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Estate Planning in the New Regime

Who Pays What?

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April 15, 2015



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Significant Changes:

- Taxation of charitable donations on death
- Taxation of testamentary trusts
- Graduated Rate Estates (“GREs”)
- Taxation of life interest trusts on death (Alter Ego/Joint Spousal)

Charitable Donations

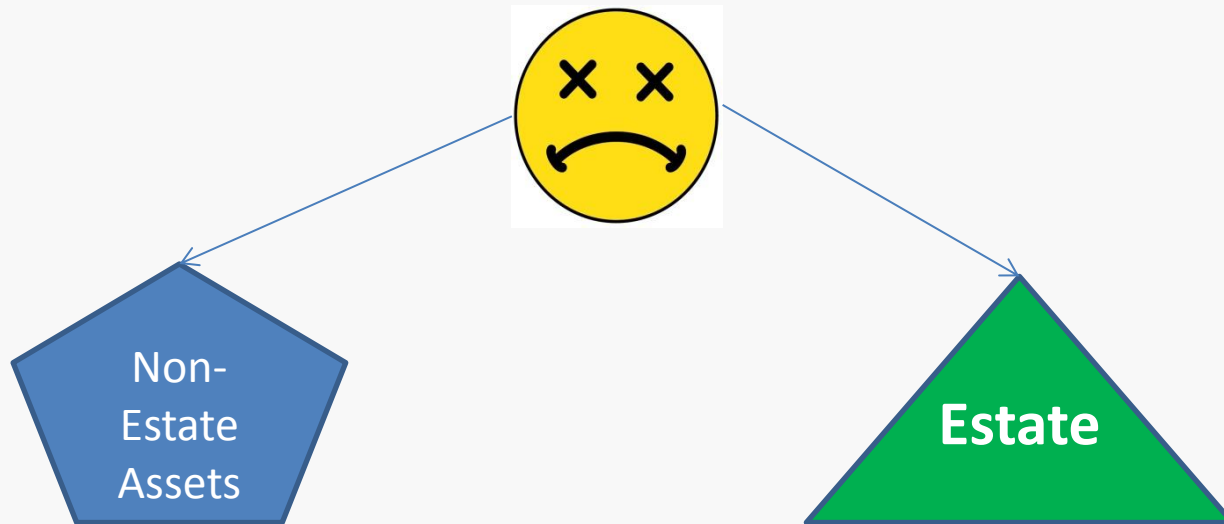
	Before January 1, 2016	After January 1, 2016
Donation made:	<ul style="list-style-type: none">• Immediately before death	<ul style="list-style-type: none">• At time donation is made
Value of donation	<ul style="list-style-type: none">• Value at time of death	<ul style="list-style-type: none">• Value at time of donation
Donation can be claimed by	<ul style="list-style-type: none">• Deceased on terminal return (or preceding year)	<ul style="list-style-type: none">• Deceased on terminal return (or preceding year) OR• Estate* in year donation was made (or earlier year)

