Estate Planning Basics

An Overview of the Estate Planning Process

What Is an Estate Plan?

- An estate plan is a map
- This map reflects the way you want your personal and financial affairs to be handled in case of incapacity or death

Who Needs an Estate Plan?

Chances are, you do

- Not just for the wealthy
- Without an estate plan, you can't control what happens to your property if you die or become incapacitated
- An estate plan makes your wishes clear and helps avoid family disputes
- Proper estate planning can preserve assets and provide for loved ones

Especially needed if:

- Your spouse isn't comfortable with financial matters
- You have minor children
- Your net worth exceeds the federal transfer tax exclusion amount ($12,060,000 in 2022) or, if less, your state's exemption amount
- You own property in more than one state
- Financial privacy is a concern
- You own a business

Basic Estate Planning Concepts

Planning for Incapacity

Health Care

Property Management

Planning for Death

Wills and Probate

Tax Basics

Lifetime Gifting

Life Insurance

Trusts

Planning for Incapacity

- Incapacity can strike anyone at any time
- Failing to plan means a court would have to appoint a guardian
- Lack of planning increases the burden on your guardian
- Your guardian's decisions might not be what you would want

Planning for Incapacity —
Health-Care Directives

Living Will

Puts your instructions in writing

Durable Power of Attorney for Health Care (Health-Care Proxy)

Lets you designate an agent to make decisions on your behalf

Do Not Resuscitate (DNR) Order

Directs that resuscitative measures be withheld or withdrawn

Not all types of health-care directives are effective in all states, so be sure to execute the one(s) that will be effective for you.

Planning for Incapacity —
Property Management Tools

Joint Ownership

Joint owner has the same access to property as you do

Durable Power of Attorney (DPOA)

Lets you designate an agent to make decisions on your behalf

Living Trust

Lets a successor trustee take over management of trust property

What Happens If You Die Without an Estate Plan?

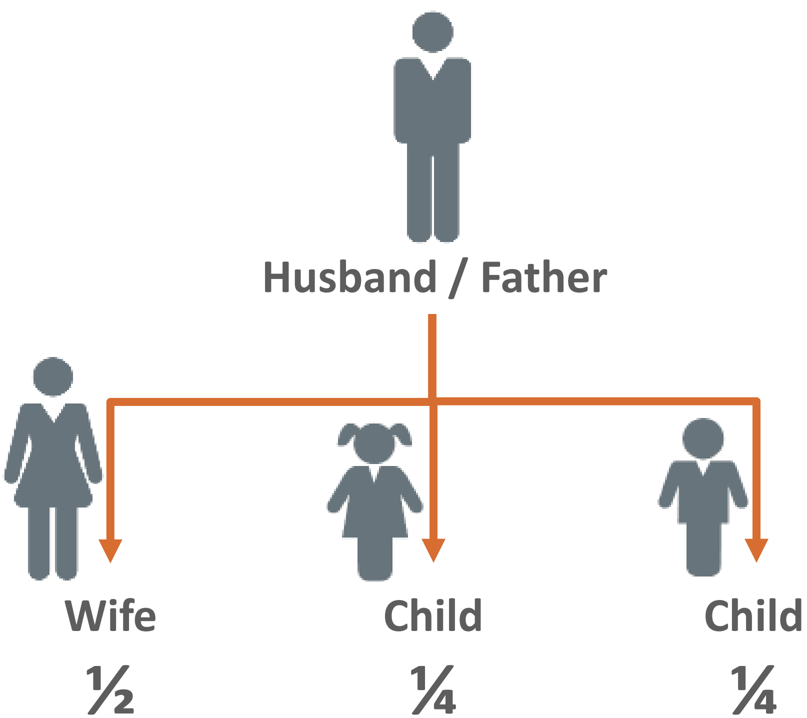
- Some property passes automatically to a joint owner or to a designated beneficiary (e.g., IRAs, retirement plans, life insurance, trusts)

