

**Partners Office for  
Women's Careers at MGH  
Presents**

**Wealth Preservation and Estate Planning  
for 21<sup>st</sup> Century Families —  
One Size Does *Not* Fit All**

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# What is Estate Planning?

*The process of:*

Formulating goals for what you want your wealth to do for you and your loved ones

- During your lifetime
- At your death



Designing and implementing a plan to accomplish those goals

# What is Estate Planning?

## *Simple Questions: Difficult Issues*

If both my partner and I die together, who will care for my children?

Are there enough resources to care for my family if I die?

How much wealth is enough for my children and when should they receive it?

How can I leave a legacy to the community?

# Who Needs an Estate Plan?

Estate planning is not just for the wealthy

Without an estate plan:

- The courts decide who will care for you minor children
- The courts decide who will administer your estate
- What you *think* will happen at your death is likely not what will actually happen



# Who Needs an Estate Plan?

Without an estate plan:

- Your children may control wealth too early
- Creditor protection opportunities may be lost
- Unnecessary taxes may shrink what is left for your loved ones

# The Subject of Taxes

A tax on the privilege of transferring wealth

Wealth includes:

- Tangible personal property (furnishings, jewelry, art collections)
- Real estate equity
- Cash and investments
- Business interests (including medical practices)
- Retirement benefits
- Life insurance owned by the insured
- Some interests in trusts



# Transfer Tax Basics

Exemption from transfer tax:

- Currently \$1 million
- Increasing over the next 6 years to \$3.5 million
- 2010 – no estate tax
- 2011 – back to \$1 million

Rate of tax is steep: Combined federal and state tax: Over 50%

# Families Come in All Shapes and Sizes

- Husband, Wife and Children
- Second and Subsequent Marriages, with “His, Hers, and Ours” Children
- Gay and Lesbian Partnerships
- Couples Choosing to Live Together Outside of Marriage
- Single Parents
- Single Individuals
- International Unions – When One or Both Partners is Not a US Citizen



# Common Goals

- Provide financially for life partners, children, other loved ones
- Minimize the shrinkage to the estate from taxes
- Provide for the care of children
- Provide for the safeguarding of children's assets until they reach appropriate ages
- Arrange for individual of choice to manage finances during disability
- Choose person to make health care decisions
- Choose who will be in charge of administering estate

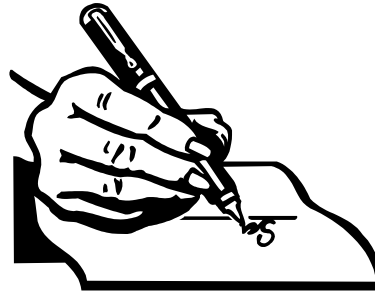
# The “Tools” Available for Accomplishing These Goals May Differ

- Laws surrounding marriage/spousal benefits
- Tax laws
- Statutes giving preferences to certain family members
- Employee benefits available



