



Magellan Planning Group



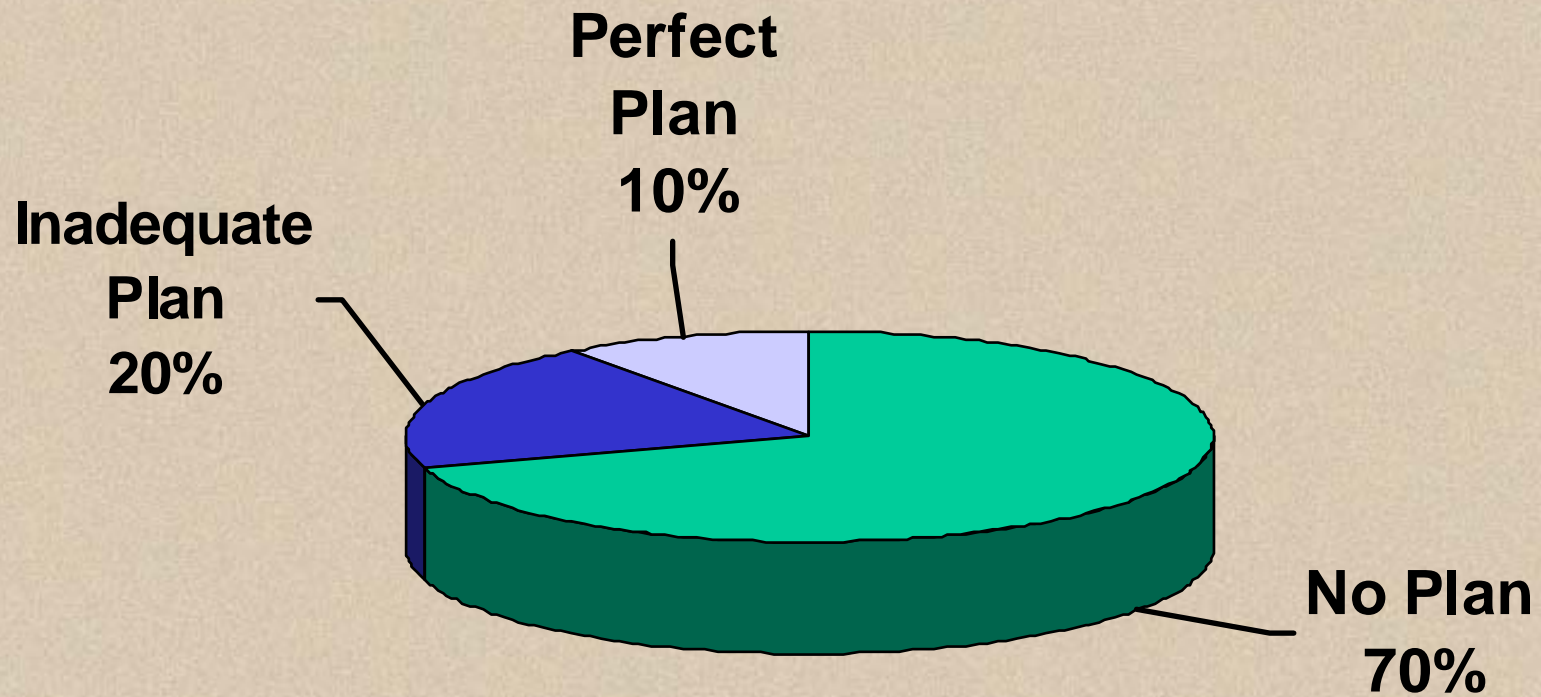
# *Estate Planning*

## *Myths, Common Knowledge and Truth*

*Presented by:*

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# *Planning in America*



# *Challenges Facing Everyone*

- ✦ Lawsuits
- ✦ Incompetency
- ✦ Nursing Home Care
- ✦ Living Too Long
- ✦ Maintaining Privacy
- ✦ Maintaining Control
- ✦ Estate Distribution
  - Taxation
  - Outliving our money