- All other property generally passes according to state intestacy laws

What Happens If You Die Without an Estate Plan? — Intestacy

- Intestacy laws vary from state to state
- Typical pattern of distribution divides property between surviving spouse and children
- Your actual wishes are irrelevant
- Many potential problems

A typical intestate distribution pattern looks like this:



Wills & Probate

- A will is the cornerstone of an estate plan
- Directs how your property will be distributed
- Names executor and guardian for minor children
- Can accomplish other estate planning goals (e.g., minimizing taxes)
- Written, signed by you, and witnessed

Wills & Probate —
The Probate Process

- Most wills must be probated
- Will is filed with probate court
- Executor collects assets, pays debts, files tax returns, and distributes property to heirs
- Typically, process lasts several months to a year

Wills & Probate —
Probate Pros & Cons

Pros

- Time and costs are typically modest
- Court supervision
- Protection against creditors

Cons

- Can be time consuming for complex estates
- Title transfer delays
- Fees
- Ancillary probate
- Public record

Wills & Probate — Avoiding Probate

Can you avoid probate?

Yes, an estate plan can be designed to control which assets pass through probate, or to avoid probate.

- Own property jointly with rights of survivorship
- Complete beneficiary designation forms for property such as IRAs, retirement plans, and life insurance
- Use trusts
- Make lifetime gifts

Tax Basics

Transfer taxes include:

- Federal gift tax — imposed on transfers you make during your life
- Federal estate tax — imposed on transfers made upon your death
- Federal generation-skipping transfer (GST) tax — imposed on transfers to individuals who are more than one generation below you (e.g., grandchildren) both during your life and upon your death

Transfer taxes imposed on the state level tend to affect smaller estates.

Tax Basics — Federal Gift Tax

Lifetime Transfer

You (Donor)

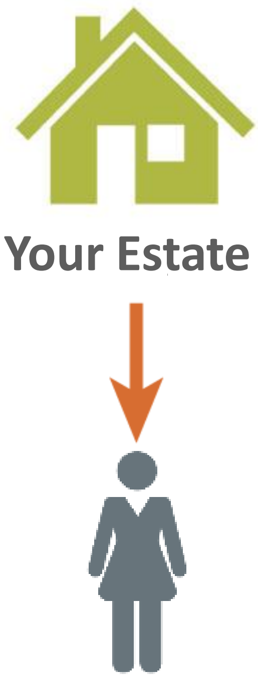
Person Receiving Gift (Donee)

Gift tax may apply

- Gift tax applies to transfers made during your life
- Certain gifts are excluded (e.g., $16,000 annual gift tax exclusion)
- $12,060,000 excluded from all transfers (gifts and estates) combined in 2022
- The $12,060,000 exclusion is the largest in the history of the federal gift and estate tax

Tax Basics — Federal Estate Tax

Transfer at Death



Your Estate

Beneficiary

Estate tax may apply

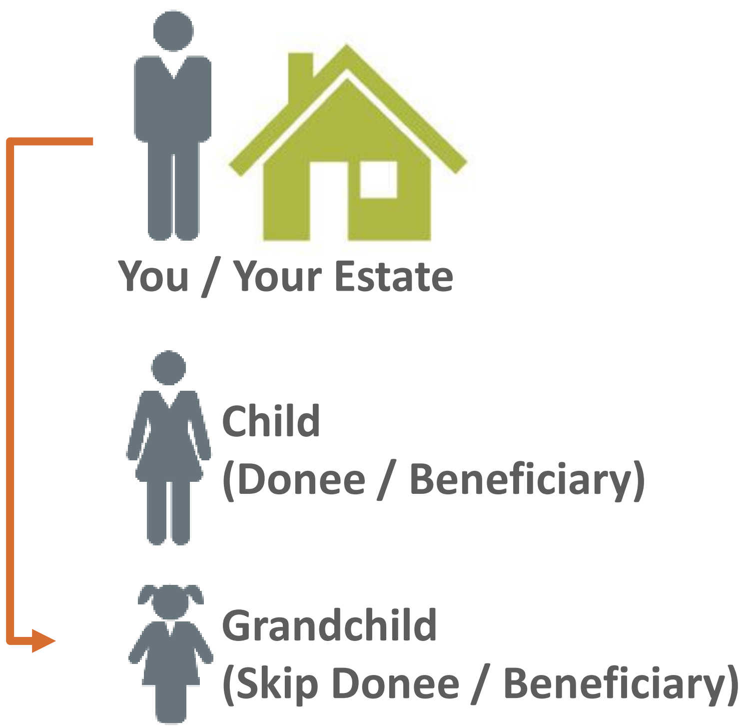
- Estate tax applies to transfers made at death
- Generally does not apply to transfers made to spouse or charity
- $12,060,000 excluded from all transfers (gifts and estates) combined in 2022
- Any portion of exclusion used for gifts will be unavailable to the estate