# Background: The “Basic” Estate Plan

- Will
- Revocable Trust
- Power of Attorney
- Health Care Proxy/Memorandum



# Background: The “Basic” Estate Plan

Fred and Mary Jones, first marriage for both, 3 children

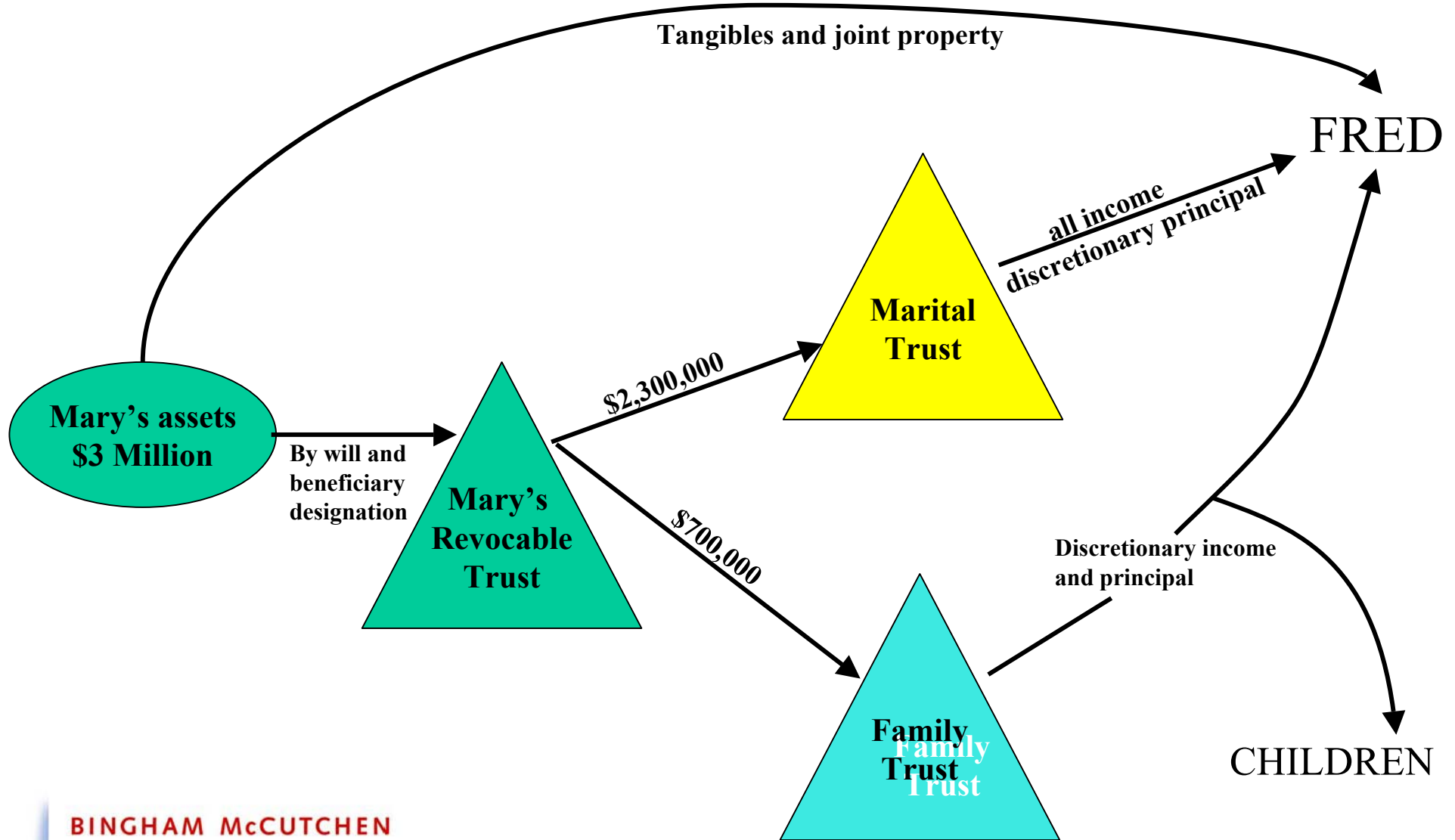
Fred has \$1 million in assets

Mary has \$3 million in assets

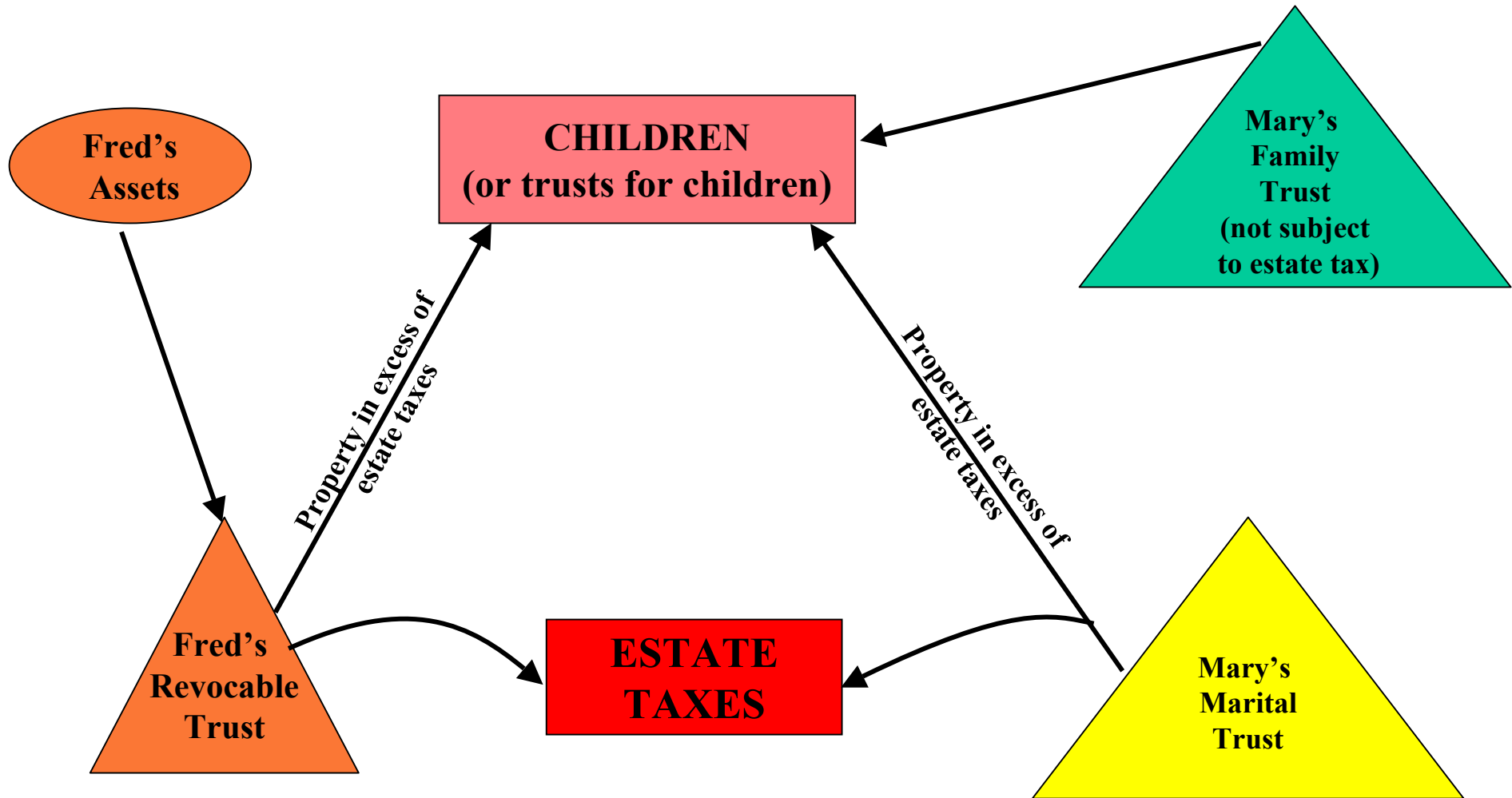
Estate Planning Goals:

- Dispose of assets as they wish
- Avoid estate taxes to the extent possible
- Defer estate taxes to the extent possible

# At Mary's Death in 2003



# At Fred's Subsequent Death



# “His, Hers, and Ours” Situations — Second and Subsequent Marriages”

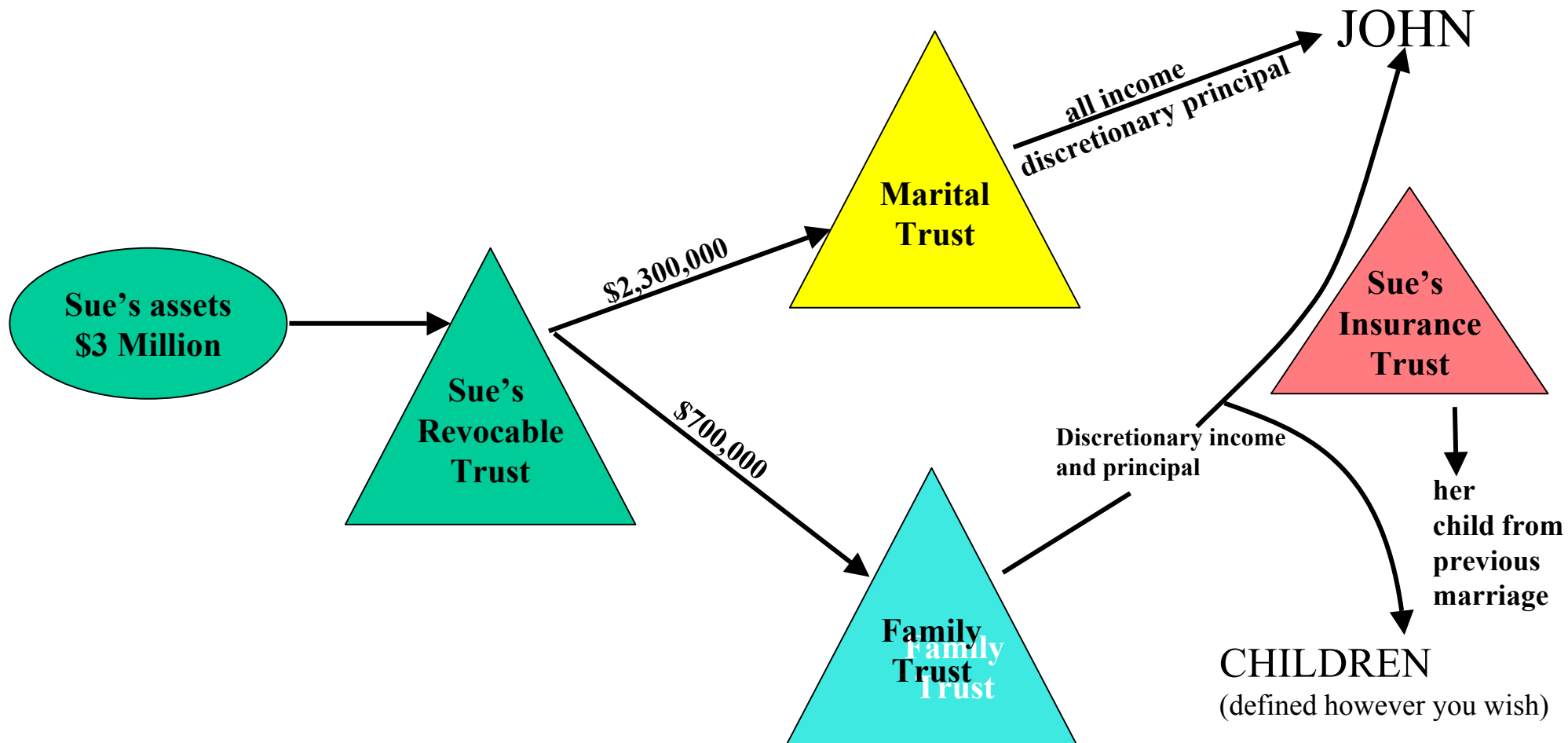
John (age 35) and Sue Smith (age 45), each married before, each has one child from previous marriage (wife’s child, age 19; husband’s child age 7); one child together, age 2.

