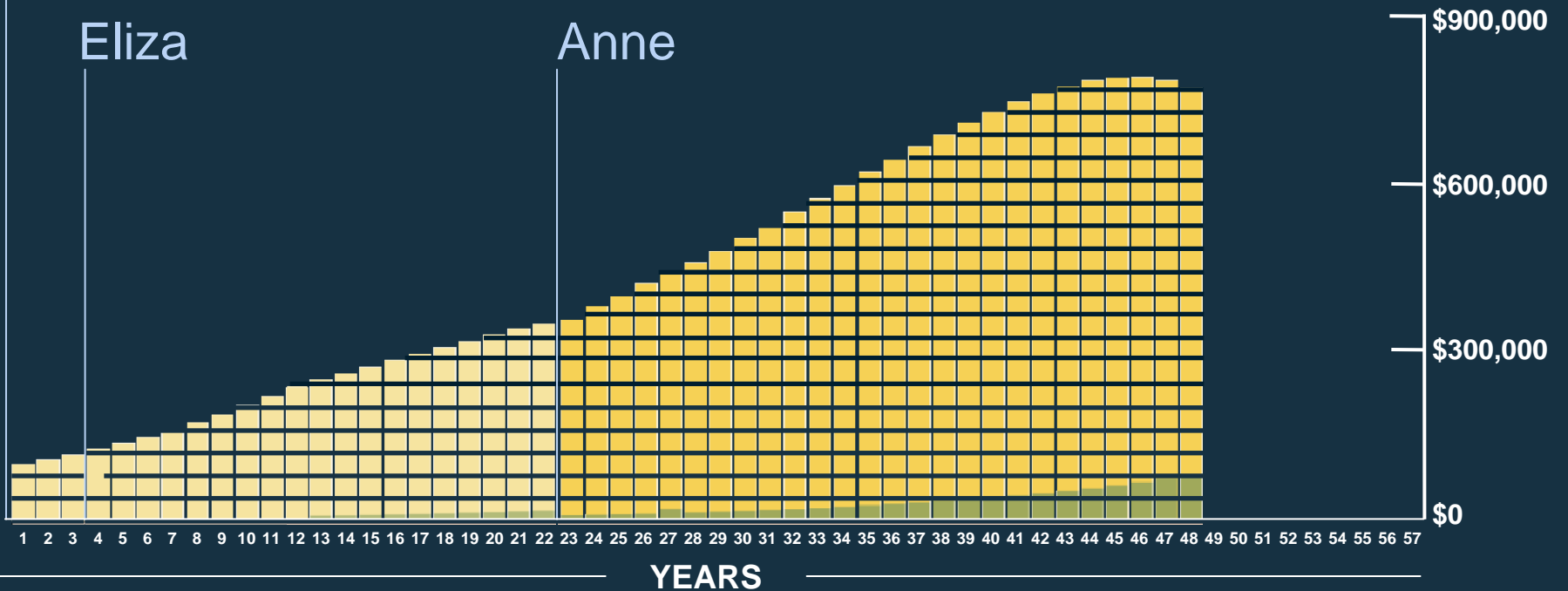
- First generation
- Second generation

Stephen

Eliza

Anne

Annual Account / Distribution Value



Account values are hypothetical and do not represent performance of any investment.