# *Asset Protection*

- ✦ Insurance
- ✦ Asset Protection Trust
- ✦ FLPs and LLCs
- ✦ Off-shore Trusts
- ✦ Exempt assets (e.g., OCGA § 33-28-7)

# *Current Estate Tax Law*

- 2003 - Estate tax exemption was \$1 million.
- 2004 - Estate tax exemption rose to \$1.5 million.
- 2006 - Estate tax exemption rises to \$2 million.
- 2009 - Estate tax exemption rises to \$3.5 million.
- 2010 - Estate tax is repealed. But Stepped Up Basis Lost.
- 2011 - **All changes revert back to 2001 before Bush tax cuts.**  
**Estate tax exemption reverts to \$1 million.**

# *Living Documents*

## ✦ Durable Financial Power of Attorney

- Third parties, such as banks, are not required to honor them
- State specific
- Effective after incapacity
- Terminate upon the death of the Principal


## ✦ Durable Healthcare Power of Attorney

- Designation of healthcare surrogate for general health care decisions

## ✦ Living Will

- Instructions for medical care during a terminal illness

# *There are only THREE choices*

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- ✦ **Do Nothing**
  - ✦ **Will Centered Plan**
  - ✦ **Trust Centered Plan**

# *Intestate Succession*

- ✦ If you leave the planet without a Will or a Trust, Georgia has a plan for your assets.
- ✦ Each state has its own plan.
- ✦ Georgia: The surviving spouse splits the assets with the children, but is not to receive less than one-third (1/3).

# *What is Probate?*

## Probate is Latin for “To Prove” Court Supervised Transfer of Assets

- ✦ Inventory & Appraisal of Assets
- ✦ Public notices – notification of creditors
- ✦ Verify creditor’s claims - have Will contest or dispute hearings
- ✦ Pay creditors and administrative costs
- ✦ Distribute assets to heirs

# Probate Facts

- ✦ Any formal asset (i.e. real estate, money) owned by a decedent must be distributed through the probate court, no matter how small!
- ✦ Avg. range of time to probate 6 months to 2 years. Avg. cost: 3% of gross estate (w/o bond)
- ✦ Public record. Details are available to anyone forever.
- ✦ Ancillary probate required in every state you own real property

# *Probate Avoidance*

Some Common Methods:

- ✦ Joint Tenancy w/ROS
- ✦ Beneficiary Designations
- ✦ POD and TOD
- ✦ Revocable Trusts

# *Probate Avoidance*

## The Revocable Living Trust

A Trust Initially has Three Parties:

- ✦ **Grantor(s)**  
(One who creates the Trust)
- ✦ **Trustee(s)**  
(One who controls Trust Assets)
- ✦ **Beneficiary(s)**  
(One who has use of Trust Assets)

# Revocable Trust



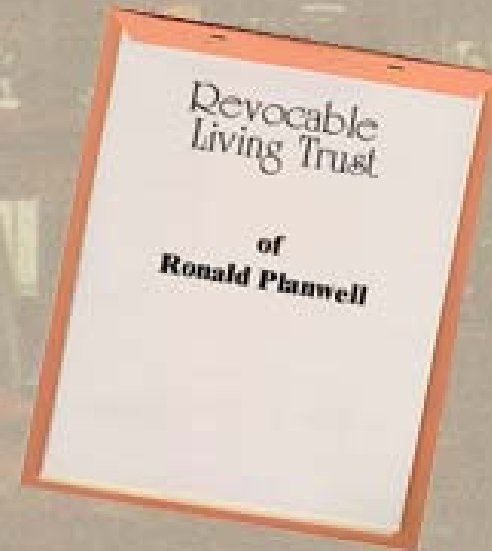
# Credit Shelter Trust



# *Revocable Trust*

## Advantages

- ✦ Eliminates Guardianship
- ✦ No Court Accountings
- ✦ Avoids Probate
- ✦ Ensures Privacy
- ✦ Avoids Ancillary Probate



# *Goals of Our Clients*

1. **Maintain Control** upon Incapacitation
2. **Eliminate Court** Intervention
3. **Protect Income** During Retirement
4. Reduce or **Avoid Taxation**
5. **Peace of Mind**