Tax Basics — Federal Estate Tax

- New feature important for married couples
- Exclusion is "portable" — unused portion left by deceased spouse can be transferred to surviving spouse
- $24,120,000 can be left to beneficiaries tax free (in 2022)

Tax Basics — Federal GST Tax

Transfer During Life or at Death



GST tax may apply

- The generation-skipping transfer (GST) tax may apply to transfers made to someone more than one generation below you
- $12,060,000 GST tax exemption in 2022
- Unlike the gift and estate tax exclusion, the GST tax exemption is NOT portable

Transfer Tax Basics

	2020	2021	2022
Top rate	40%	40%	40%
Gift and estate tax exclusion amount	$11,580,000	$11,700,000	$12,060,000
GST tax exemption	$11,580,000	$11,700,000	$12,060,000

Lifetime Gifting

- Lets you see the recipient enjoying your gift
- Lets you minimize transfer taxes by taking advantage of the $16,000 annual gift tax exclusion and other tax deductions
- Removes future appreciation of property from your taxable estate
- No "step-up" in basis — your basis in the property carries over instead

Lifetime Gifting —
Transfers Excluded from Gift Tax

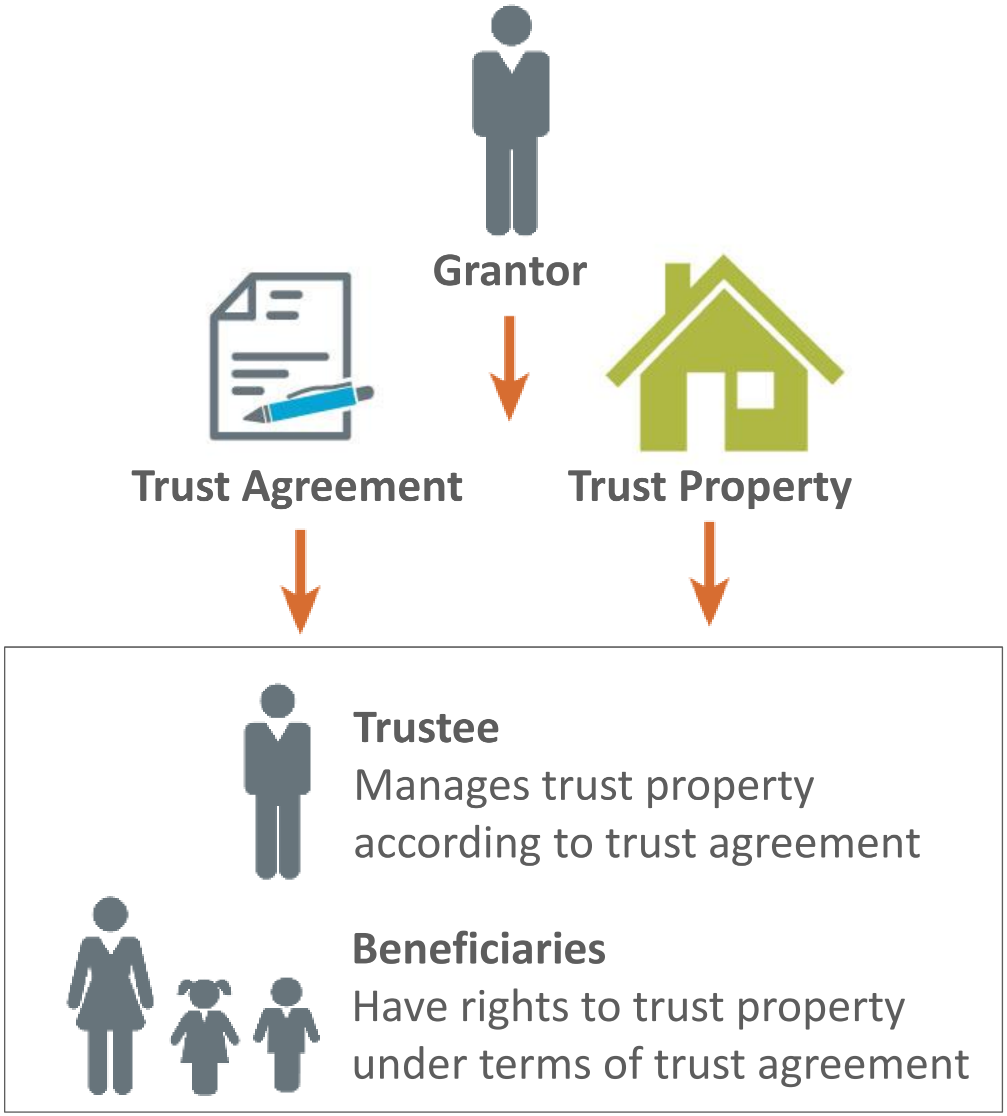
- You can give $16,000 to as many individuals as you want federal gift tax free ($32,000 if you and your spouse make the gift together)
- If you're contributing to a Section 529 plan, you can give $80,000 ($160,000 with spouse) gift tax free
- No gift tax on amounts paid directly to a school for an individual's tuition
- No gift tax on amounts paid directly to a medical care provider for an individual's medical care

