



Estate planning

For today, tomorrow
and your family's future



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Why plan your estate?

The fabric of people's lives is woven from the choices they make.

Where to live? Whom to marry? What career to follow? Yet all too often we are governed by the choices we fail to make — the non-decisions that can come about from procrastination, ignorance or apathy.

Estate planning is a good example.

People can choose to plan their estates. Or they can do nothing, and thereby make many unconscious choices their heirs will have to live with:

- **The choice** to let state law decide how their property will be divided at death;
- **The choice** to let a court name the persons who will administer their estates or act as guardians for minor children;
- **The choice** to have their estates unduly depleted by death taxes and costs of administration;
- **The choice** to let their deaths bring about chaos for their businesses;
- **The choice** to leave nothing at death to the worthwhile institutions and causes they supported in life.

Not many people would consciously make any of the above choices, yet the failure to plan adequately can amount to the same thing. People who plan their estates aren't guaranteed of making the right choices. But they are assured that they and their advisors will be the ones doing the choosing.

The importance of a will

For most people, estate planning begins (and sometimes ends) with a will.

Your will — thoughtfully planned, skillfully executed and carefully kept up to date — may be the most realistic way to accomplish your personal and family objectives after your death.¹ In a well-planned will, executed with the vitally important assistance of your attorney,² you can direct precisely how you wish your estate to be distributed after your lifetime. And you often can maximize the amount of property that will actually pass to your beneficiaries by minimizing the amount that could be needlessly lost in expenses and taxes.

In your will, you may nominate those friends or relatives whom you would like to become the guardians of your minor children in the event they become orphans.

A court generally will designate the persons you name. But if no will exists to express your wishes, the court will name the guardian of its own choice and may establish rigid, cumbersome and costly guardianship arrangements.

¹ Trusts, life insurance and property ownership arrangements also can be good estate planning tools — but a will is the “centerpiece” of most estate plans.

² A will is not a “do-it-yourself” project because of the technicalities required for a valid will.



A will often can prevent an injustice to a survivor.

Consider, for example, a widowed mother of two children — a healthy adult son with a good job, and a minor daughter with disabilities who requires constant nursing care. The mother dies without a will. The law in her state requires that her modest estate be divided equally between her son and daughter.³ A court-appointed administrator must obey the law; he or she cannot undo the injustice that could have been prevented by a will.

A will also lets you continue your support for the worthwhile causes and institutions that matter in your life.

Remember, without a will, living trust or other special arrangement, nothing from your estate will go to benefit your favorite charity.

Why have a will? A better question would be: “Shouldn’t everyone have a will?”

The sad fact, however, is that most people never get around to making a will (estimates are that from 50% to 85% of all Americans die without wills). Sadder yet is the fact that making a will is basically an easy and inexpensive task.

A step-by-step plan for a successful will

Getting started with an estate plan is easy:

1 Call an attorney — today, before you put it off any longer. Tell him or her you want to make an appointment to plan your will. If you don’t know of an attorney to call, ask a friend or relative to recommend one. Your local bar association may have a lawyer referral service that can help you.

2 Take time before the initial meeting with your attorney to reflect upon the goals and objectives you want to attain through your will. Be prepared to point out to your attorney special family needs that should be taken into account in your will.

3 Finally, follow through with your will-making plans. Keep the initial appointment and all future appointments with your attorney. Remember, too, that your completed will should be reviewed periodically to make sure that it remains current with changing needs and events.

³ Each state has its own special rules as to how the estate of a person who has died “intestate” (without a will) will be divided.



Planning a bequest

If a bequest for your favorite charity's benefit makes sense in your will plans, you should plan that bequest for maximum personal satisfaction.

Many good planning techniques are available. For example, your bequest can be of a stated dollar amount. Or you can bequeath specific property to your favorite charity. Some donors prefer to bequeath a certain percentage of their residuary estate (the amount that remains after paying all debts, costs and other prior legacies). Remember, too, that you can earmark your bequest for special purposes, or you can simply direct that your bequest be used for current needs. Your bequest can be immediate — or in trust — or contingent. Whatever your objectives, your advisor will be happy to work with you in planning a bequest that will be satisfying, economical and effective.

Note: *Most charities will be pleased to supply your attorney with suggested wording for your bequest, including their correct legal name. Finally, if you do plan to remember a charity in your will — or already have done so — tell them!*

Will estate taxes affect your family's security?

One of the primary aims of estate planning is to protect against estate depletion brought on by estate taxes, expenses of estate administration, lack of estate liquidity and, for some people, the federal estate tax. The estate tax credit will shelter most estates, but you should keep in touch with your advisors if your estate may be subject to state taxes or income taxes on retirement accounts or savings bonds. Some people may be leaving a hidden bequest in estate taxes to the United States government.