- Guardianship provisions — may be different for different children
- Obligations under divorce agreement must be fulfilled
- Distribution of wealth between spouse and children - how to allocate?
  - Amount
  - Timing
  - Tax issues



# Possible Solutions — “His, Hers, and Ours”

Use insurance to provide for older children during lifetime of surviving spouse



# Partnerships Outside of Marriage

Lifetime Considerations:

- How should our financial relationship be structured?
- Who will handle finances upon incapacity of a partner?
- Who will make health care decisions for an incapacitated partner?



# Partnerships Outside of Marriage

## Lifetime Solutions:

- Effective gifting strategies
- Structuring ownership of assets to accomplish goals
- Durable power of attorney
- Health care proxy

# Partnerships Outside of Marriage

What happens at death?

- Who will decide on burial / funeral arrangements?
- Who will control disposition of my wealth?
- How can I support my partner after I die?



# Partnerships Outside of Marriage

Solutions for Post-Death Concerns:

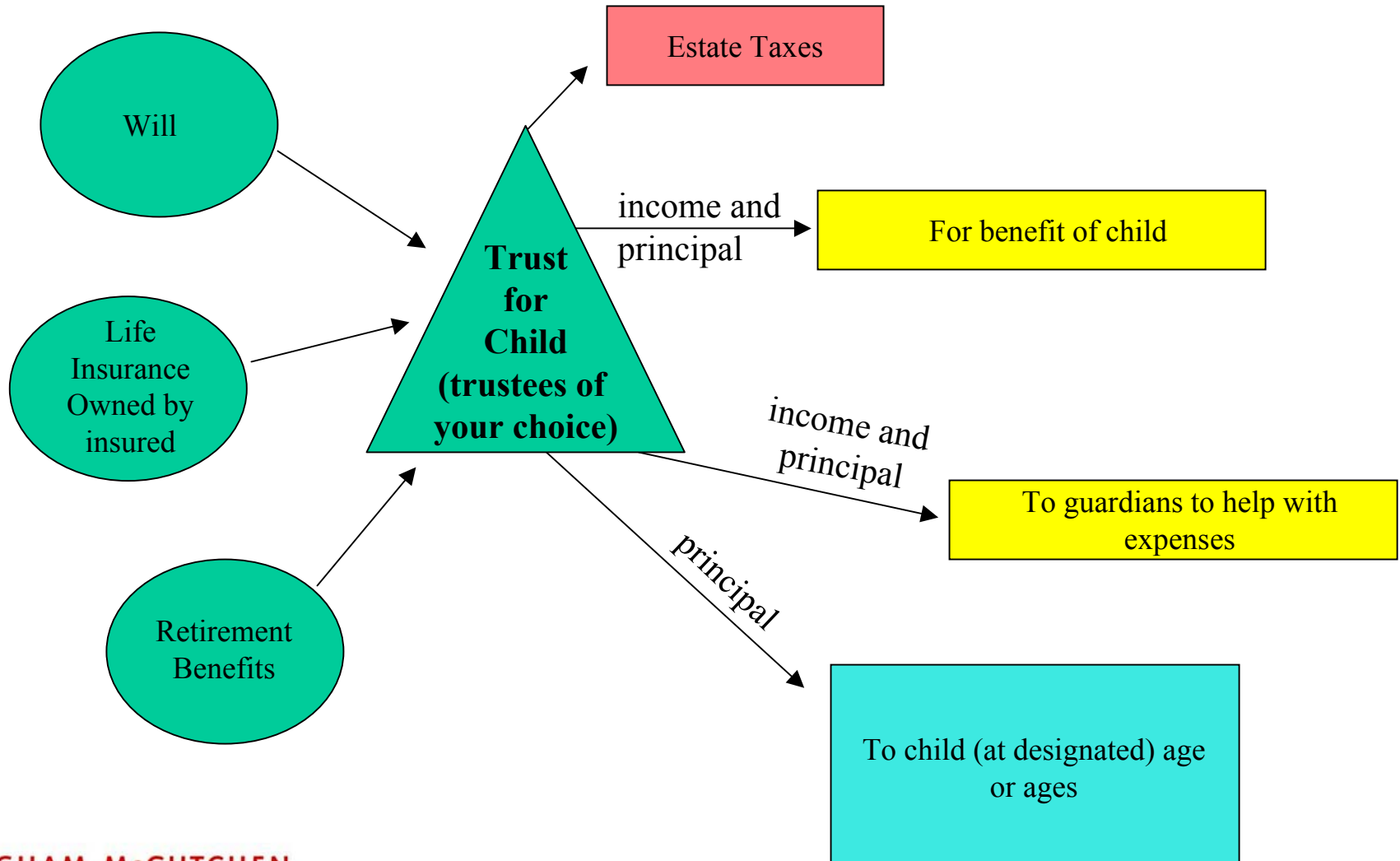
- Lifetime arrangements for burial / funeral
- Wills
- Trusts
- Life insurance planning

