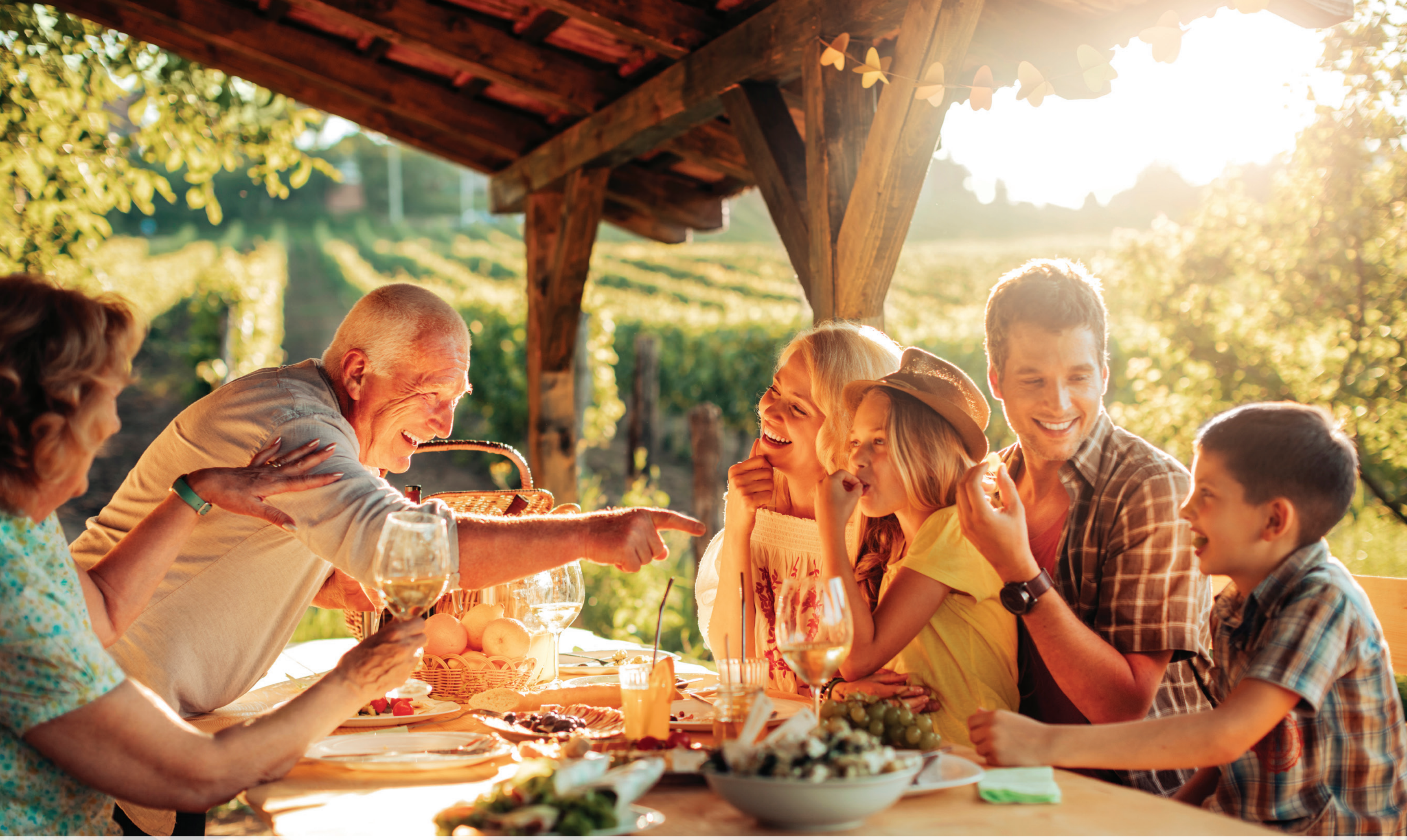