* Estate must be a Graduated Rate Estate

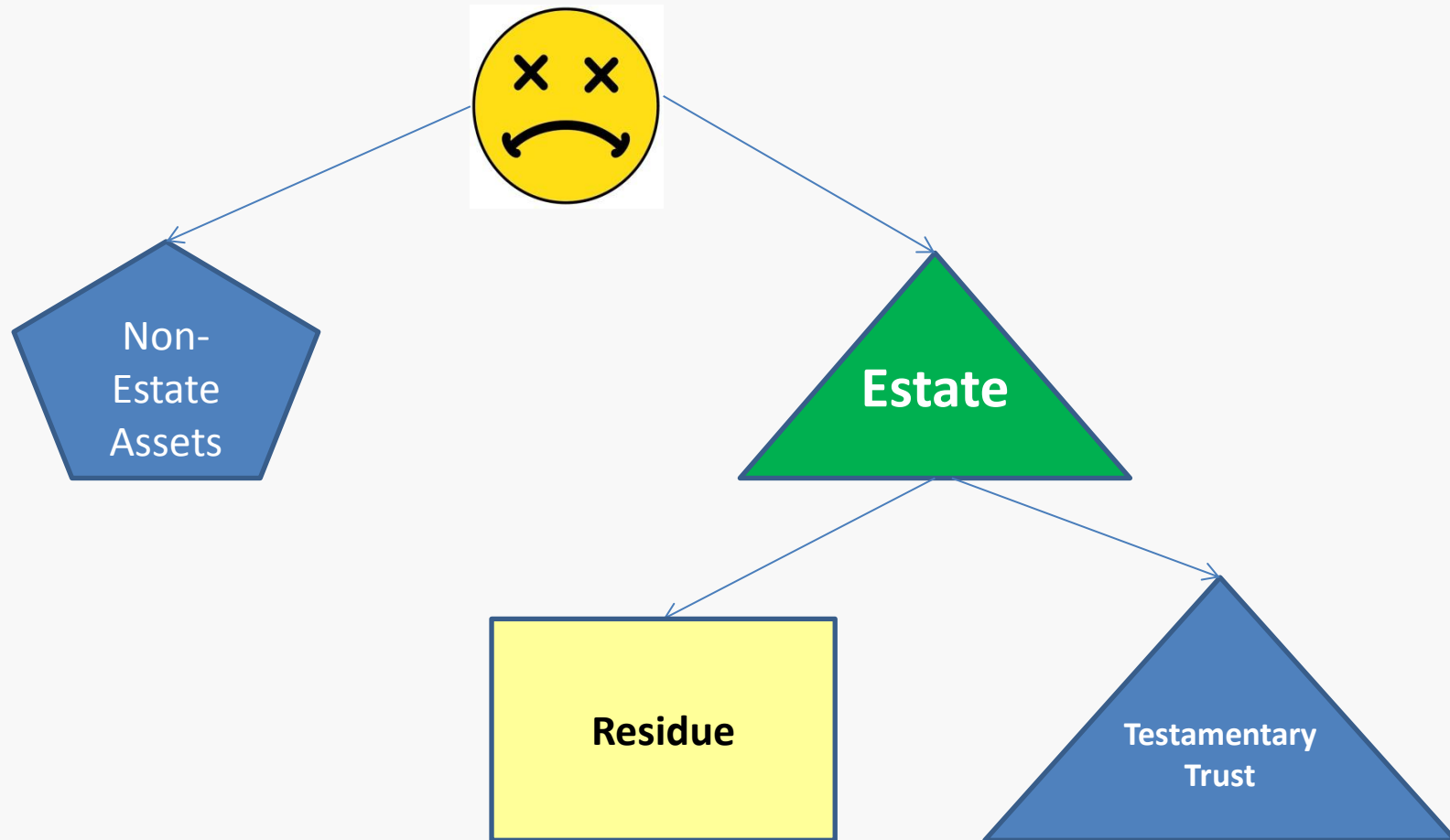
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Tax Returns

- Deceased
- Estate
- Testamentary Trust
- Alter Ego/Joint Spousal Trust (inter-vivos)

