

Trusts, Living Trusts, and Insurance in Estate Planning

Trusts are among the most versatile tools in an estate planner's toolkit. This course covers how to use various trust structures effectively, with a focused look at living trusts—how they work, when they're appropriate, and how they compare to other planning vehicles. You'll also explore the role of life insurance in estate planning, including strategies for integrating coverage into a broader plan. Professionals advising clients on wealth transfer and asset management will find this course highly practical.

CREDIT HOURS 2 | FIELD OF STUDY TAXES | EXAM QUESTIONS 10

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LEARNING ASSIGNMENTS AND OBJECTIVES

Assignment

- Study the full course materials included here.
- Complete the review questions after each chapter.
- Answer 10 final exam questions.
- Final exam is scored immediately, 70% or better passes.
- Certificate of completion is available in your account.
- Failed exams can be retaken free of charge.

Course Objectives

- Identify the differences between the various trusts.
- Recognize characteristics of living trusts.
- Identify the categories that life insurance falls into.

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Chapter 1: USING TRUSTS IN YOUR ESTATE PLAN

Chapter Objective

After completing this chapter, you should be able to:

- Identify the differences between the various trusts.

In Chapter 2 of course 34153C, we reviewed the key elements that should be considered in all wills. At what point should you consider more complex estate planning? Additional planning is appropriate if you feel it is desirable to maintain some control over your property after you die. In this situation, establishing one or more trusts under your will may be advisable. Also, if you are married and the total of your and your spouse's estates (including life insurance death benefits) exceeds the *applicable exclusion amount*, you need to consider a more complex will. As you recall from the previous chapter, two important tax strategies may be available to you.

The first strategy, available only if you are married to a U.S. citizen, is called the *unlimited marital deduction* (or simply the *marital deduction*). Under federal tax laws, you may give an unlimited amount of assets to your spouse without incurring gift or estate taxes. These gifts can be made during your lifetime or at your death. This means that Jeff Bezos, reportedly one of the richest people in the world, could give or leave his entire fortune to his wife and the estate would not owe a dime of federal estate taxes. However, when she dies, taxes would be due. The marital deduction is available to legally married same-sex couples now that the Supreme Court declared Section 3 of the Defense of Marriage Act unconstitutional. We discuss strategies associated with the marital deduction later in this chapter.

The second strategy relates to the *applicable exclusion amount*. This section of the law allows you to give a certain amount of your assets to someone other than your spouse, either during your lifetime or at your death, free of federal gift or estate taxes. This "other" amount can be a trust called the *credit shelter trust*.

THE CREDIT SHELTER TRUST WILL

The purpose of the credit shelter trust will is to take advantage of the *applicable exclusion amount* and thus reduce the estate taxes that will be due when you and your spouse both die. Your credit shelter trust will can be set up for the specific purpose of benefiting your spouse and/or anyone else you desire. For example, for 2026 you could avoid federal estate taxes on up to \$15,000,000 by placing that amount in your credit shelter trust as directed by your will (see Chapter 3 of course 34151C, Table 3.1). Both you and your spouse can each use this exclusion, so if you plan well, the two of you

could have combined estates of up to approximately \$30,000,000 in 2026 and owe no federal estate taxes. The applicable gift tax exclusion amount is also \$15,000,000 per individual (indexed for inflation annually).

CASE STUDY

It is the year 2026. Frank and Sally are married and have one child, Jan. Their combined estates equal \$30,000,000. They remember from an estate planning seminar they attended that married couples may transfer \$30,000,000 tax free because of portability. Sally owns \$15,000,000 in her name and Frank owns \$15,000,000 in his name. They currently have simple wills in which they leave all their assets to each other upon their death. Their current tax situation is as follows:

Possibly Ineffective Estate Plan

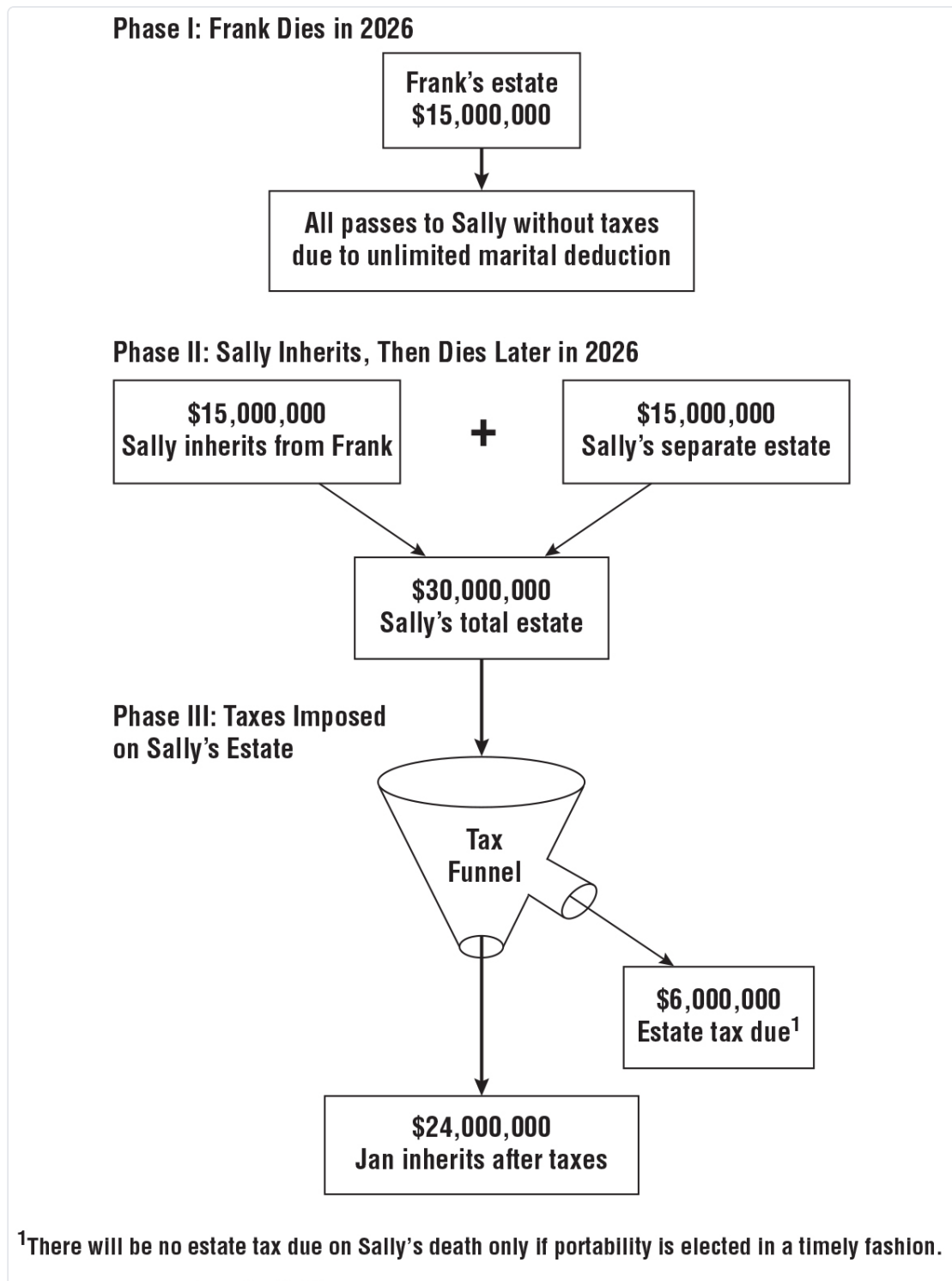
Frank has a simple will and dies leaving an estate of \$15,000,000 outright to Sally (see Figure 8.1 on the next page)

Frank's gross estate	\$15,000,000
Less unlimited marital deduction	<u>-\$15,000,000</u>
Taxable estate	\$0
Estate tax at Frank's death	\$0
Assets passing to Sally	\$15,000,000

Sally's gross estate: Sally's separate estate \$15,000,000 Received from Frank's estate +\$15,000,000
\$30,000,000

If Frank and Sally both die in 2026, they would owe \$6 million in estate taxes *unless* their estate representative makes a *timely* portability election. To elect portability, an estate tax return must be filed, which can be expensive. Furthermore, if portability is elected, the deceased spouse's unused exclusion (DSUE) amount is not indexed for inflation, so that if the assets that the surviving spouse receives from the deceased spouse appreciate between the death of the first spouse and the death of the second spouse, then estate tax will be due on the amount of appreciation. For instance, if the assets Sally received from Frank appreciates from \$15 million to \$20 million by the time she dies, then there would be approximately \$2,000,000 of estate tax due. By utilizing a credit shelter trust will, there is greater certainty of a tax-efficient outcome (Figure 8.1).