Trusts

- Versatile estate planning tool
- Can protect against incapacity, avoid probate, minimize taxes
- Allow professional management of assets
- Provide safeguards for minor children, elderly parents, other beneficiaries
- Can protect assets from future creditors
- Control over property

Trusts — What Is a Trust?

- Legal entity that holds property
- Parties to a trust: grantor, trustee, beneficiary
- Living trusts vs. testamentary trusts
- Revocable trusts vs. irrevocable trusts



Life Insurance

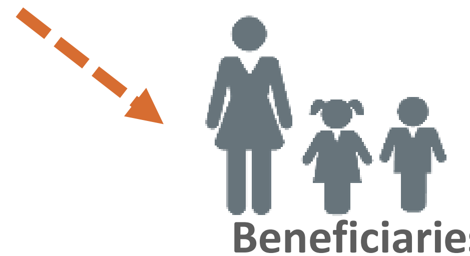
- Can provide instant estate
- Can provide needed estate liquidity
- Life insurance proceeds are included in your estate for federal estate tax purposes unless your estate plan addresses this issue
- Key issue is ownership of policy

Life Insurance —
Irrevocable Life Insurance Trust (ILIT)

During Your Life

1. You (the insured) create an irrevocable trust and name a trustee and beneficiaries

2. Trustee purchases life insurance policy on your life — policy owned by trust



3. You make regular cash gifts to trust

5. Trustee uses cash gifts to pay premiums

4. Beneficiaries technically can withdraw cash gifts during limited window of time

Life Insurance —
Irrevocable Life Insurance Trust (ILIT)

At Death

1. ILIT receives proceeds of life insurance policy
2. Proceeds not subject to estate tax
3. Proceeds distributed according to terms of trust
4. Beneficiaries receive full proceeds, free from estate tax

Conclusion

- Have you implemented a plan for incapacity (health and property)?
- Do you have a valid will?
- Are transfer taxes a planning concern for you?
- Does your overall estate plan reflect your current wishes and circumstances?

Thank You

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