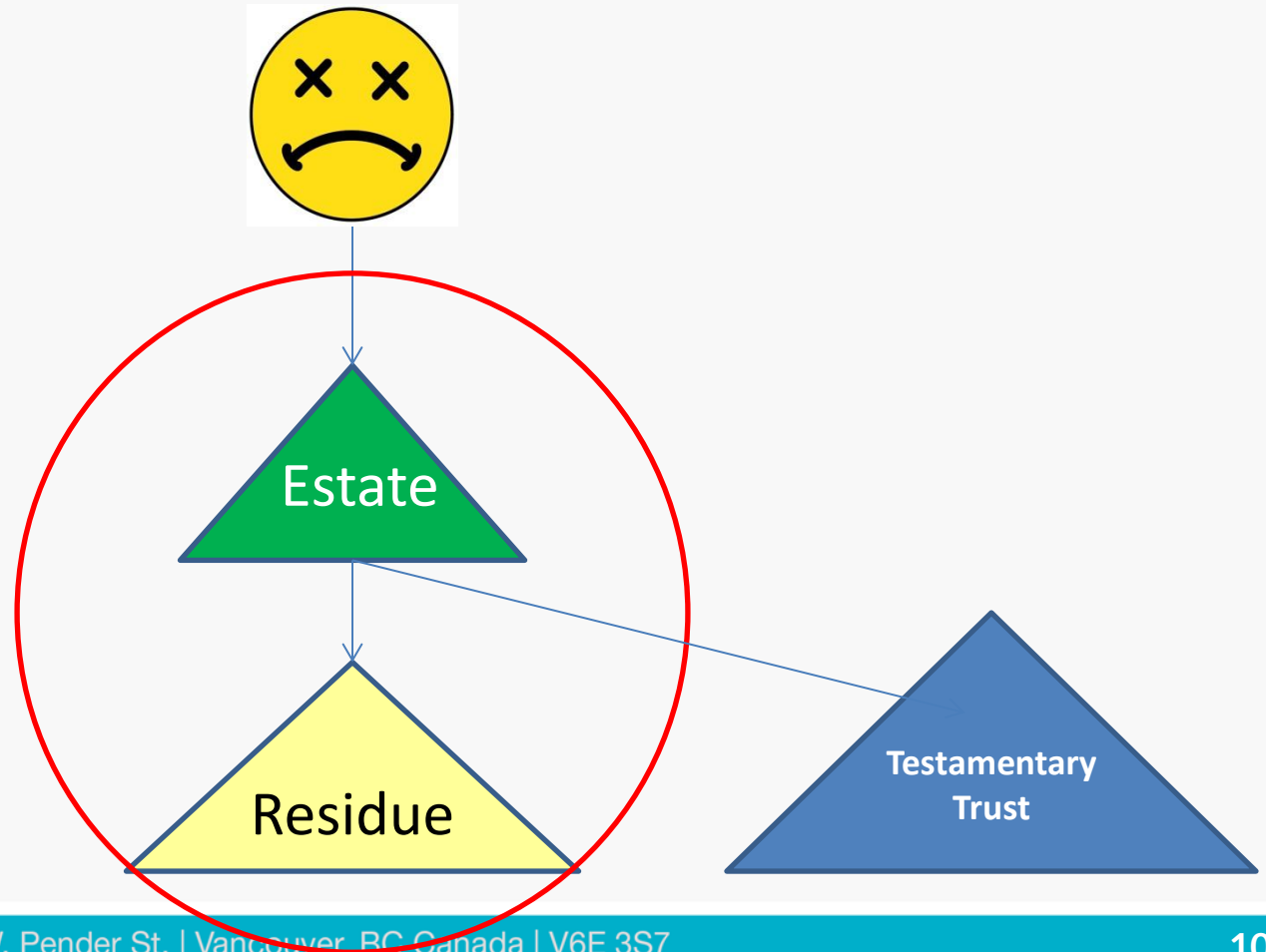
Tax Rates for Estates and Testamentary Trusts

2015 Taxable Income		2015 Marginal Tax Rate
Up to	37,869	20.06%
37,870	to 44,701	22.70%
44,702	to 75,740	29.70%
75,741	to 86,958	32.50%
86,959	to 89,401	34.29%
89,402	to 105,592	38.29%
105,593	to 138,586	40.70%
138,587	to 151,050	43.70%
151,051	and over	45.80%

Significant Differences in Taxation of a Testamentary Trust

	Up to December 31, 2015	Jan 1, 2016 and onwards
Year End	Any year end	December 31 st
Tax Rate	Graduated Rates	Top Rate
Instalments	Not Required	Required

The Exception to the “Rule”:



Graduated Rate Estates (“GRE”)

- Arose as a consequence of death
- 36 month “life”
- Must meet definition of a testamentary trust
 - Cannot fall offside of definition (i.e. loans to GRE etc.)
- One permitted for each individual (designated on estate’s T3)

GREs – Pros:

- Access to graduated rates
- Off calendar year end
- No instalment requirement
- Private company loss carry back planning
- New rules re donations made at death

