

The background of the slide features a traditional Japanese ink wash painting style. It depicts a misty mountain range in the distance and a large, weeping willow tree in the foreground on the right side. The overall color palette is muted, consisting of various shades of beige, tan, and light brown.

# *Estate Planning for Japanese and Nikkei*

James R. Ebert, Esq., CPA

KITAGAWA & EBERT, P.C.

8001 Irvine Center Drive, Suite 850

Irvine, California 92618

(949) 727-0290

[JRE@japanuslaw.com](mailto:JRE@japanuslaw.com)

Copyright © Kitagawa & Ebert, P.C. All Rights Reserved. 1998-2009

# *Seminar Overview*

1. **Legal Principles**
  - Federal Estate Tax
  - California Probate Procedures
2. **Estate Planning Alternatives –  
Advantages and Disadvantages**
3. **Planning Opportunities**

# *Federal Estate Tax*

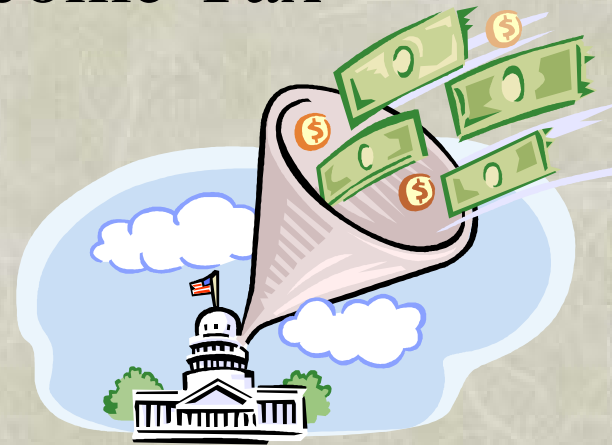
1. Separate from Income Tax

2. Tax on Assets

3. Applies to:

U.S. Citizens and Residents: all property worldwide

Non-Resident Aliens: U.S. property only



# *Federal Estate Tax Cont.*

## 4. Estate Tax Rates:

<i>Taxable amount over</i>	<i>Taxable amount not over</i>	<i>Rate of tax on excess over amount in column A Percent</i>
\$0	\$10,000	18
\$10,000	\$20,000	20
\$20,000	\$40,000	22
\$40,000	\$60,000	24
\$60,000	\$80,000	26
\$80,000	\$100,000	28
\$100,000	\$150,000	30
\$150,000	\$250,000	32
\$250,000	\$500,000	34
\$500,000	\$750,000	37
\$750,000	\$1,000,000	39
\$1,000,000	\$1,250,000	41
\$1,250,000	\$1,500,000	43
\$1,500,000	\$2,000,000	45
\$2,000,000	.....	48

# *Federal Estate Tax Cont.*

## 5. Exemptions:

Annual Gift: \$12,000/Year (Per Donee)

\*Does not include education expenses.

### Lifetime Exclusion (Per Donor)

2006	\$2,000,000
2007	\$2,000,000
2008	\$2,000,000
2009	\$3,500,000
2010	No Estate Tax
2011 (And beyond)	\$1,000,000

Marital: Any distribution to surviving spouse

## *Federal Estate Tax Cont.*

6. Step-up in tax basis to full fair market value on all assets owned at date of death.

\*No Capital Gains Tax

# *California Probate*

## 1. Supervised by Superior Court

- Takes approximately one year
- Public Record

## 2. Process

- File Petition for Appointment of Personal Representative and Probate of Will
- Provide Notice to Creditors
- File Inventory listing all Assets
- File Personal Representatives Report and Petition for Distribution

# *California Probate Cont.*

## 3. Costs

### - Filing Fees

Under \$500,000	\$ 274.50
\$500,000 - \$750,000	\$ 346.00
\$750,000 - 1,000,000	\$ 456.00
\$1,000,000 - \$1,500,000	\$ 621.00
\$1,500,000 - \$2,000,000	\$1,171.00
\$2,000,000 - \$2,500,000	\$2,271.00
\$2,500,000 - \$3,500,000	\$2,821.00
Over \$3,500,000	\$3,921.00 plus .22%

## 4. Shortens Statute of Limitations on some Claims

- Four months after appointment of personal representative
- Effective if there is concern over a will contest

# *No Estate Planning*

## ❖ Advantages

- Inexpensive

## ❖ Disadvantages

- Must be probated
- Government chooses who receives property
- Government chooses who will be administrator
- Government chooses who will be guardian of minor children
- Distribution of assets at age 18
- Significant adverse estate consequences in large estates