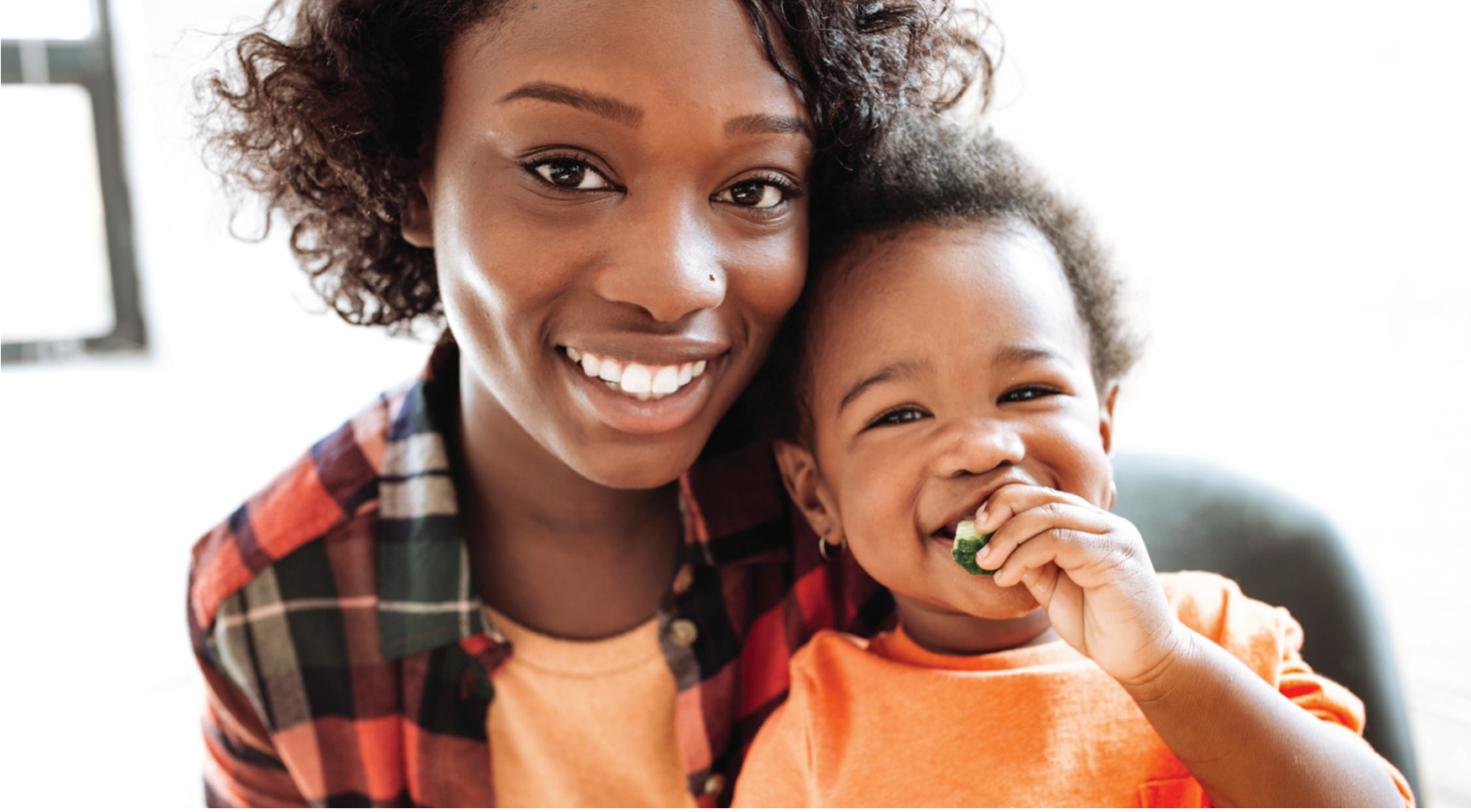


