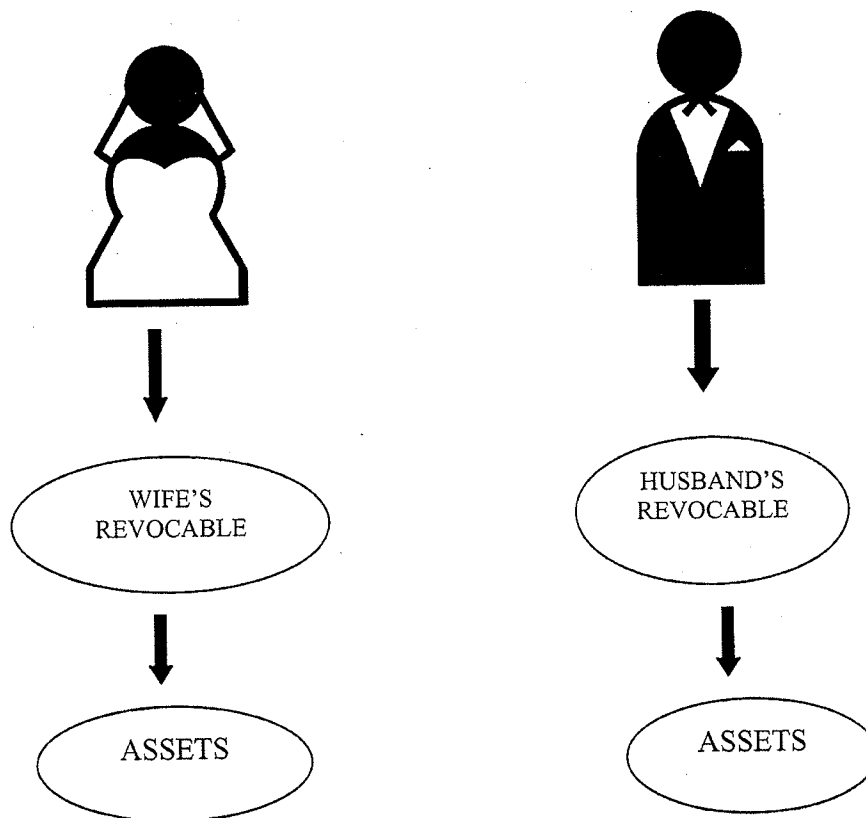


## Wife with Revocable Trust, Husband with Revocable Trust



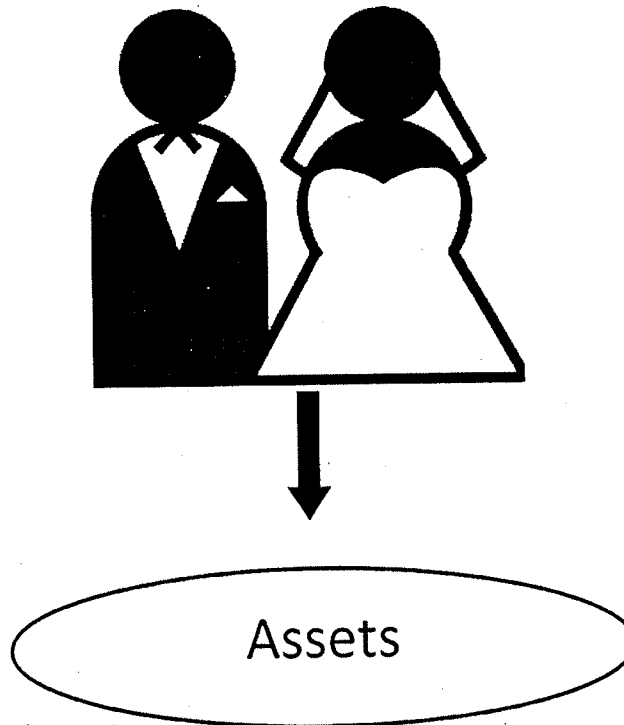
### Advantages:

1. This may be what the clients already have in place and are used to.
2. Allows separate ownership of assets based on what the spouses may want.
3. Provides protection from future spouses, creditors and undue influence as to the assets that are "locked up" on the first death.
4. Very flexible – can be structured in any manner of trust vehicles.
5. Trust assets can be held under LLP or LLC, offering further creditor protection, including charging order protection.
6. Avoids the time and expense of probate
7. Permits a full step-up in trust asset basis, creating potentially large capital gains tax savings.

