



Basic Estate Planning Concepts

What you need to know

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HOW DOES PROPERTY PASS AT DEATH?

ONLY THREE WAYS:

1. **INTESTATE SUCCESSION (NO WILL)**
2. **BY WILL**
3. **BY OPERATION OF LAW**



INTESTATE SUCCESSION

- IN THIS SITUATION THE COURT AND THE LAW PREPARE A WILL SUBSTITUTE, AND DISTRIBUTE THE DECEDENT'S PROPERTY IN A MANNER PRESCRIBED BY STATUTE. OPERATES LIKE A WILL BUT WITH MUCH MORE COURT SUPERVISION.



BY WILL

- THIS IS WHAT WE ARE MOST FAMILIAR WITH.
- PROPERTY IN THE DECEDENT'S NAME ALONE PASSES THROUGH WILL UNDER CONTROL OF PROBATE COURT.



WHAT IS A WILL?

- **Effective upon death**
- **How to manage your property**
- **Instructions for the Probate Court**
- **How to pay your bills**
- **How to distribute your property**



BY OPERATION OF LAW

- ASSETS PASS BY TERMS OF DOCUMENTS CREATING THE ASSET. FOR EXAMPLE:
 1. LIFE INSURANCE – DEATH PROCEEDS PASS TO NAMED BENEFICIARY.
 2. JOINTLY OWNED PROPERTY – PROCEEDS PASS UNDER TERMS OF DOCUMENT TO SURVIVOR.
 3. QUALIFIED PLANS AND IRA'S – PROCEEDS PASS TO NAMED BENEFICIARIES.



TITLE'S EFFECT ON HOW ASSETS PASS

- IF ALL ASSETS IN JOINT NAME, LIFE INSURANCE OR QUALIFIED PLANS AND IRA'S, THEN THE WILL IS USELESS ON DEATH OF FIRST SPOUSE BECAUSE ALL PROPERTY PASSES OUTSIDE OF PROBATE.



WHAT IS PROBATE?

- A Legal Proceeding
- The Judge enforces the Will instructions
- Transfers Property after death
- Provides a forum for a Will Contest
- Time Consuming and Expensive



Estate Planning Overview

What is a Trust?

- ◆ Instructions for Trustee
- ◆ Effective upon signing
- ◆ Contains Disability instructions
- ◆ How to manage your property
- ◆ How to pay your bills
- ◆ How to distribute your property



Estate Planning Overview

What is Trust Settlement?

- ◆ A Private Proceeding
- ◆ Trustee enforces Trust instructions
- ◆ Mechanism to manage or transfer property upon disability *and* after death
- ◆ Difficult to contest
- ◆ Comparatively inexpensive, because much work done during life



Estate Planning Overview

What is The Goal of All this?

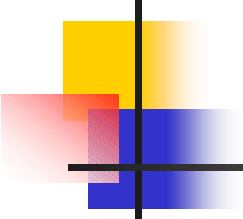
- 1. Protecting a Spouse or Minor Children**
- 2. Protecting a Spouse from Future Predators**
- 3. Protecting Older Children from Bad Choices**
- 4. Balancing Beneficiaries in Blended Families**
- 5. Leaving a Social Legacy (Charitable Intent)**
- 6. Protecting One's Dignity in event of Disability**
- 7. Save income and estate tax**



Problem: Simple Will

- Basic plan of most small estates.
- Uses unlimited marital deduction at 1st death and not estate tax exemption.
- Shifts tax liability to survivor's estate.