Accumulating, Preserving, and Passing Wealth

YOUR GUIDE TO ESTATE PLANNING

STIFEL



Accumulating, Preserving, and Passing Wealth

Your Guide to Estate Planning

Many investors focus on long-term saving issues such as planning for retirement and providing for the education of a child or grandchild. While accumulation of wealth is a primary concern, the protection and transfer of that wealth to future generations is often overlooked. With the incredible transfer of wealth expected to take place in the upcoming years, planning for the transfer of an estate takes on greater importance.

You might wonder whether you need an estate plan. Anyone who has a home, a car, investments, real estate, a retirement plan, business interests, or personal property should have an estate plan. An estate plan allows you to provide for the management of your assets while you are alive. In addition, it allows you to indicate how and to whom you would like your estate distributed at your death. If you do nothing, your estate will be distributed according to the intestacy laws of your state. This does not allow you to control the distribution of your estate, and often it disposes of assets differently than you would have if you had the opportunity to plan.

Estate planning encompasses more than the distribution of your estate to your heirs. It is a process designed to identify the best way to accumulate, preserve, and protect your wealth by implementing a plan to meet all of your objectives. A carefully prepared estate plan can help you address lifetime management issues, as well as death transfer issues.

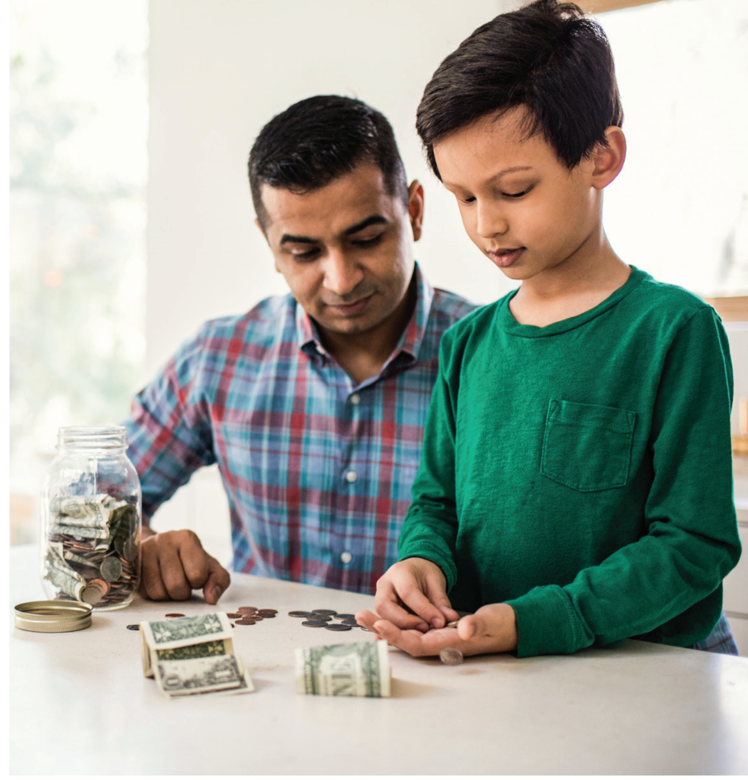
There are a variety of estate planning tools available, some very simple and others much more complex. Before you can select what tools you want to use within your plan, you'll need to identify your planning objectives.

- Whom do you want to benefit from the wealth you accumulate?
- Do you want to structure your plan to include a charity as a beneficiary?
- Do you want to transfer some of your wealth to beneficiaries during your lifetime or only upon your death?
- Do you have any situations that would require specialized planning, such as a previous marriage or a special needs child?

What Can an Estate Plan Do for You?

Recognizing that every situation is unique, an individualized estate plan can help you:

- Preserve the value of your estate;
- Provide for the current management of your assets and affairs;
- Manage your assets and affairs for you and your heirs in the event you become disabled or incapacitated;
- Maximize what you transfer to your beneficiaries;
- Reduce or eliminate probate;
- Minimize the transfer taxes you must pay, including federal and state estate taxes; and
- Provide for ongoing management of assets for your spouse, children, or grandchildren.



Once you have developed a list of your planning objectives, the next step is to build a team of professionals to assist you in the planning process. An estate planning attorney will be a key member of the team and will help you select the tools necessary to achieve your objectives. He or she will also draft the documents required to implement your plan. You may also include a tax professional as part of the planning team to assist with any tax-related issues that may arise. Your Stifel Financial Advisor will also be an integral part of the process, as he or she knows your personal financial situation and can provide the investment knowledge and expertise to help you pursue your goals. Finally, you may involve a corporate trustee in your planning team as a current or successor trustee.

At Stifel, we strive to serve as a resource to our clients. Estate planning can be confusing. We want to help you understand your options so you can make informed decisions. You have worked hard to get where you are. We have created this guide to estate planning to educate you about the estate planning process and how it can help you accumulate, preserve, and pass your wealth in the manner you desire.