### Disadvantages:

1. Eliminates Tenancy by the Entireties protection on assets in the trust.
2. Trust ASSETS may be subject to the claims of THE OWNER spouse's creditors.
3. Only CONTROLS THE ASSETS OWNED UNDER THE TRUST.
4. MAY BE OVERLY COMPLICATED IF THE ESTATE TAX IS NO LONGER A CONCERN.

# Joint Ownership with Right of Survivorship and the “I Love You” Will



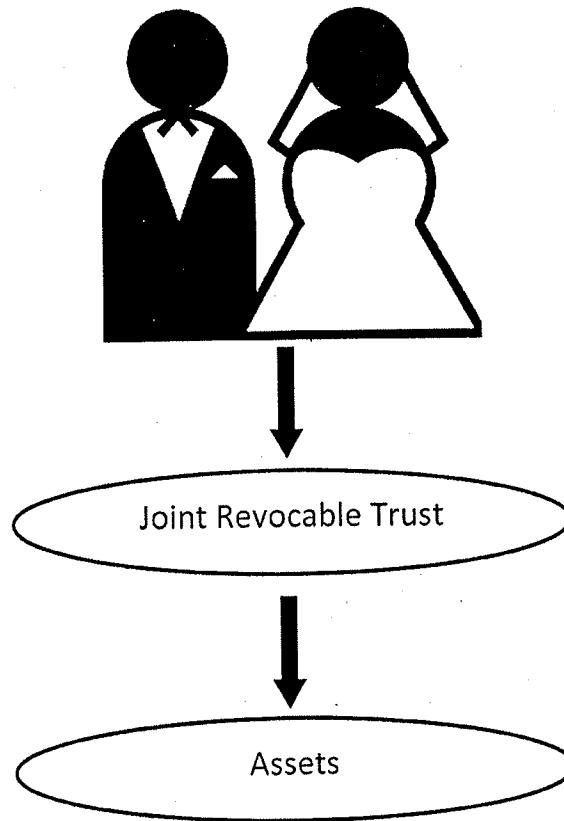
## Advantages:

1. Simple—surviving spouse owns assets immediately upon death of first spouse.
2. IRA and pension accounts can be made payable to surviving spouse, with associated potential tax breaks.
3. Offers Tenancy by the Entireties protection—protection from creditors as long as both spouses are alive, reside in Florida (or another TBE state), and no divorce occurs.
4. Some capital gains protection on assets other than protected assets (IRAs and pension accounts): adjusted basis of jointly-held single assets will be  $\frac{1}{2}$  of original tax cost basis plus  $\frac{1}{2}$  of fair market value on date of spouse's death; adjusted basis for publicly traded stocks or private company or partnership interests will receive full basis step-up.
5. Avoids the time and expense of probate.

## Disadvantages

1. No protection from future estate tax or similar inheritance tax regimes—unless additional steps are taken, all assets will be subject to estate and inheritance tax upon the death of the second spouse.
2. No protection of surviving spouse from creditors—TBE protection on non-exempt property disappears after death of one spouse.
3. No protection of surviving spouse from potential undue influence of predatory family members or third parties.
4. No guarantee of transfer of wealth to deceased spouse's children if surviving spouse does not share parentage of deceased spouse's children
5. May eliminate inheritance for the “next generation” through taxation and creditors.

## Joint Full Step-Up Revocable Trust



### Advantages:

1. Centralized ownership—eliminates confusions as to whose trust should own what.
2. Very flexible—can be structured so that surviving spouse owns trusts outright upon the death of the first spouse, or to create power of appointment of all trust assets on death of first spouse (thus receiving full step-up in basis and allowing transfer to a bypass trust), or any one of the many trust structures.
3. If bypass trust is created upon death of first spouse, will offer creditor and predator protection.
4. Trust assets can be held under LLP or LLC, offering further creditor protection, including charging order protection.
5. Avoids the time and expense of probate.

### Disadvantages

1. Eliminates Tenancy by the Entireties protection on assets in the trust.
2. Depending on the structure, revocable trusts may be subject to the claims of the settlor's creditors.
3. Can be much more costly than Joint Ownership with a Right of Survivorship—particularly for complicated or high-value estates.
4. Changes in estate and inheritance and tax law may require regular revisions to achieve trust's purposes.
5. Require careful planning to avoid being included in surviving spouse's estate.