All to Surviving Spouse



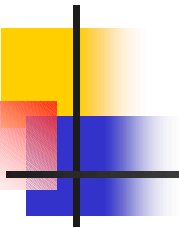
**First Death Net Estate
\$2,000,000**



**Surviving Spouse
\$2,000,000**

No Federal Estate Tax

Tax at Second Death



Assume 0%
growth over
1 year

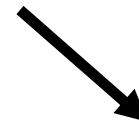
First Death Net Estate
\$2,000,000



Surviving Spouse Estate
\$2,000,000



**Net Estate
to Heirs**
\$1,500,000



**Federal Estate Taxes
(FET)**
\$500,000

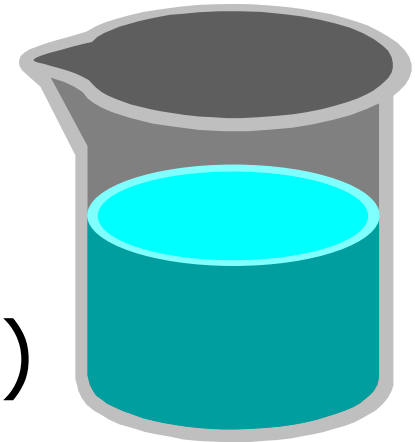


Solution - a trust

- Credit shelter trust - use unified credit at first death.
- Avoid outright transfer to non-spouse beneficiary.
- Survivor receive income and some principal.

A Trust is . . . a Bucket

- Holds Property (Corpus)
- You Fill Bucket (Grantor)
- Bucket Watcher (Trustee)
- Ladle Out Contents (Sprinkle)
- Pour out Contents (Dissolve)



Trustee

Fiduciary Relationship

- Trustee Must Follow Trust Provisions
- Holds the Property to Benefit Beneficiary
- Invests Trust Property
- Protects Trust Property





Two ways to create

- Testamentary - Created at Death
- Inter Vivos - Created During Lifetime
(Living Trusts)



Types of Trusts

- **Revocable**

- Right to change or amend.
- Still part of estate.

- **Irrevocable**

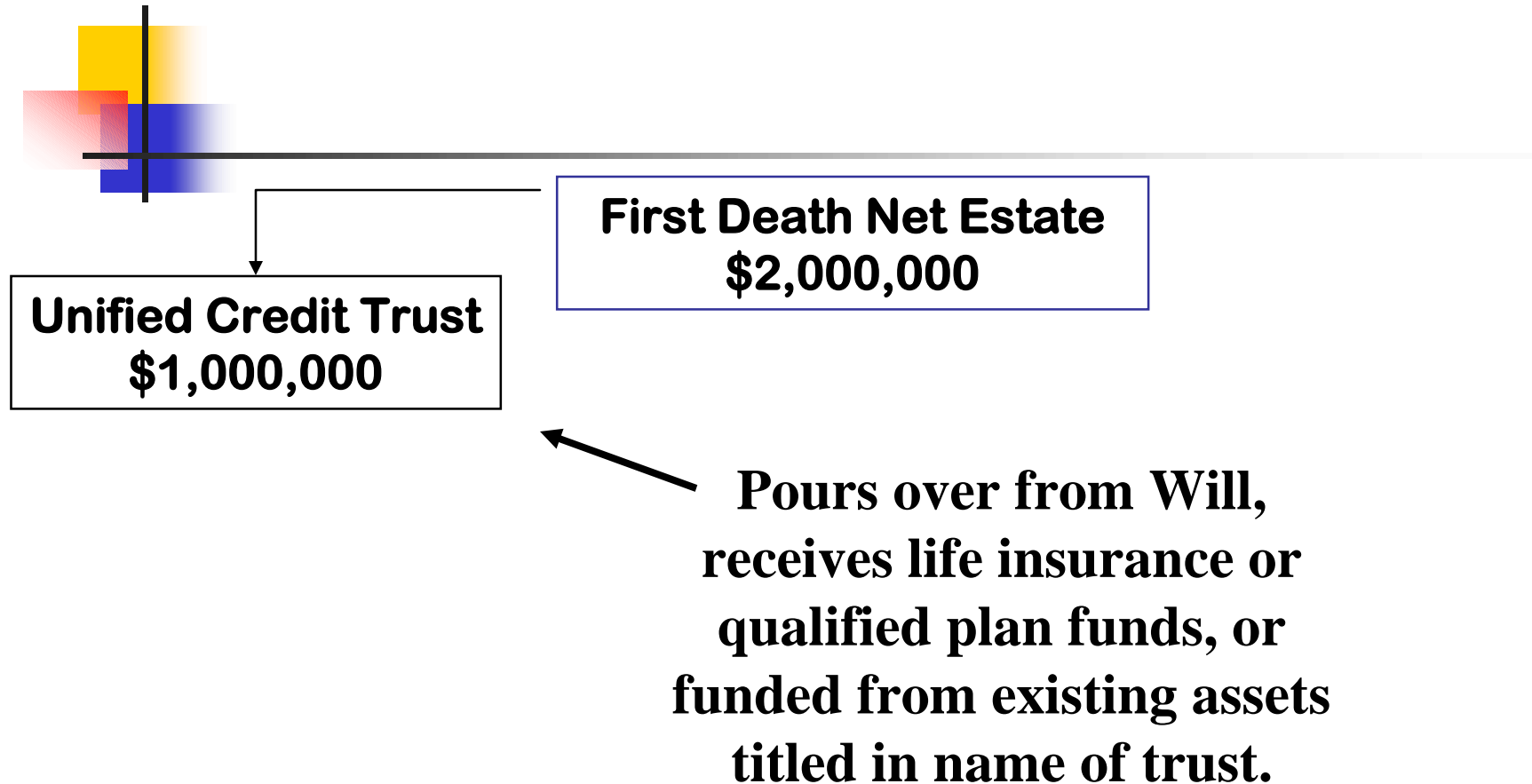
- No right to change or amend.
- Removed from estate.