# Single Parent

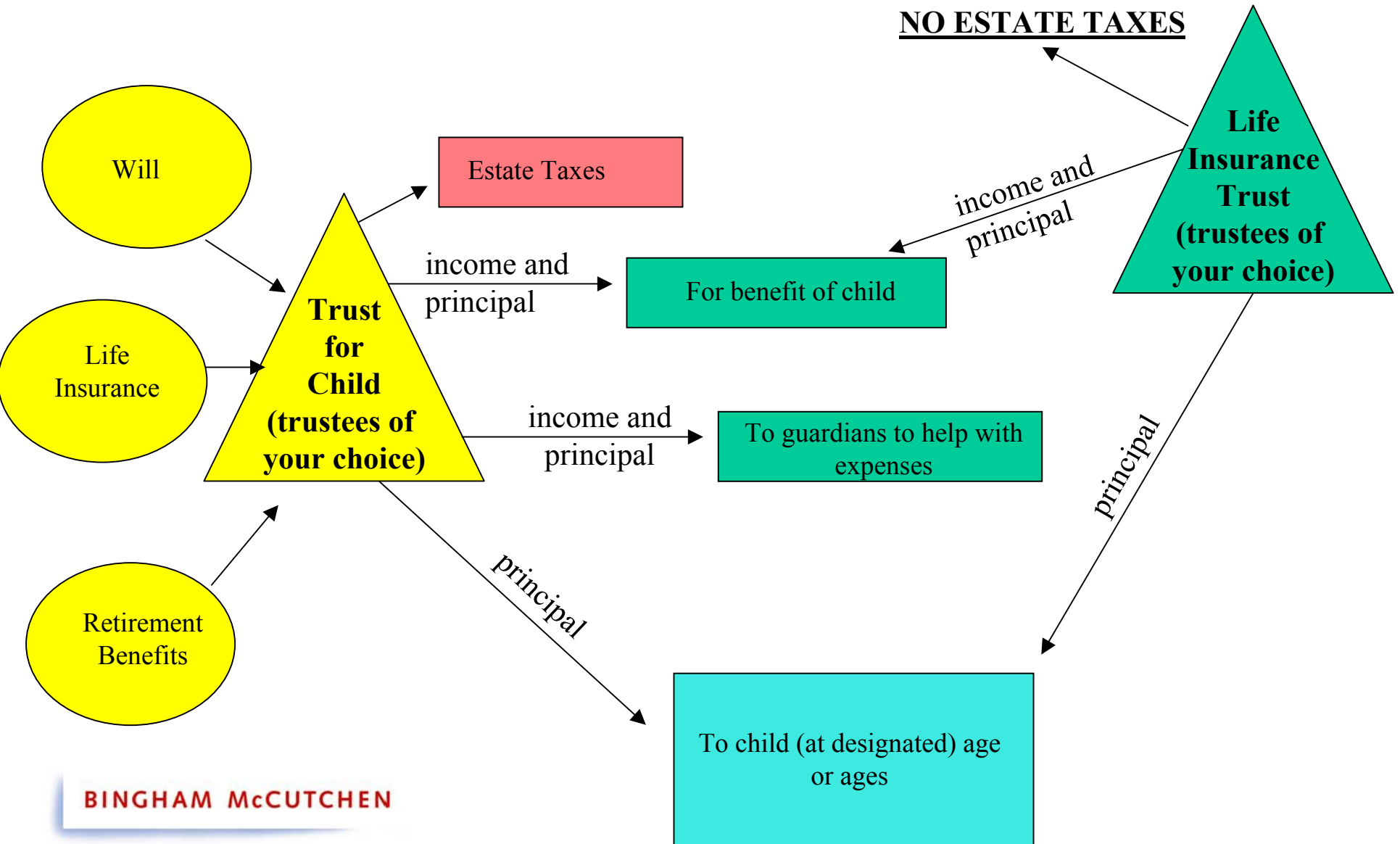
- Who will care for child?
- Do guardians have the resources?
- Who will control the child's assets?
- Is there enough wealth (after estate taxes) to provide for child?