Happily, few estates are subject to the federal estate tax.⁴ Others may be subject to state estate or inheritance tax. If you are subject to federal or state tax, planning now may save thousands of dollars for your beneficiaries.

⁴ The current amount of estate that's sheltered from federal taxation, in 2020, is \$11,580,000 per individual. That amount will likely be indexed in future years. After 2025, it is scheduled to drop back to the exemption limits under the tax code as it existed in 2017. State tax liabilities might still be in place even for situations when there is no federal tax liability.

Large exemptions shelter most estates

The federal estate tax exemption shelters estates totaling \$11,580,000 or less in 2020. Up to \$23,160,000 can be sheltered by married couples. The maximum estate tax rate is 40%. An \$11,580,000 exemption also applies to federal gift tax and generation-skipping transfer tax, and the 40% top rate applies to both of these taxes. These exemptions will remain in effect through 2025, after which it will sunset to 2017 levels, unless changes are implemented before then.

The \$11,580,000 exemption from estate taxes means that few estates will be liable for estate tax. But everyone should remember that estate planning involves much more than estate taxes. All Americans need to plan for a thoughtful distribution of their assets at death, reduction of estate expenses, such as probate, state estate or inheritance taxes, income taxes on retirement accounts — and leaving a legacy to future generations.

People who find that they are still subject to the federal estate tax are sometimes shocked by its severity. But through careful planning and taking advantage of several deductions that Congress has made available, estate taxes can be substantially reduced. This booklet discusses some of these techniques.

A word on state laws:

Many states impose their own inheritance taxes or estate taxes. These taxes can affect individuals whose estates are not subject to federal estate tax. Your own situation will depend on:

Your place of legal domicile at the time of death, and

The tax laws in other states where you own real estate or have personal possessions.

Inheritance taxes

Some states have an inheritance tax, which is a tax levied on the right of heirs to receive property from a deceased person.

- An inheritance tax is imposed upon, and measured by, the share that each heir receives, as well as by the closeness of the relationship of the heir to the deceased.
- Other states have an estate tax, which is similar to the federal estate tax, in that it is levied upon the transfer of the estate as a whole.
- In some states, the tax applies to estates lower than the federal exclusion.
- State taxes are deductible on the federal estate tax return.

Ask your advisors about current state estate or inheritance tax laws in your area.

Be especially careful to check the death tax laws if you move to a different state.

After you move, have an attorney check your will and trust arrangements.

- You may want to choose a new executor (personal representative at death) or trustee.
- Your old will is probably still valid, but updating it may greatly simplify probate and administration of your estate.
- If you are married and move into a new state, ask your advisors about local laws on property rights of spouses.
- Ownership of property that you and your spouse acquire in your new home state may be subject to different marital property laws.

What if your estate does face an estate tax?

If the estimate of the size of your estate indicates that you will be affected by estate taxes, there are two deductions that might be available to reduce the amount of your taxable estate.

The tax savings resulting from the marital and charitable deduction is dramatic — absolutely nothing is owed the government.

The marital deduction

The value of any property that passes to your spouse is 100% deductible. So a married person can leave any size estate totally tax-free — if it all goes to the other spouse.⁵ The marital deduction may only postpone the federal estate tax, however. If the surviving spouse does not remarry, there may be a large tax at his or her death.

The charitable deduction

The value of any property that passes to any qualified charitable organization is deductible.⁶ This deduction is allowed for both outright bequests and deferred bequests.

These deductions will be discussed more fully later in this booklet. But an example will show how important the deductions can be in your estate planning:

Meet Thomas:



- He has an estate valued at \$15,000,000.
- His debts and settlement costs amount to \$1,200,000.

If Thomas were single, the tax on the estate could be significant.

If Thomas were married, however, and bequeathed \$500,000 to benefit his favorite charity and the rest to his wife, his estate tax picture would be:

Gross estate	\$15,000,000
Debts and costs	\$1,200,000
Marital deduction	\$13,300,000
Charitable deduction	\$500,000
Taxable estate	none

⁵ IRC, §2056. The marital deduction is available only for property that is actually transferred to a spouse at death.

⁶ IRC, §2055.

Planning for married couples

A surviving spouse now can inherit any unused estate tax exemption from the first spouse to die without the need for special trusts or other planning – if an election is made on an estate tax return filed for the first spouse.

Thus, married couples together could shelter up to \$23,160,000 from federal estate tax. Only one inherited credit is permitted, however, even where a wife or husband outlives more than one spouse.

Previously, credit shelter trusts might have been necessary for married couples to take full advantage of both of their exemptions. These trusts may still be a good strategy in certain situations.