What Is a Will?

Creating a will is often the first step many take when creating an estate plan. A will is simply a legal document that provides instructions outlining how you would like your assets administered and distributed at your death. The primary reason for creating a will is to provide the testator (the person creating the will) the opportunity to control the distribution of his or her estate at death. If you die without a will, you die intestate, and the intestacy statutes of your state will govern how your assets are distributed.

What can a will do for you?

By creating a will, you can accomplish several personal and financial objectives. A will can plan for specific bequests to certain individuals or charitable organizations. It can also provide for the establishment of a testamentary trust for the ongoing management of assets for a surviving spouse or other heirs. Through a will, you can nominate a guardian for minor children. You can also select the person or entity you would like to handle your estate by naming an executor or personal representative who will be responsible for carrying out your wishes as expressed in your will.

It is important to remember that a will is only operative at your death. For this reason, a will does not address lifetime concerns, such as planning for the management of your assets in the event of incapacity. A properly drafted will can detail your wishes and allow you to control the distribution of your estate.

Who can be executor?

The selection of an executor is an important decision and should be carefully considered. The duties of an executor are varied, and some people who have never served as executor may be overwhelmed. Any competent adult can be named as executor, including a spouse, adult child, other relative, friend, or business associate. A professional entity, such as a trust company, can also be named as executor. Although you have many choices regarding whom you can select, careful consideration should be given to the role of the executor. You may want to consider involving a professional to provide assistance either as the sole executor or as co-executor.

Duties of an Executor

Generally, the duties of an executor will include:

- Collecting and safekeeping the assets of the estate;
- Notifying creditors and paying all debts of the decedent;
- Collecting any monies owed to the estate;
- Filing claims for benefits to the estate, including life insurance proceeds, pension, and profit-sharing benefits;
- Determining the value of the assets of the estate, including securities, real property, and personal property;
- Managing the assets of the estate;
- Maintaining detailed records of all estate transactions and filing proper inventories/records to beneficiaries and the court;
- Filing the decedent's final income tax return (Form 1040);
- Determining the tax year for the estate;
- Filing the estate's income tax return (Form 1041);
- Filing the decedent's federal estate tax return (Form 706);
- Filing the decedent's state death tax return; and
- Distributing assets to beneficiaries.

What Is Probate?

Probate is a court-supervised process that validates a will, ensures all assets are collected and all debts are paid, and distributes assets to heirs or others. All wills are subject to probate. If you die intestate (without a will), your estate will also go through probate.

Why might you want to avoid probate?

There are several important reasons you may want to avoid probate. First, probate can be a time-consuming process that causes delays in the distribution of the assets to your heirs. In general, the probate process can last anywhere from six months to over a year, depending upon the court's schedule, the requirements imposed by the court, and the complexity of the estate. Your heirs generally will not have access to the estate assets until final distribution is made. Another reason to consider avoiding probate is to protect your privacy. Probate is a public proceeding. Thus, information about the estate is a public record. By avoiding the probate process, privacy can be maintained for you and your heirs. Finally, probate adds additional costs to the settlement of your estate. Probate fees generally range from two to four percent. If the gross value of your estate was $300,000 and probate fees were two percent, approximately $6,000 of your estate would be consumed in probate costs.

Does joint ownership allow you to avoid probate?

If you own property jointly, as joint tenants with rights of survivorship, the property can pass from one joint owner to another without going through probate. Many clients own assets as joint tenants with rights of survivorship as a way to avoid probate until the death of the last surviving joint tenant. However, when the surviving joint owner dies, or if both joint owners die simultaneously, the estate is then subject to probate.

Are there disadvantages to joint ownership?

While joint ownership may help avoid some probate costs, there are several disadvantages you should consider. With joint ownership, the amount of control you have over your assets is diminished. Because you are no longer viewed as the only owner of the property, you may need the consent of the other joint owners when you want to do something with the property. In addition, creditors of the other joint owners may be able to attach the asset to satisfy a debt.