# Single Parent Estate Plan



# Single Parent Estate Plan

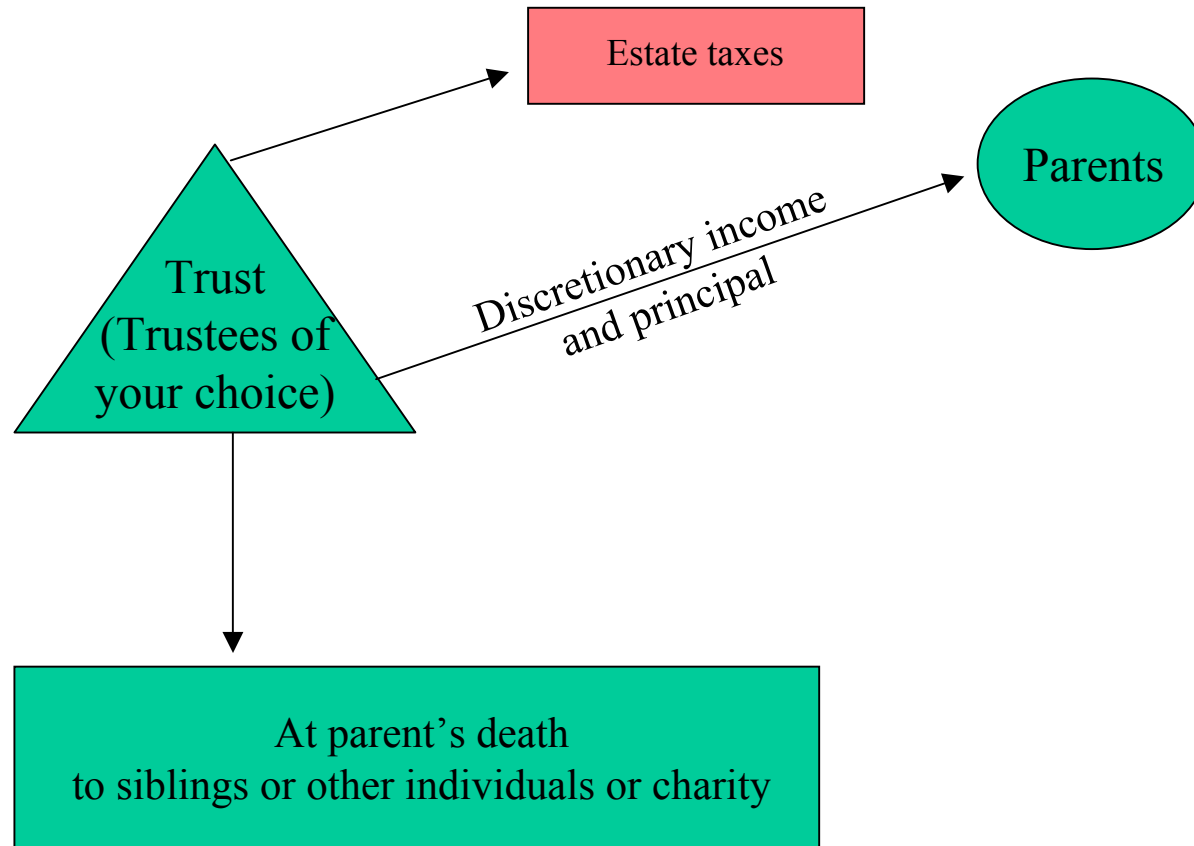


# Single Individuals

- To whom shall I leave my wealth?
- How can I care for my parents or other loved ones and still leave a legacy?