# Third generation – Sean

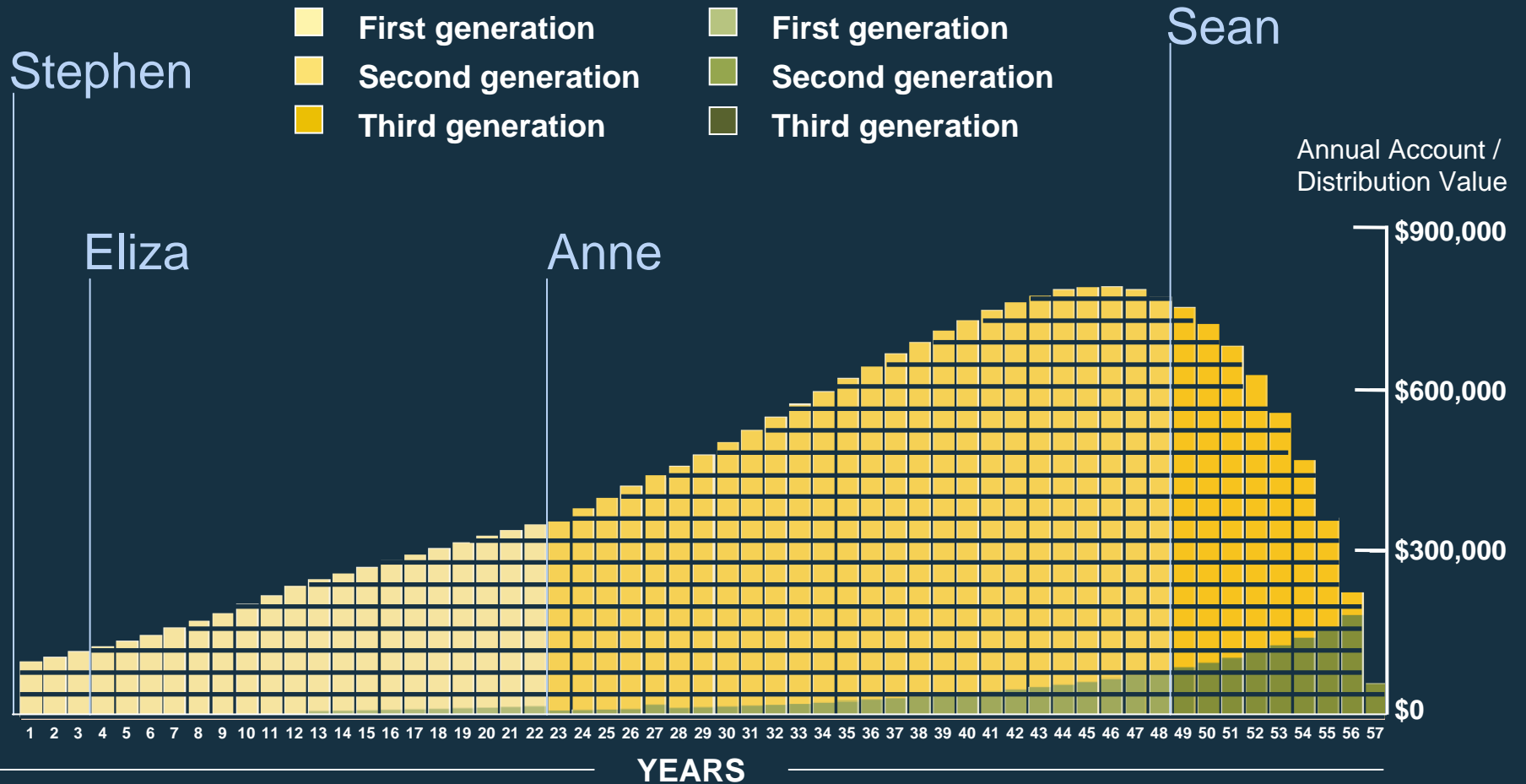
Initial Investment	\$0
Total distributions received	\$1,113,277
Federal tax paid	\$282,607
Net after taxes	\$830,670

**ACCUMULATION**

- First generation
- Second generation
- Third generation

**DISTRIBUTION**

- First generation
- Second generation
- Third generation



Account values are hypothetical and do not represent performance of any investment.

## Hypothetical Stretch distribution summary

- Initial hypothetical investment \$100,000
- Total distributions received \$2,181,391
- Federal taxes paid \$470,889
- Total after-tax distributions \$1,710,502
- Years in distribution 46

Account values are hypothetical and do not represent performance of any investment.

## Beneficiary Classes

**Primary beneficiary** -- the individual, charity, trust, or estate that receives the IRA assets upon the owner's death

**Contingent beneficiary** – would receive the assets only if there were no surviving primary beneficiaries at the time of the owner's death

**Successor beneficiary** -- will receive any remaining payments in the event the designated beneficiary dies prior to complete payout

Questions??