There may be adverse tax consequences as a result of owning property jointly. There may be gift tax consequences if you add or remove a joint owner from an asset. In addition, questions arise as to the cost basis of the asset upon the death of one of the joint owners. For example, if a child inherited stock from his or her parent at the parent's death, the stock would receive a full step-up in cost basis, thereby limiting the capital gains tax due when the stock is sold. If, however, the parent made the child a joint owner of the stock, contribution rules would apply, and the child may have to prove that the parent contributed 100 percent of the value of the assets in order to receive a 100 percent step-up in cost basis.

Equalizing the estate to heirs may also be difficult using joint ownership. If you are planning to leave an equal sum to each of your heirs, equal amounts will need to be maintained in each joint account. As assets fluctuate in value, maintaining that equality may be difficult.

If you are considering adding a joint owner to an account, you should seek the professional advice of an attorney and tax professional to discuss the potential consequences.

What Is Your Estate Worth?

When exploring different estate planning options, one of the first things you will need to know is the value of the assets that comprise your estate. Often, clients overlook assets or simply underestimate the value of their assets. If you complete the following worksheet, you can get an estimate of the value of your gross estate.

Assets	Current Market Value
Cash or Other Cash Equivalents (including money market accounts and certificates of deposit)	$ ____________
Securities (including stocks, bonds, and mutual funds)	$ ____________
Other Investments	$ ____________
Annuities	$ ____________
Debts Owed to You	$ ____________
Individual Retirement Accounts (IRAs)	$ ____________
Employer-Sponsored Retirement Plan Benefits (401(k), 403(b), etc.)	$ ____________
Home (primary personal residence, reduced by mortgage)	$ ____________
Other Homes (vacation home, condo)	$ ____________
Other Real Estate	$ ____________
Business Interests	$ ____________
Life Insurance Benefits (death benefit amount)	$ ____________
Cars and Other Vehicles	$ ____________
Jewelry	$ ____________
Collectibles (antiques, artwork)	$ ____________
Other Personal Property (furniture, clothing, household goods)	$ ____________
Total Gross Estate	$ ____________

What Is a Trust?

A trust is simply a set of instructions regarding how you would like your assets managed and then distributed to your beneficiaries. A trust is a legal document that names an individual or entity (the "trustee") who takes legal title and management of the assets you transfer to the trust for the benefit of the persons (the "beneficiaries") you specify in the trust document. The trustee is responsible for managing and administering the assets according to the instructions in the trust document.

Trusts are created in two different ways. A trust may be created and implemented while you are alive (an intervivos or living trust), or it may be created through your will at your death (a testamentary trust).

Because a testamentary trust is created through your will, it is effective only upon your death. As with all estates passing by will, the estate is subject to probate. At the conclusion of the probate process, the assets are distributed to the trustee. In addition, because it is created at death, the testamentary trust cannot provide for the management of your assets during your lifetime. Therefore, it cannot be utilized for incapacity planning.

What is a living trust?

A living trust is created during your lifetime and provides instructions for the management of your assets while you are alive, as well as for the management and distribution of your assets at your death. Typically, these types of trusts are revocable, meaning they can be amended or changed at any time before your death. This provides flexibility because you can make changes to your trust if your personal or financial goals change.

Once your living trust has been created, it is important that you re-title your assets to the trust, making the living trust the legal owner of those assets. The instructions within the living trust only govern those assets actually owned by the trust, so re-titling your assets is vital to ensuring that your instructions can be followed. When you die, the trust assets avoid probate.

Why should you consider creating a revocable living trust?

Maintaining control is a fundamental reason for creating a revocable living trust. You know how you want your assets managed, but what if something happened to you and you were not able to manage your affairs? Many of us are concerned that we might become incapacitated, and if that happens, we want to know that someone is continuing to pursue our personal and financial goals. In a living trust, you can address this issue by naming a trustee or successor trustee to step in and manage your affairs. This gives you the freedom of having your assets managed by the person or entity you choose, in the way you want them to be managed, without needing the court to intervene.

A living trust also allows you to control the distribution of your estate to your heirs. You may want to distribute your assets outright to your beneficiaries, or you may feel that it would be better to make distributions to them over a period of years, thereby allowing them to explore their own long-term planning options. A revocable living trust allows you to put the proper provisions in place to accomplish either of these goals. Your trustee can ensure that your trust assets are managed and distributed according to your wishes.