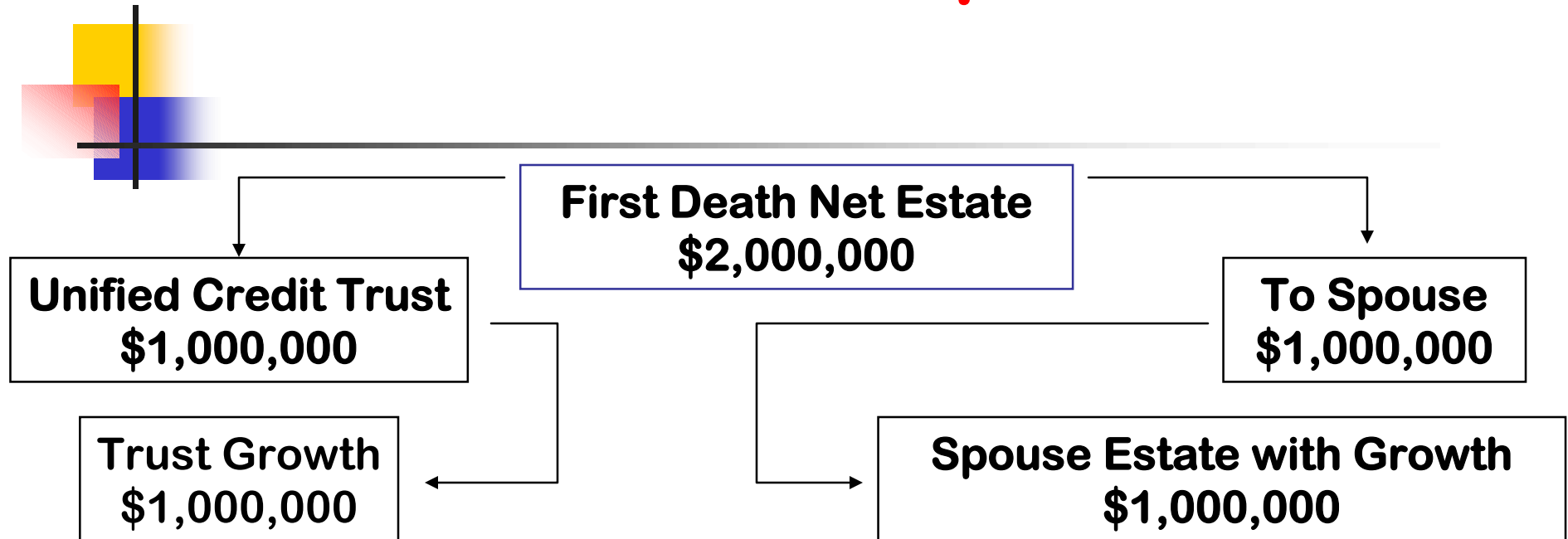
Typical Revocable Trust

- Grantor transfers assets during his life.
- At death, more assets received from estate (pour-over will) or as beneficiary (life insurance)
- Funds a Credit Shelter trust with remaining unified credit for non-spouse beneficiary.
- Surviving spouse right to income and limited right to invade principal.