For example, if a husband leaves \$11,580,000 to a credit shelter trust for his wife, the trust can be arranged so that all trust assets remaining at her death will pass to their children outside her estate. There would be no further federal estate tax, even where the \$11,580,000 had grown in value (to \$15,000,000, for example). The credit shelter trust also can enable the first spouse to die to designate who will receive trust assets when the surviving spouse dies (such as children from a prior marriage).

Couples whose estates exceed the \$23,160,000 sheltered amount will need further planning, including family gifts, trusts and liquidity planning.

There would be no further federal estate tax where the

\$11.58 million

Had grown in value (for example) to

\$15 million



QTIP is a good tip for marrieds

Many married people know they can have tax-exempt estates if they leave everything to each other — but sometimes that can create problems. Take the case of Michael:

Meet Michael



- Michael was a widower for many years, but eventually remarried and now is living in contented retirement with his new wife, Charlotte.
- He has eight grown children from his first marriage, all of them on their own.

Michael has two major estate planning concerns:

- 1 That Charlotte be financially secure after he dies, and
- 2 That most of his estate pass to his eight children after Charlotte dies.

Michael would like to assure that most or all of his estate go to his children at Charlotte's death.

To achieve that, Michael could have his assets pass into a QTIP (qualified terminable interest property) trust from which the trustee would pay Charlotte only the trust income for life, then distribute everything to the children.

The legal effect is that he can lock in his children as the beneficiaries of the trust when she dies — and everything in the trust will qualify for the marital deduction.⁷ (His executor must elect this “QTIP” treatment.)

If estate taxes are an issue, the QTIP arrangement helps in one's personal planning and saves taxes at the death of the first spouse — but note that there still may be a tax when the surviving spouse dies. It may not make sense to leave everything to your spouse from a tax standpoint, or from a personal standpoint, for that matter. Many married people conclude, upon reflection, that there are others they should benefit — including worthwhile causes — and that doing so will not jeopardize their spouses' security.

Jointly held property of married couples

Property you own jointly with another, with rights of survivorship, does not pass under the terms of your will. Instead, such property passes automatically to the surviving owner.

Large numbers of people, especially husbands and wives, routinely hold most of their property in joint names. But what will happen to their property if they both die about the same time? The property of the latter to die will be disposed of according to the state law. Joint ownership also has estate tax and income tax implications.

Only one-half of the value of jointly held property of married couples is includible in the estate of the first spouse to die, regardless of which spouse furnished the consideration for its purchase.⁸ Further, property can be placed in joint names during life without gift tax problems. But surviving spouses now may have increased income tax liabilities.

Ask your advisors if jointly owned property is best in your case.

Suppose you inherit property from your spouse for which he or she paid \$10,000 originally, but which is worth \$100,000 at the spouse's death.

If you later sell the property for \$100,000, there won't be any capital gains tax, since the tax laws currently allow you a new, stepped-up basis equal to the \$100,000 date-of-death value, rather than the \$10,000 cost basis in effect during the spouse's lifetime.

Now suppose that your spouse had the property placed in your joint names.

In many states you will get a stepped-up basis in only half the property — and face a \$45,000 capital gain if you sell for \$100,000. Ask your advisors if you will be affected.

⁷ IRC, §§2044, 2056(b)(7).⁶ IRC, §2055.

⁸ IRC, §2040.

You should make certain that your estate has enough liquid assets to cover expenses of administration, state taxes and any federal estate or income tax.

Estate taxes are generally payable in cash within 9 months of death.¹⁰ Without a ready pool of cash to draw from, an executor might be forced into an untimely sale of some of your assets.

An irrevocable trust is an excellent way to provide your executor with the necessary estate liquidity. Property that is readily convertible to cash — or life insurance sufficient to meet settlement costs — is transferred to the trust.

The trustee is then permitted to buy property from the executor, or make loans to him or her to meet estate expenses — and the value of the trust will not be taxable in the estate.

Life insurance requires careful planning

It's vital that you integrate your life insurance policies with your overall estate plan.

Remember that the full face value of any life insurance policy in which you keep ownership rights will be subject to the federal estate tax.⁹

It may make good tax sense to give a policy of insurance on your life to the beneficiary, or to another member of your family. Such a gift generally will keep the policy proceeds out of your estate. But bear in mind that the gift must be absolute and irrevocable. If you can foresee a possibility that you will need the policy for your own security, giving the policy away could be risky.

By the same token, if it's possible that you may one day regret your choice of beneficiary, it might be better to forgo the estate tax savings and keep the policy.