Privacy is often a key concern of our clients. Every person has different wishes regarding his or her unique personal and financial goals. Information about your life and your finances is something you typically want to keep within your family. Because living trusts avoid probate, you can maintain your privacy and dictate the time, manner, and circumstances under which your assets are distributed to your heirs.

If you have a living trust, do you still need a will?

A common estate planning misconception is that if you have one tool, either a will or a trust, you do not need the other. In fact, these two legal documents often work in tandem to fully accomplish your estate planning goals. Although you may have a revocable living trust, which allows you to address lifetime planning issues, you also need a will to dispose of any assets not titled to your trust. This type of will is commonly referred to as a pour over will, because it takes the assets passing outside of the trust and transfers or "pours" them into the trust. The trust assets are then managed and distributed according to the instructions in the trust.

Although the assets passing through the will are subject to probate, many states have small estate probate proceedings which can minimize the time and expense usually associated with the process. In most situations, the majority of assets are registered in the name of the trust, and the assets passing through the pour over will are minimal.

Does a living trust save taxes?

A living trust does not automatically ensure that you will minimize or eliminate taxes. Provisions can be included in your living trust, however, that can assist with tax planning to ensure that you maximize what you are able to leave to your heirs.

Transfers of wealth made during your lifetime may be subject to gift tax, and transfers made at your death may be subject to estate tax. The taxation of these transfers will, in part, be dependent on when you transfer the assets, as well as to whom the assets are transferred.

Transfers between spouses, commonly referred to as marital transfers, are non-taxable regardless of whether the transfer was made during life or at death. The unlimited marital deduction allows you to transfer as much as you choose to your spouse, either during life or at death, with no transfer tax consequence. It is important to remember that this does not eliminate the transfer tax completely. Rather, it simply delays it until your spouse passes away.

A second type of transfer is the non-marital transfer, which refers to a transfer to anyone other than your spouse. Unlike marital transfers, non-marital transfers may be taxable.

An individual can make annual gifts valued at $15,000 per recipient without any estate or gift tax consequences. A married couple can make annual gifts valued at $30,000 per recipient. These gifts are known as annual exclusion gifts. An individual can also make gifts of any dollar amount directly to accredited educational facilities and/or medical facilities without any estate or gift tax consequences.

In addition to the gifts noted above, an individual can transfer assets equal in value to the estate and gift tax exemption without any estate or gift tax consequences. Such transfers can be made during life or at death. In 2020, the estate and gift tax exemption is $11,580,000 per individual. Accordingly, a married couple can transfer up to $23,160,000 with proper planning. If an individual transfers assets during life or at death that cumulatively exceed the estate and gift tax exemption, such transfers will be subject to a 40% tax.

Planning to Preserve the Exemption

For many married couples, their estate plan is to leave everything to the surviving spouse. No estate taxes are due at the first spouse's death due to the unlimited marital deduction. The unlimited marital deduction allows the transfer of asset ownership between spouses without incurring any gift or estate taxes.

One way to ensure that you and your spouse both utilize your estate and gift tax exemption is to transfer your assets outright to someone other than your surviving spouse, such as a child or other relative. This is not often an attractive alternative, because most individuals want their surviving spouse to benefit from the assets during his or her life and only want the assets transferred to others at the surviving spouse's death.

A credit shelter trust (also commonly called a bypass trust, family trust, or non-marital trust) is a type of trust that will enable both you and your spouse to take advantage of your individual estate and gift tax exemption while allowing your surviving spouse access to the income and principal of the trust during his or her lifetime. This gives you and your spouse the opportunity to transfer up to $23,160,000 in assets free from federal estate tax in 2020.

The American Taxpayer Relief Act of 2012 established the Deceased Spousal Unused Exclusion Amount. As of January 1, 2013, married couples can elect to add any unused portion of the estate and gift tax exemption of the first spouse to die to the surviving spouse's estate and gift tax exemption. This is commonly known as portability.

For example, if a spouse dies and only uses $3,000,000 of his or her $11,580,000 estate and gift tax exemption, the surviving spouse may take advantage of the unused $8,580,000. As a result, the surviving spouse will have a $20,160,000 estate and gift tax exemption.