GREs - Cons

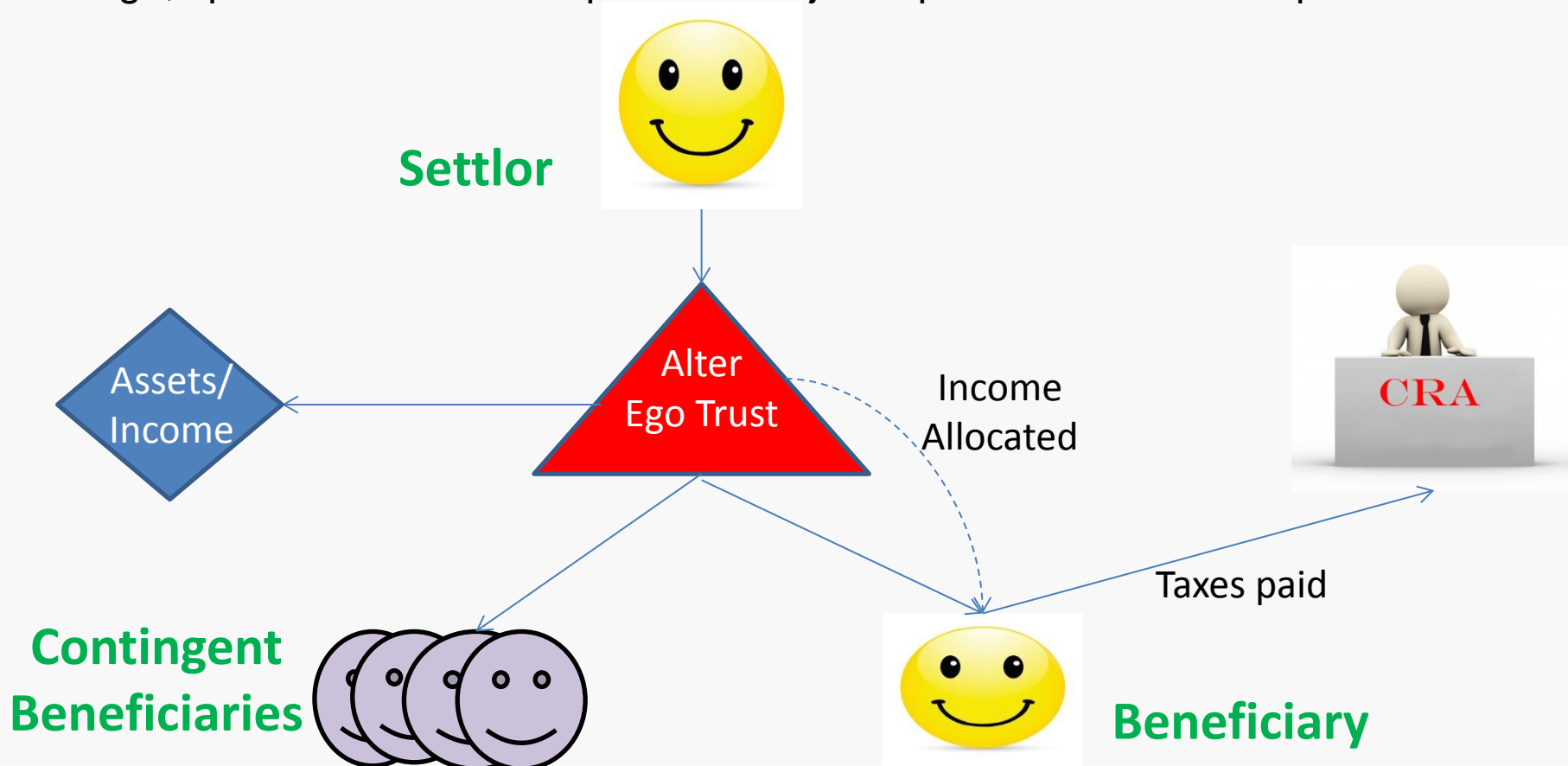
- No trust provisions (loss of control)
- Minor beneficiaries
- Blended families
- Reduced wills variation planning
- Easily tainted
- Can only have one GRE
- Executor's accountability
- Multiple wills – which estate is the GRE?

