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Estate Planning Basics

What Is Estate Planning?

Estate planning is the process of mapping out how you want your personal and financial matters to be handled during periods of incapacity or at your death. An estate plan should be implemented with the assistance of an experienced estate planning attorney.

Everyone needs an estate plan

- Estate planning is not just for the wealthy (in fact, estate planning can actually be more important for smaller estates)
- Estate planning allows you to make sure that loved ones will be provided for and not overly burdened by personal and financial matters
- An estate plan makes clear your wishes, and can help to avoid family disputes

Typical estate planning documents

- Will
- Durable power of attorney
- Health-care directives
- Living trust

Estate planning is especially important if:

- Transfer taxes are a concern
- You own property in more than one state
- You have minor children or children with special needs
- You own a business
- Your spouse isn't comfortable handling financial matters
- You want to make significant charitable gifts

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Incapacity — Are You Prepared?

Incapacity can happen to anyone at any time, but your risk increases as you grow older. Alzheimer's disease and other cognitive disorders could affect your ability to make sound decisions about your health, and could diminish your capacity to pay bills, make deposits, and otherwise conduct your affairs.

Health-care directives

- **Living will** - a document that lists the types of medical treatment you would want, or not want, under particular circumstances
- **Durable power of attorney for health care (health-care proxy)** - lets one or more family members or other trusted individuals make medical decisions for you
- **Do not resuscitate (DNR) order** - a legal form, signed by both you and your doctor, that gives hospital staff permission to carry out your wishes

Property management tools

- **Joint ownership** - allows another person to have the same access to the property as you do
- **Durable power of attorney** - lets you name family members or other trusted individuals to make financial decisions or transact business on your behalf
- **Living trust** - a successor trustee can step into your shoes to manage property in the trust if something should happen to you

> ***Think about the impact that your sudden incapacity might have. It could devastate your family, exhaust your savings, and undermine your financial, tax, and estate planning strategies.***

The Dangers of Dying without an Estate Plan

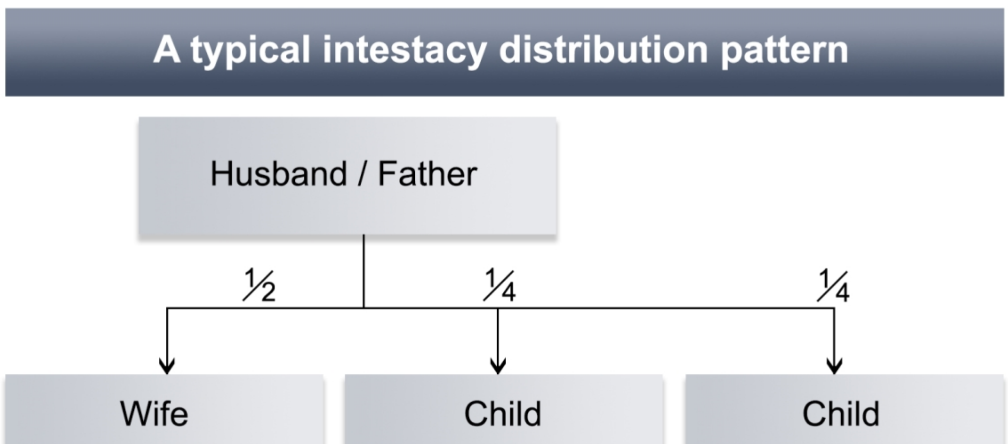
What happens if you die without a will? Unless you've implemented other estate planning strategies, your property will go to the person or people that your state's intestacy laws say it should go to.

State intestacy laws specify how your property will be divided — your actual wishes are completely irrelevant.

Adverse consequences of dying without an estate plan

- Your loved ones may be overly burdened settling your estate without the help of advance planning
- Your loved ones may not be adequately provided for
- Your estate might not pass to your heirs according to your wishes
- Without proper planning, more of your estate may go to pay taxes and estate expenses

> ***Intestacy laws vary from state to state, but here you see a typical pattern of distribution: 50 percent of property goes to the spouse and 50 percent to the children.***



Wills

A last will and testament is a written directive that includes instructions about who is to settle your estate (the executor), who is to be the guardian for any minor children, and how property is to be distributed to your heirs.

What makes a will valid?

While requirements vary from state to state, a will is generally valid if:

- You are of legal age and sound mind
- It is written, properly signed, properly witnessed, and properly executed

What's probate?

When you die, your will usually has to go through a process known as probate (although in some states smaller estates are exempt). Probate generally starts with the executor you name in your will filing the will with the probate court.

Your executor then goes about collecting any monies owed you, paying any outstanding bills, and filing tax returns. Your executor will also oversee the distribution of your property according to the terms of your will.

Probate rules vary by state.

Other things to consider

- Witnesses should be disinterested parties, because most state laws automatically disinherit witnesses
- Follow formalities, or your will may be deemed invalid and some or all of your estate will pass by intestacy
- Review your will periodically and upon certain events, such as getting married or divorced

Will Planning Worksheet and Survivor Information

Assets:

____
____
____
____
____
____
____
____

Debts / obligations:

____
____
____
____
____
____
____
____

Executor:

____

Guardian for minor children:

____

Charitable wishes?