RLT Using Unified Credit

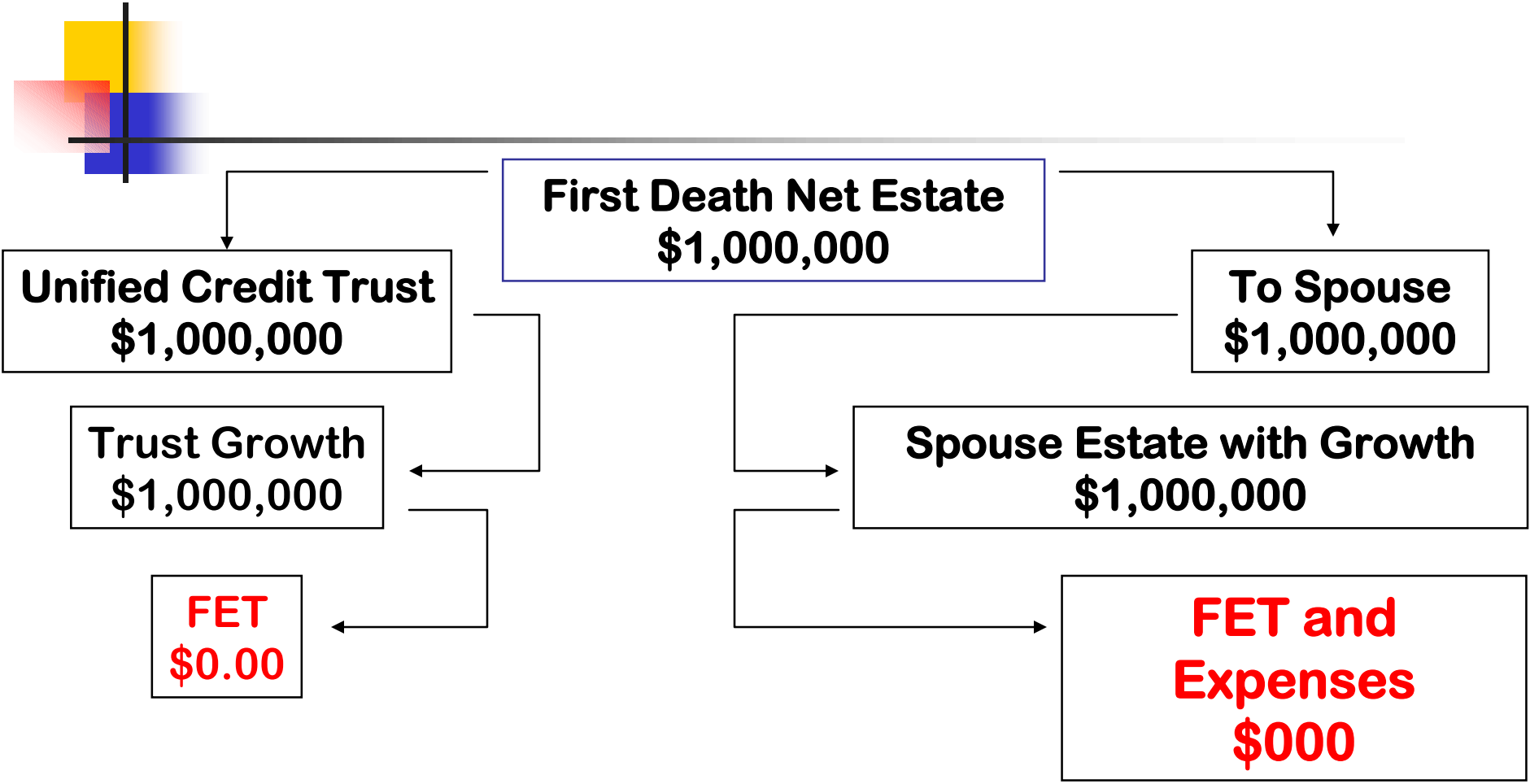


Remainder to Spouse

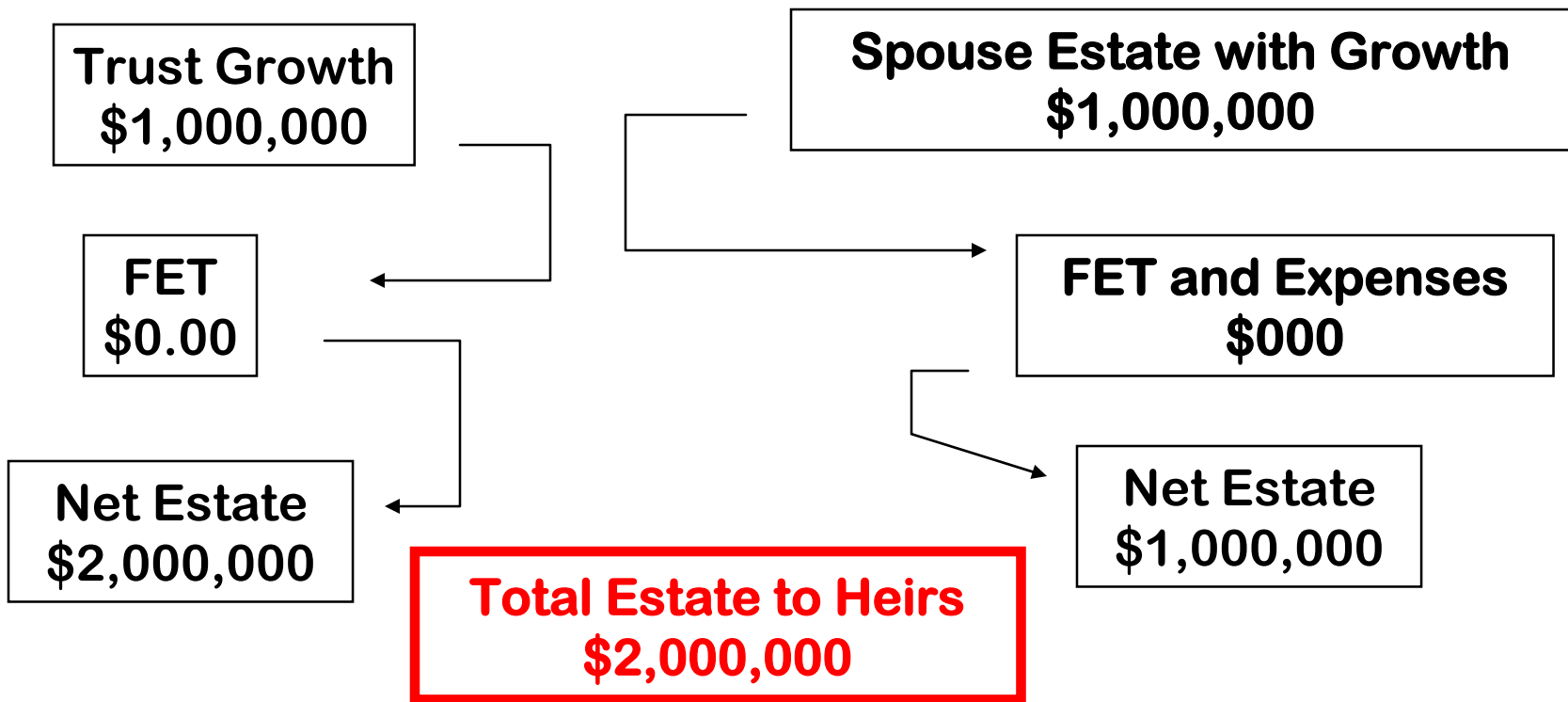


Assumes 0% growth over 1 year.

Tax at 2nd death with CST



Net to heirs using RLT





Your Client Prefers?

All to Surviving Spouse

**Net Estate to Heirs
\$1,500,000**

Revocable Trust w/
Unified Credit

**Total Estate to Heirs
\$2,000,000**



Question

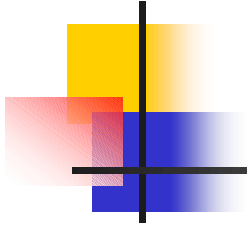
A Spouse Has No Right to Income Or
Principal From A Credit Shelter Trust?

True Or False?

A Final Thought

**Estate Tax is the only voluntary tax
in the Internal Revenue Code!**





Thanks for Attending

Please Complete the Feedback Form