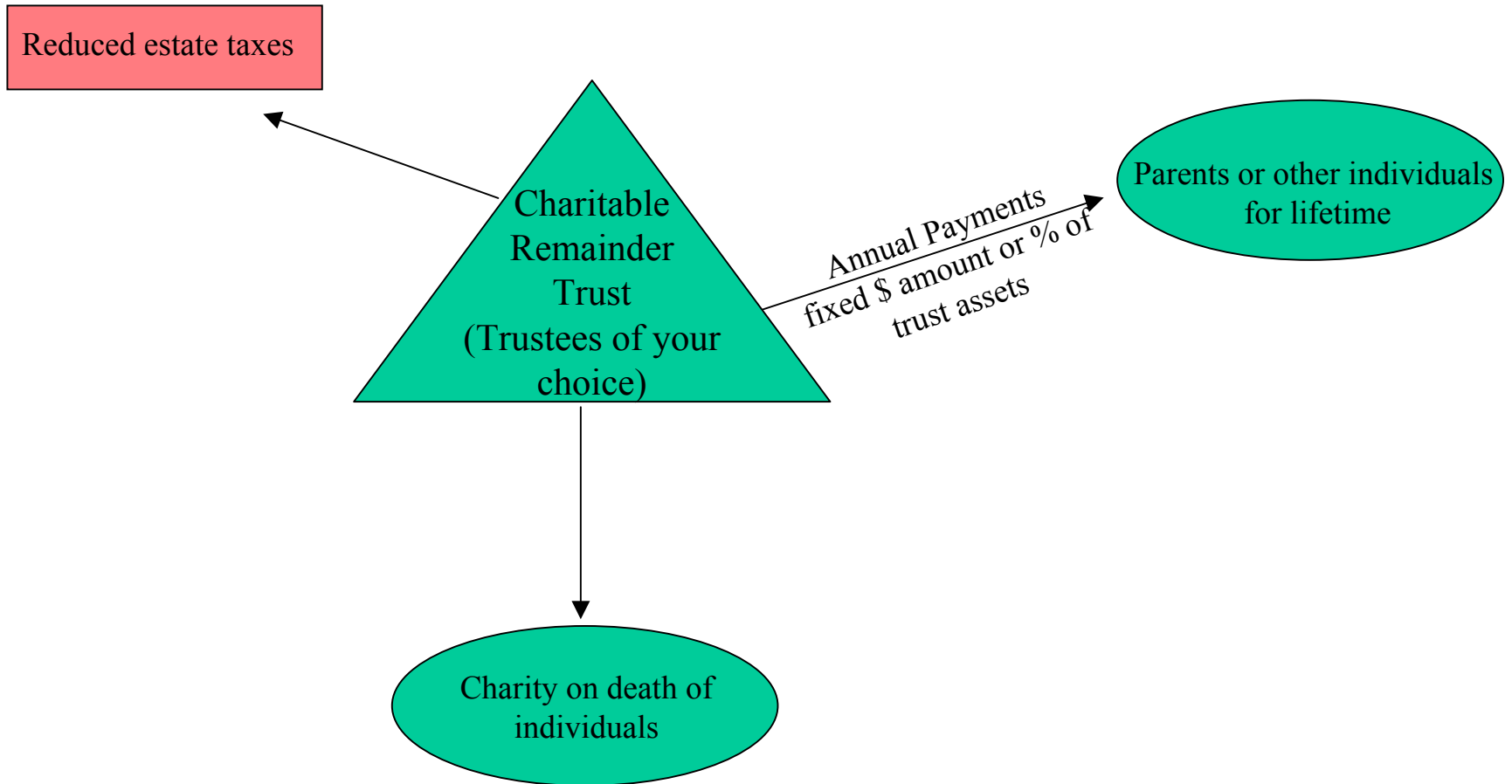


# Single Individuals Use of Revocable Trust



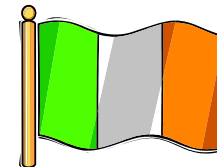
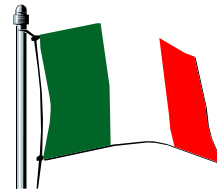
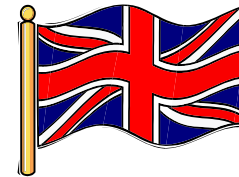
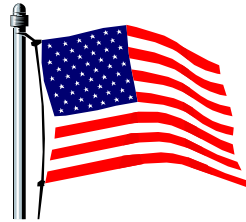
# Single Individuals

## Use of Charitable Remainder Trust



# International Unions - Planning in the U.S. Where One or Both Spouses is Not a U.S. Citizen

- Individuals Residing in U.S. Are Taxed as U.S. Citizens at Death and On Lifetime Gifts
  - Worldwide Income
  - Worldwide Assets



# International Unions

## Good News and Bad News

### Good news:

- Some relief through treaties from double taxation (U.S and country of citizenship)