Are Testamentary Trusts Still Relevant

- Family Planning
 - Minor and problematic beneficiaries
 - Blended families
 - Wills variation
- Disability Trusts
- Probate fees reduction for future generations
- Ruling from beyond

Life Interest Trusts

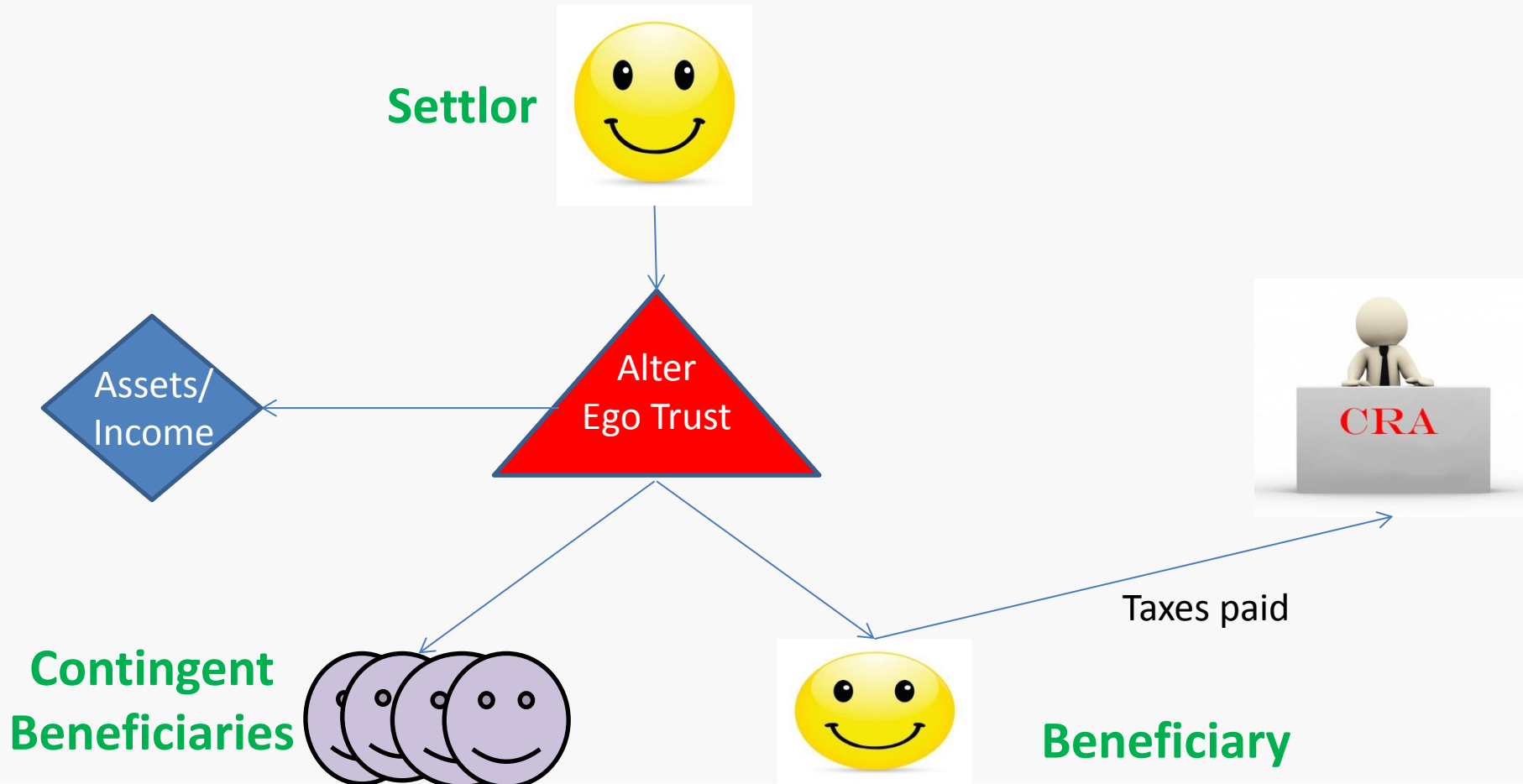
Alter ego, spousal/common law partner and joint spousal/common law partner trusts