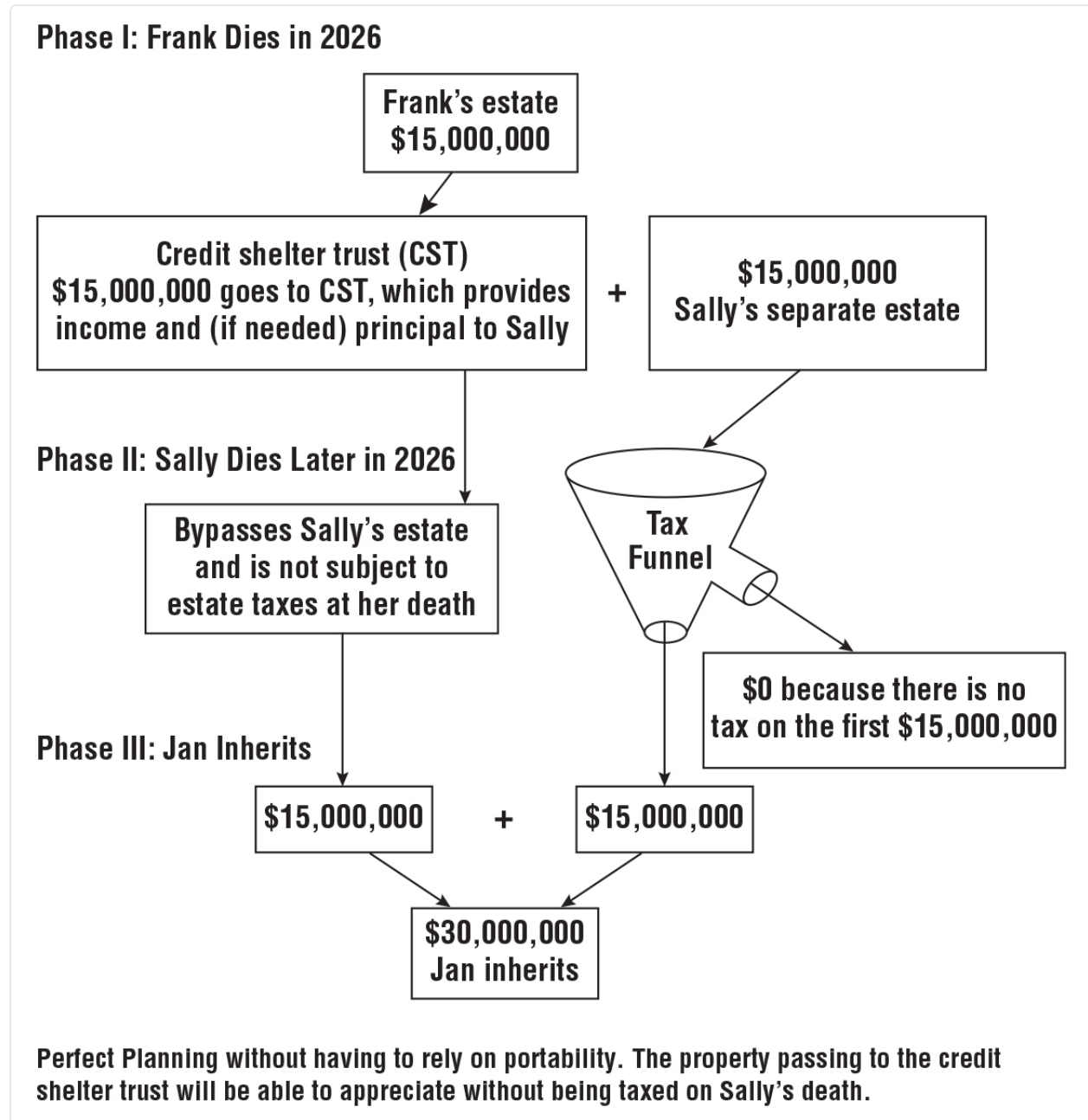
FIGURE 8.1 SIMPLE WILL



Credit Shelter Trust

Frank has a credit shelter trust will and dies in 2026 with an estate of \$15,000,000 (see Figure 8.2 on the next page).

Frank's gross estate	\$15,000,000
Assets passing directly to Sally	-\$0
Assets passing to credit shelter trust	<u>-\$15,000,000</u>
Taxable estate	\$0

FIGURE 8.2 CREDIT SHELTER TRUST WILL

By utilizing a credit shelter trust will, we were able to eliminate Frank and Sally's potential federal estate tax liability that would result from strictly relying on portability. Because Frank's assets passed to the credit shelter trust, the appreciation escaped estate tax on Sally's death and we were able to preserve the maximum amount of assets for their heirs. Portability would require filing with the IRS an estate tax return and would not shield appreciating assets from estate tax—only the amount of the decedent's unused exclusion in the year he or she dies. In addition, this portability