Life insurance can be extremely helpful in many areas of estate planning. It can help provide liquidity in your estate, or fund a trust that will provide, after your death, a lifetime income for your spouse, with the principal later going to your children — or even as a tax-deductible deferred bequest for the charity's benefit.

Note, too, the role that life insurance can play in your philanthropic planning. An unneeded life insurance policy can be given new purpose and meaning as a charitable contribution. Take the case of a husband who makes his wife the beneficiary of a policy on his life insurance, but the wife dies before him. Such a policy could serve as a fine memorial gift. Life insurance can also provide a way to arrange a truly significant gift for your favorite charity by means of a series of modest premium payments — all tax-deductible.

Call us for details on life insurance gifts.

⁹ RC, §2042. Even if you have no ownership rights in a policy, proceeds payable to or for the benefit of your estate will be taxed.

¹⁰ Extensions on the filing deadline can be obtained for "reasonable cause." IRC, §6161(a).

Family gifts are important

Family gifts

Lifetime gifts to family members can provide significant tax savings and present satisfaction.

You can make separate gifts of up to \$15,000 (2020) each year to as many different people as you choose and owe no federal gift tax.

A married couple can split gifts between them and increase the tax-free amount to \$30,000 (2020) per year, per donee.

How much can you save in estate taxes? Suppose you have six beneficiaries to whom you had planned to leave \$30,000 each in your will. In a taxable estate, these six \$30,000 bequests would be taxed at a high tax rate. But you could totally avoid this tax by simply giving each beneficiary \$15,000 a year for 2 years during your lifetime.

Plan for disposing of your business interests

Business interests

Business owners have special planning needs and opportunities. What will — or should — happen to the business after an owner's death? How will estate taxes on the business interest be paid?

As a business owner, you ought to consider a buy-sell agreement with your co-owners that will preserve continuity for the business enterprise and create a source of cash to meet the debts and tax obligations of your estate. Stockholders in closely held corporations may be eligible for the special Section 303 redemption tax break that can permit tax-free redemption of part of their stock for the purpose of paying funeral expenses, death taxes and estate administration costs. There are special estate tax breaks available for farmers and business owners when it comes to real estate valuation¹¹ and exclusions where the business constitutes more than 50% of the estate — although very strict tests must be met in order to qualify. Furthermore, the estate tax attributable to farms and closely held business interests may be deferred for 5 years and then paid in 10 annual installments.¹² But again, careful planning is necessary.

Income taxes and estate planning

Income tax liability

Certain items that pass at death, known as income in respect of a decedent (IRD), carry an income tax liability for your heirs.

Examples include accounts receivable of professional, government savings bonds, IRAs and other retirement assets. It makes sense to leave these items to persons in low tax brackets. Better yet, leave IRD to a tax-exempt organization, such as your favorite charity. The charity would keep every dollar of such a bequest.

Trusts can be vital in estate planning

Trusts

Consider some of the things that a trust, created during life or in your will, can accomplish:

Income for your family — free of investment worries;

State or federal estate tax savings, usually achieved through a family trust designed to provide broad benefits to your surviving spouse, but restricted just enough to prevent the trust assets from being taxed at his or her death;¹³

Continued control by you, the creator of the trust, over distribution of income, how and when principal will be paid, who will be the beneficiaries, rules and procedures for the trustee to follow in administering the trust and other important matters;

Dual benefits for your family and charitable programs — all accomplished in the context of meaningful tax savings.

Estate planning, unitrusts and married couples

Unitrusts

A unitrust can make good sense in a married person's estate plan.

If the unitrust is established while both spouses are still alive, they can have substantial financial and income tax benefits. Also, married people who create unitrusts will receive full advantage of the 100% gift tax or estate tax marital deduction if they name their spouses as life income beneficiaries.

A husband can set up a unitrust for his wife (or for both of them), and his entire estate could pass estate tax-free at his death, assuming his wife receives everything. At her death, the contents of the unitrust will pass to charity free of federal estate tax.

The husband could establish a QTIP trust, in which his wife would receive all the income for life, with some or all of the trust assets passing to charity at her death.

The wife's estate would be entitled to a charitable deduction for any amounts passing to her favorite charity.

¹¹ IRC, §2032A.

¹² IRC, §6166.

¹³ But trusts can't avoid estate taxes indefinitely. A generation-skipping tax is provided for in IRC, §2611. The tax is on trusts and other arrangements that cause property to skip to a new generation free of estate tax. An exemption equal to the estate tax credit shelter is allowed to the transferor.

We hope this booklet proves helpful in pointing out some estate planning ideas that you can discuss with your advisors. We also think that you will find that a planned gift or bequest for a charity's benefit can help you accomplish your estate planning purposes. We invite you to call us at any time about all your charitable objectives and plans.

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