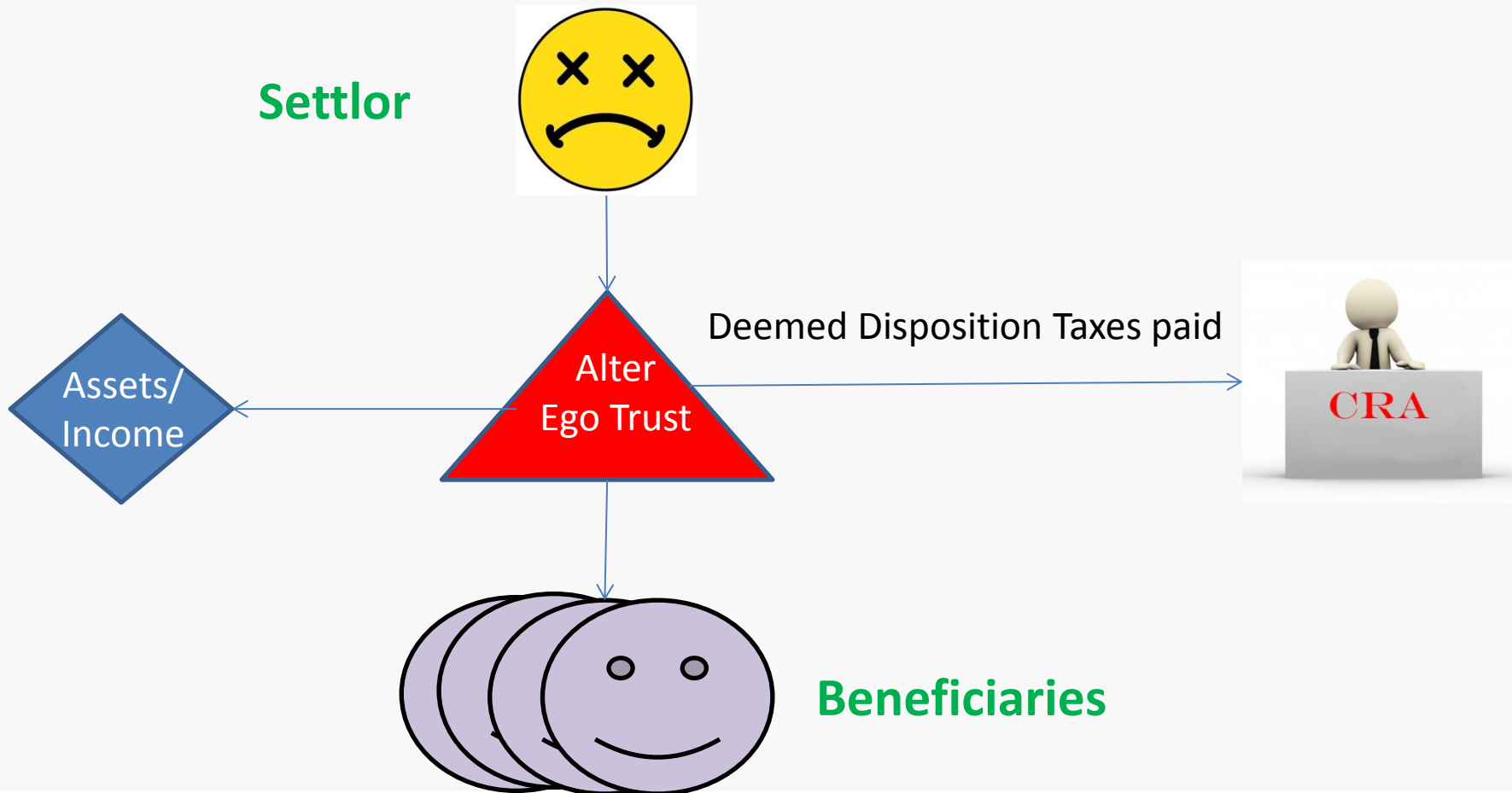
Life Interest Trusts Before Jan 1, 2016

- Deemed disposition on death of settlor/settlor's spouse
- Income from deemed disposition included in life interest trust's income
- Tax liability borne by life interest trust