# *Joint Tenancy*

## ❖ Advantages

- Inexpensive
- Simple
- Can avoid probate if one joint tenant survives



## ❖ Disadvantages

- Cannot get property back without consent
- Subject to creditors of all joint tenants
- Only effective if one joint tenant survives
- Can cause disputes among children

# *Simple Will*

## ❖ Advantages

- Can choose executor and guardian
- Can choose beneficiaries

## ❖ Disadvantages

- Must be probated
- Distribution of assets at age 18
- Adverse estate tax consequences for married couple



# *Will with Testamentary Trust*

## ❖ Advantages

- Can choose trustees, executors and guardians
- Can choose beneficiaries
- Can defer distribution
- Some asset protection

## ❖ Disadvantages

- Must be probated
- Probate will last the entire term of the trust
- Annual accountings must be filed with the court



# *Revocable Living Trust*

## ❖ Advantages

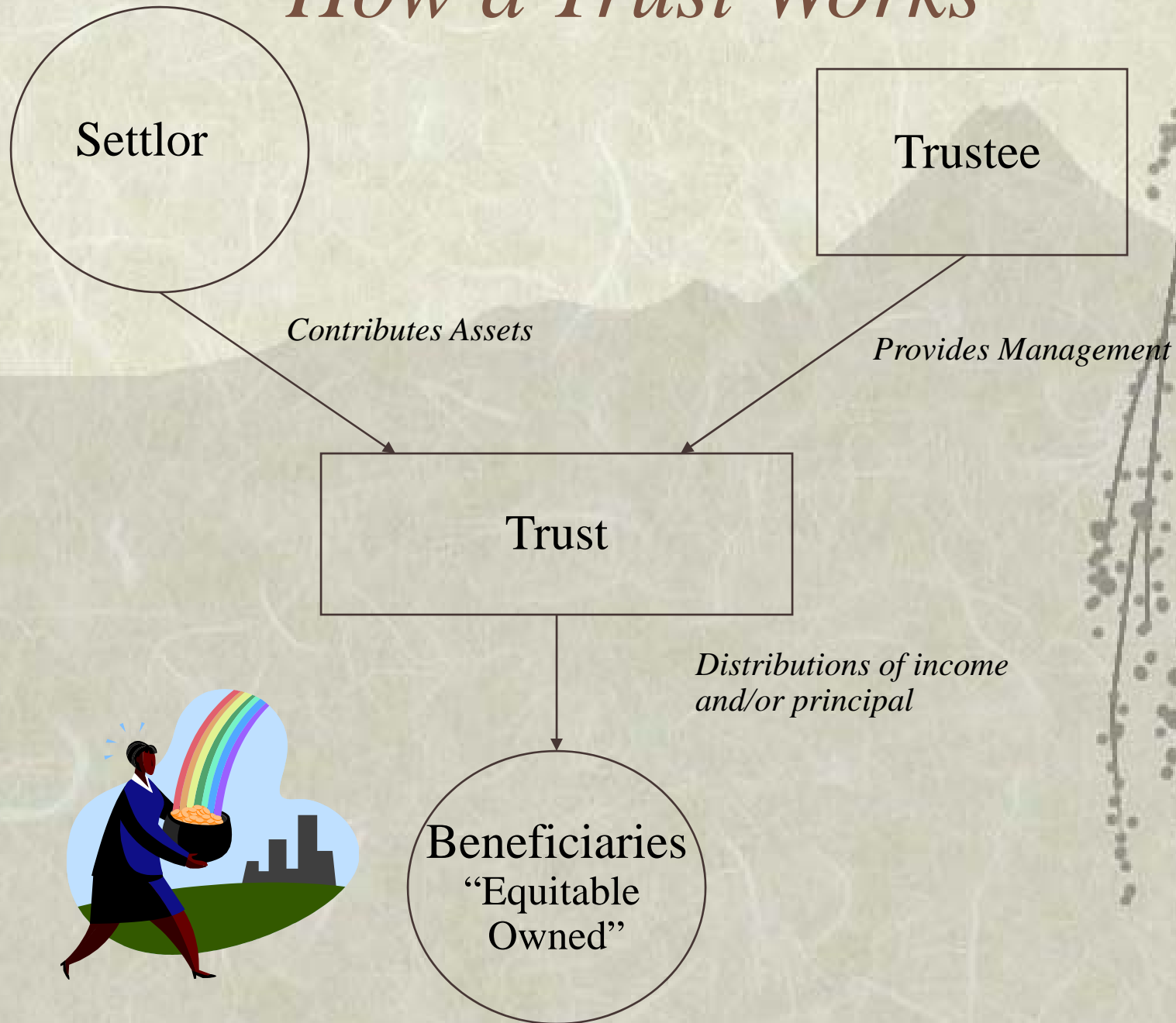
- Choose trustees, executors and guardians
- Choose beneficiaries
- Defer distribution
- Avoids probate
- Significant estate tax savings for married couples