- ❑ No
- ❑ Yes

____
____

Other:

____
____
____
____

Location of important documents:

- ❑ Will ____________
- ❑ Trust ____________
- ❑ Power of attorney ____________
- ❑ Medical directive ____________
- ❑ Life insurance policy ____________
- ❑ Retirement plan documents ____________
- ❑ Deed ____________
- ❑ Tax returns ____________
- ❑ Contracts ____________
- ❑ Other ____________

Who to contact:

- ❑ Doctor ____________
- ❑ Funeral director ____________
- ❑ Relatives ____________
- ❑ Friends ____________
- ❑ Newspaper ____________
- ❑ Employer ____________
- ❑ Attorney ____________
- ❑ Other ____________

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Transfer Taxes

What are transfer taxes?

Transfer taxes are imposed on transfers of wealth you make to others during your life (gift tax) and at your death (estate tax).

The federal government imposes two types of transfer taxes:

- Gift and estate tax — imposed on transfers made during life and at death
- Generation-skipping transfer (GST) tax — an additional tax on transfers made to persons who are more than one generation below you (e.g., grandchildren)

Your state may also impose its own transfer taxes.

Highest Federal Transfer Tax Rates

	2018	2019	2020
Gift and Estate Tax	40%	40%	40%
GST Tax	40%	40%	40%

Federal Exclusion/Exemption Amounts

	Gift and Estate Tax Exclusion	GST Tax Exemption
2018	$11,180,000	$11,180,000
2019	$11,400,000	$11,400,000
2020	$11,580,000	$11,580,000

For 2011 and later years, the gift and estate tax exclusion is portable; any portion that is left unused by a deceased spouse can be transferred to the surviving spouse.

After 2025, the gift and estate tax exclusion and the GST tax exemption are scheduled to revert to pre-2018 levels and cut by about one-half.

How much will you owe?

If your estate will be worth more than the exemption amount in the year you die, you may end up paying estate taxes. To quickly project how much you could owe, complete the following worksheet.

1. Value of gross estate	$_______________
2. Subtract debts	<_______________>
3. Subtract funeral and estate administration expenses (estimate 3% of gross estate)	<_______________>
4. Subtract amount going to spouse	<_______________>
5. Subtract amount going to charity	<_______________>
6. Subtract exemption amount (see table above)	<_______________>
7. Taxable estate (subtotal lines 1 through 6)	$_______________
8. Applicable estate tax rate (see table above)	$_______________
9. Estimated tax owed (multiply line 7 by line 8)	$_______________

Lifetime Gifting

Benefits of lifetime gifting

Lifetime gifting is an estate planning strategy with many personal and financial benefits:

- Shift income-producing property to family members in lower income tax brackets
- Use portion of estate tax exclusion now instead of at death
- Remove future appreciation of property from your estate
- Shift property to spouse tax free
- Remove $15,000* per recipient from estate each year
- Accelerate five years' annual exclusion by making single $75,000* gift to Section 529 plan
- Remove unlimited amount of property from estate by paying tuition or medical care for others
- Remove unlimited amount of property from estate by making gifts to charity

**The annual gift tax exclusion is indexed for inflation. The current amount is $15,000, but that may change in future years.*

When making lifetime gifts, consider gifting ...

- Property that will give you personal satisfaction — you will be able to see the recipients enjoy your gift
- Property that you expect to appreciate — you'll also be removing any future appreciation from your estate
- Property that has already appreciated — if you hold on to the property, you'll be subject to estate tax on the appreciated value when you die (note, however, that your recipients do not receive a step-up in basis as they would if they received the property upon your death)
- Property owned in a different state — you'll avoid probate in that state
- Property that reduces a business ownership interest — you might qualify for a tax discount

Trusts

What is a trust?

A trust is a legal entity where someone, known as the grantor, arranges with another person, known as the trustee, to hold property for the benefit of a third party, known as the beneficiary. The grantor names the beneficiary and trustee, and establishes the rules the trustee must follow in a document called a trust agreement.

When you create a trust, you split the ownership of the trust property — legal ownership goes to the trustee and beneficial ownership goes to the beneficiary. That means that the trustee is legally responsible for managing the property according to the trust rules, and that the beneficiary receives the financial benefits, such as income, principal, and use of and enjoyment from the trust property.

Who should be trustee?

Choosing the right trustee may not be easy. While a family member or friend may be appropriate for simple trusts, a professional trustee such as a bank or trust company may be advantageous because it can offer continuity and professionalism.

One consideration is whether your selection will be able to fulfill a trustee's duties, which include:

- Investing trust assets
- Distributing income and principal according to the terms of the trust
- Paying trust expenses
- Preparing tax returns

Trust terminology

Inter vivos trust — a trust that you create while you're alive

Testamentary trust — a trust that is created upon your death (e.g., under the terms of your will)

Revocable trust — a trust that you have the right to change or amend

Irrevocable trust — a trust that cannot be changed or revoked

Life Insurance

Using life insurance

Life insurance is a vital part of most estate plans. Among other things, life insurance can:

- Provide for your family's financial needs when you're gone
- Provide liquid funds needed to settle your estate so your family won't have to sell property at a discount
- Ensure a smooth transition of a family business

Assessing life insurance needs

The amount of coverage and the type of policy you need will depend on your estate planning goals and current finances. Your needs can best be assessed with the help of a financial professional, but the following questions should give you a few points to consider:

How many people depend on your income? ________________

How much money would your family need if you died suddenly? ________________

How much money would your estate provide? ________________

How much money would be available from relatives and other sources? ________________

How much of your estate would be tied up in probate? ________________

Will there be enough liquid assets to take care of your family's immediate needs? ________________

Will your estate owe substantial debts, taxes, and other expenses? ________________

If you own a business, how much money would it need if you died suddenly? ________________

Do you want your family to continue the business? ________________

How much will your death affect the value of the business? ________________

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