### Bad news:

- Much more difficult to avoid U.S. gift tax and defer U.S. estate tax than for citizens

# International Unions

CAUTION! GIFTS BETWEEN SPOUSES MAY BE TAXABLE



- Gifts to US Citizen spouse: unlimited exclusion from gift tax
- Gifts to non-US Citizen Spouse: \$112,000/year exclusion from gift tax

# International Unions

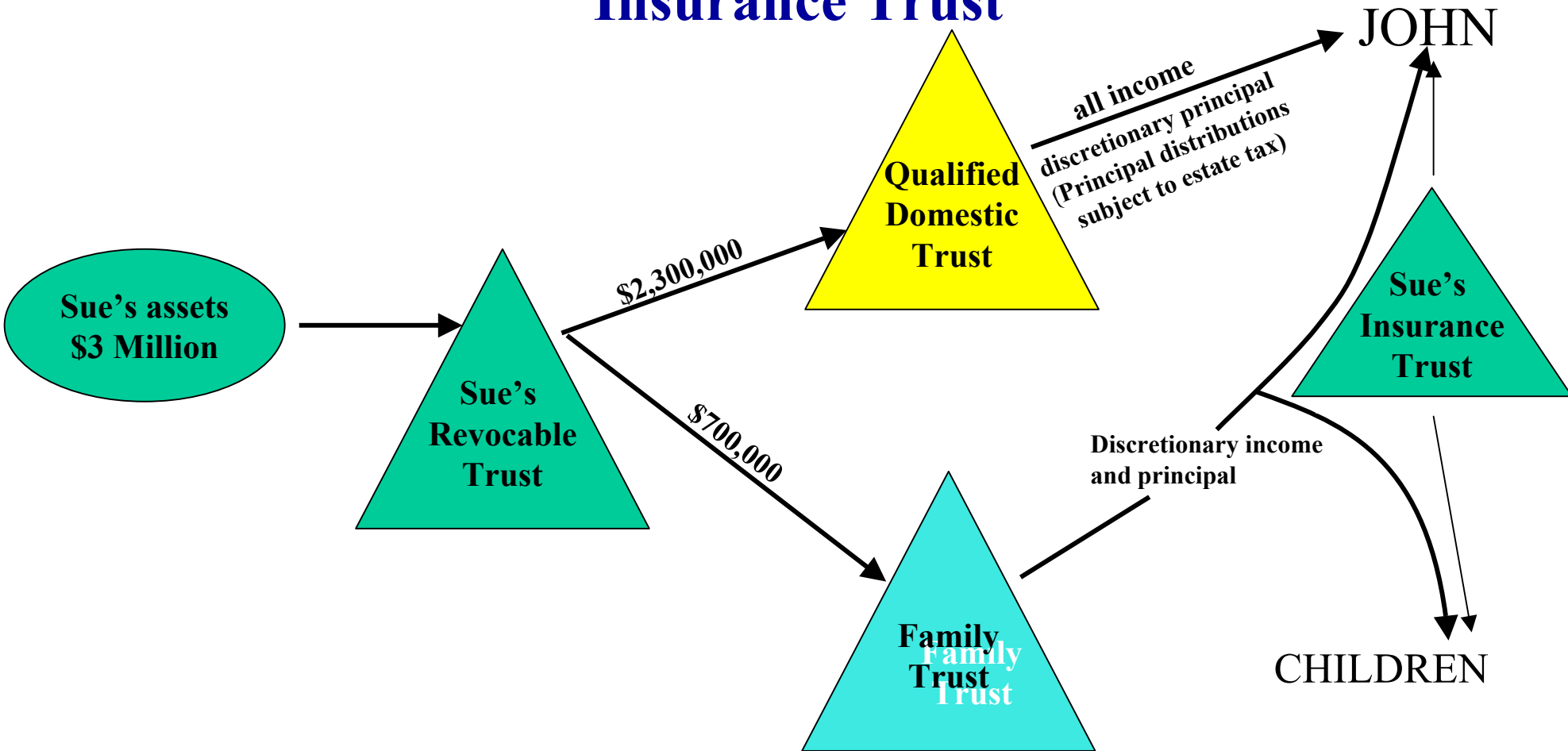
CAUTION! AN “ORDINARY” ESTATE PLAN MAY NOT WORK TO DEFER ESTATE TAXES!



- Special Type of Marital Trust is Necessary: Qualified Domestic Trust (“QDOT”)
- Principal Distributions will be Taxed When Made

# International Unions Qualified Domestic Trust

## Insurance Trust



# Conclusion

- Careful Planning for the 21st Century Family is the Key to Accomplishing Your Goals