## ❖ Disadvantages

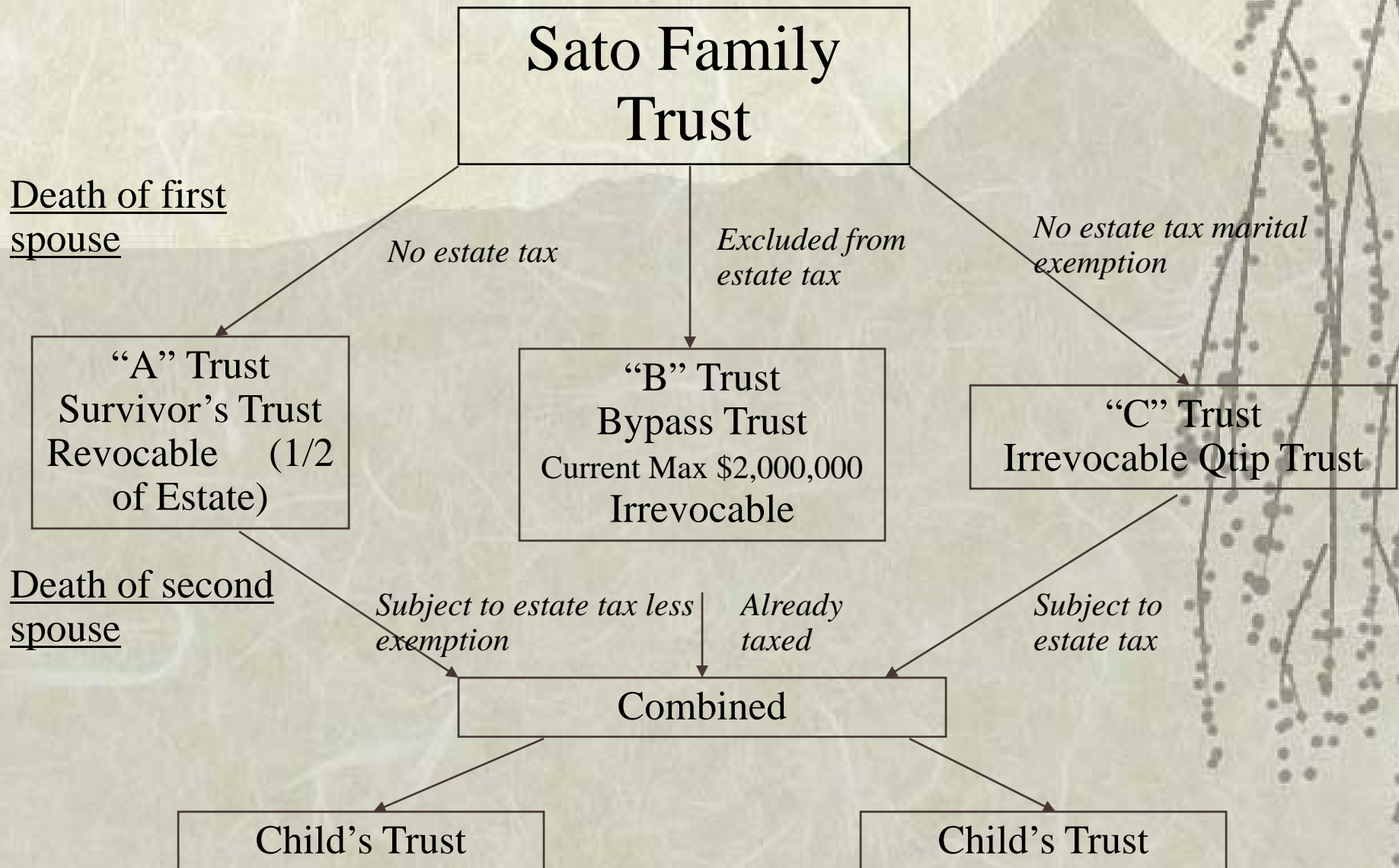
- Additional cost to set up
- Requires additional administration between first and second death