Life Interest Trusts Before Jan 1, 2016



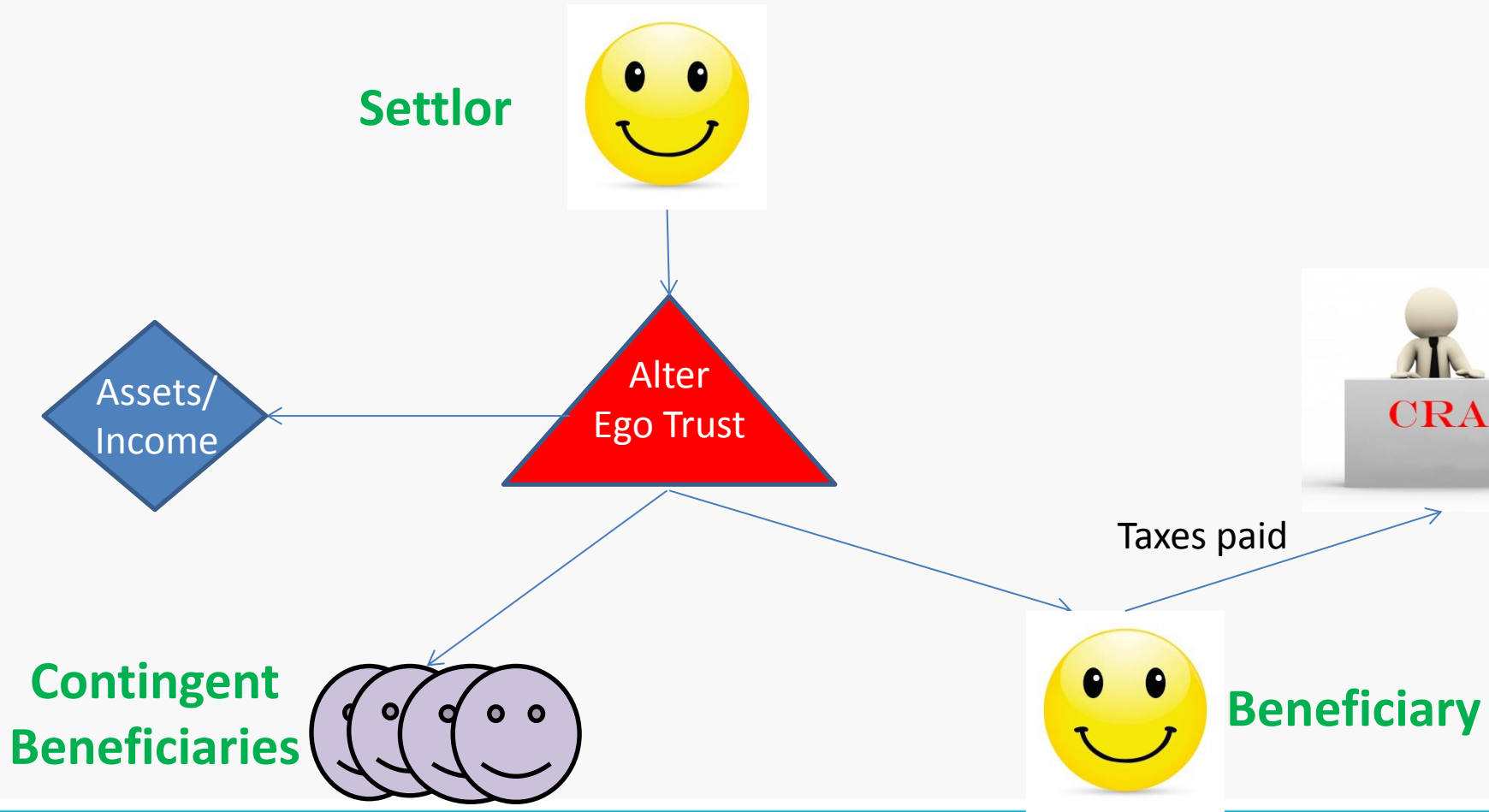
Life Interest Trusts Before Jan 1, 2016



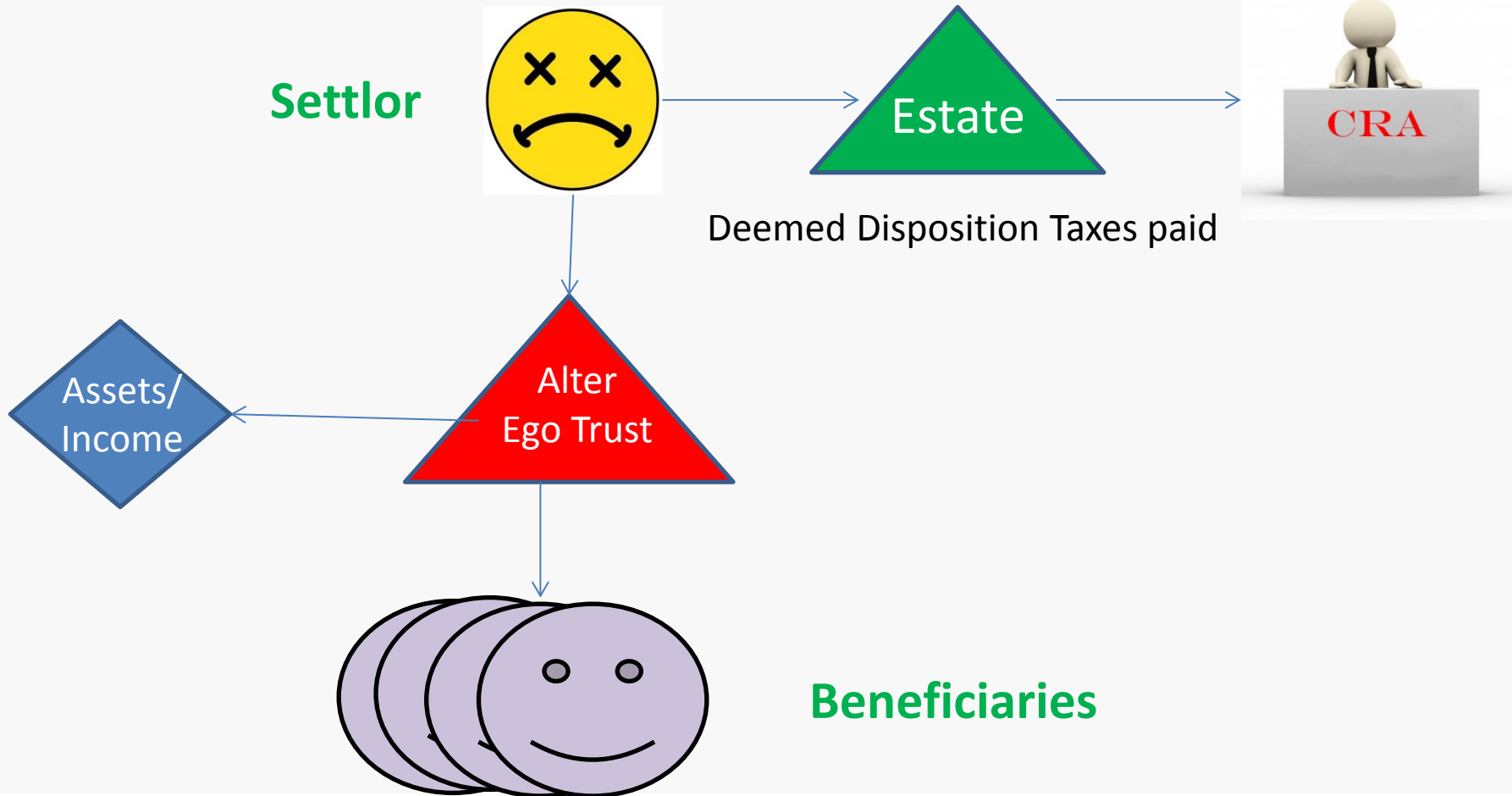
Life Interest Trusts (as of Jan 1, 2016)

- Deemed year end and disposition on death of settlor/settlor's spouse
- Deemed disposition income included in deceased beneficiary's income
- Tax liability borne by estate, not life interest trust

Life Interest Trusts After Jan 1, 2016



Life Interest Trusts After Jan 1, 2016



Life Interest Trusts (as of Jan 1, 2016)

- Liability for tax – CRA vs Minister
 - Estate vs Trust
 - Executor's/Trustee's obligations
- Different beneficiaries of trust vs. estate
- Loss carryback limitations

Summary:

- Introduction of Graduated Rate Estates
- Loss of tax savings through Testamentary Trusts
- Shifting tax burden from life interest trusts to estate
- No Grandfathering
- All estate plans should be revisited including:
 - Will review
 - Estate and life interest trusts
 - Charitable donation planning



Thank you



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