# How a Trust Works



# Diagram of a Revocable Living Trust



# *Use a Limited Liability Company (LLC) to Hold Assets*

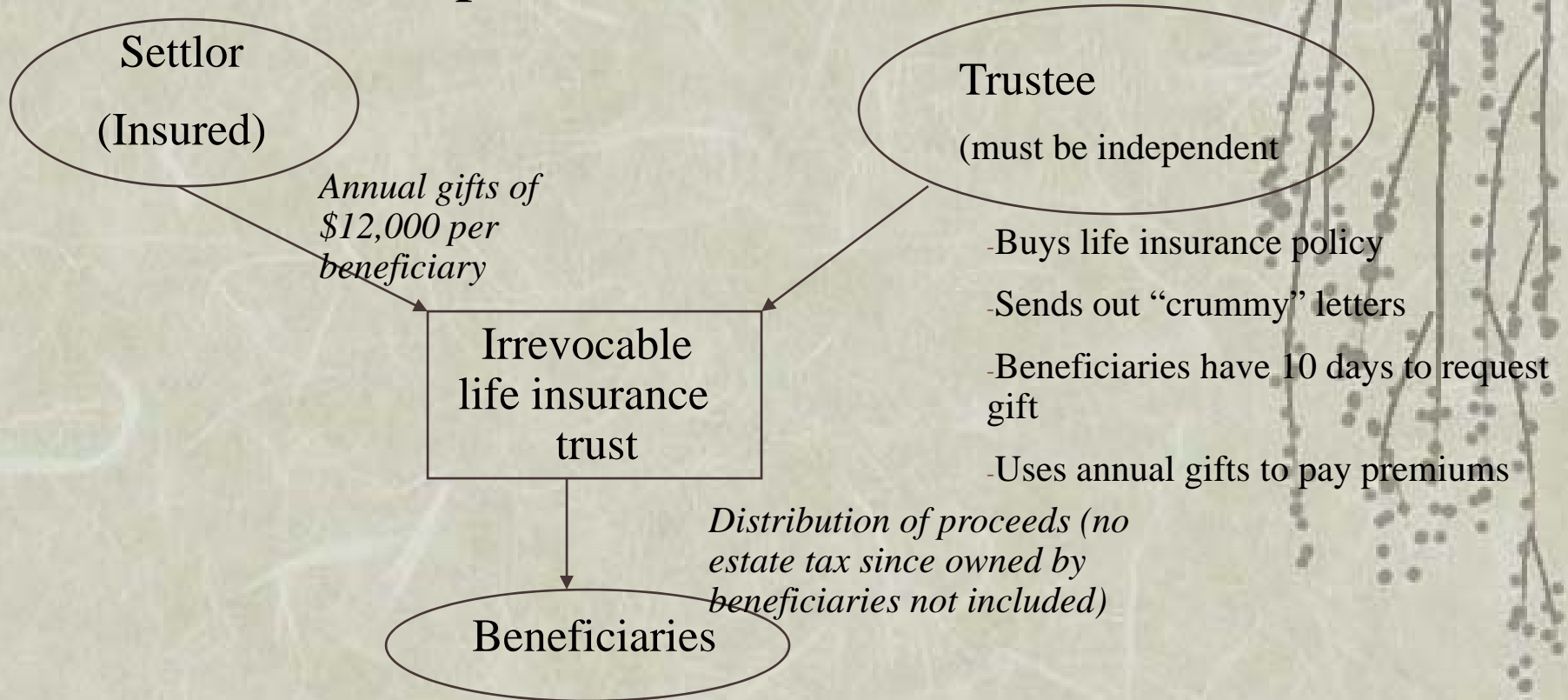
## Set up LLC to Hold Assets (Particularly Real Estate)

- Obtain Liability Protection
- Make use of annual gift exclusion
  - Can give membership interests (shares)
  - Still maintain control of LLC
  - Transfers future appreciation
- Take advantage of minority interest discounts and lack of marketability discounts at death
- LLC must file its own tax return and pay a California minimum tax of \$800/year



# Use a Life Insurance Trust to Prepay Estate Taxes

- ❖ Life insurance proceeds are included in the taxable estate of the owner
- ❖ Can exclude proceeds with a life insurance trust



# *Charitable Remainder Trust*