The existence of portability does not necessarily eliminate the use of various trust strategies, such as the A/B trust, particularly in states that impose a separate estate tax at the state level. Consider discussing portability and these trust strategies with your estate planning attorney.

Who Should You Name as Trustee of Your Trust?

The role of trustee is important, as the trustee manages and controls the assets in the trust. You can name yourself as trustee, which allows you to continue managing your assets while you are able. You can buy, sell, borrow, or transfer assets in or out of your trust at any time. You can then name a successor trustee, who may be an individual or entity, such as a trust company, to step in when you are no longer able to serve.

If you feel that you need assistance immediately, you can create a trust and immediately name a corporate trustee or an individual to serve as your current trustee. In this case, your trustee will be immediately responsible for the management of your trust, providing you the assistance you need to help meet your personal and financial goals.

What should you consider when selecting a trustee?

Selecting a trustee is an important decision. The trustee is responsible for knowing trust law, property law, and tax law, and then must combine this with the details of your particular family situation to help ensure that your goals and wishes are met.

While you may want to name a family member, such as a spouse or child, that may not always be the best choice. Often, the responsibilities placed upon the trustee can be cumbersome and time-consuming. In addition, it is often unfamiliar territory for many, and can be confusing. Putting a family member in the position of determining what benefits other family members may obtain can put a strain on even the most comfortable family relationships.

When deciding who should be your trustee, factors you may want to consider include:

- ***Will the trustee follow the terms of your trust document?***
  You want a trustee who will abide by your wishes, maintain impartiality, and execute the instructions you set forth when you created the trust. A professional trustee generally has more experience and expertise regarding the technical and legal aspects of the trust, working closely with you and your family to help you pursue your goals.

- ***Can the trustee render quality investment advice and assist you and your family with financial decisions?***
  Your trustee is responsible for managing the assets within your trust. You want to work with a trustee who knows your financial situation and who can provide personalized investment advice and conservative, quality investments to help pursue your financial goals.

- ***Will my trustee communicate with me, and can I contact my trustee when necessary?***
  Communication is important, and you want to make sure your trustee is providing you with the information you want and need. In addition, if something arises that needs the trustee's attention, you should know that you can reach the trustee and get answers when you need them.

- ***Is a corporate trustee the right solution for you?***
  Naming a corporate trustee as a successor trustee or successor co-trustee to serve with an individual has several benefits. These benefits include availability, specialization and expertise, investment experience, and impartiality. Before possibly risking family harmony and burdening a family member with the work, responsibility, and potential liability that comes with serving as trustee, consider the benefits of using a corporate trustee, such as Stifel Trust Company. While serving as trustee, Stifel Trust Company will rely heavily on an individual's Stifel Financial Advisor to manage its relationship with the individual's family.

What Should You Do to Get Started?

The estate planning process can be daunting, but there are a few easy steps you can take to prepare yourself to move forward.

First, take some time to think through your personal and financial objectives. This will help you develop a framework for where you want to go and will help the other members of your professional team determine what tools will be best suited to your particular situation.

Gather information about your assets, including their value, how they are titled, and where they are located. Your tax professional and your Stifel Financial Advisor can be helpful in pulling this information together. Your Stifel Financial Advisor can provide you with a Wealth Planning Questionnaire to help you think through the information you will want to collect and to provide a place to compile the information for later use.

You may also want to ask your Stifel Financial Advisor about the Stifel Wealth Strategist Report®, available exclusively through Stifel. The Stifel Wealth Strategist Report® is an individualized, comprehensive financial plan designed to help you analyze your current financial situation and show you strategies for pursuing your financial goals. The Stifel Wealth Strategist Report® organizes your financial information in six analyses: net worth, risk management, asset allocation strategies, retirement funding, education funding, and estate planning and preservation.

The next step is to engage your estate planning team. Your estate planning attorney will help you determine what tools you need and can then prepare the necessary documents.

Once your documents are in place, you may need to re-title assets if you incorporated a living trust into your plan. Your Stifel Financial Advisor can assist you with this for the assets within your Stifel account(s). In addition, to assist you in simplifying your affairs, your Stifel Financial Advisor can help you transfer other securities into your trust account at Stifel, providing you with one consolidated investment statement along with the numerous other services available to you as a Stifel client.

When Should You Review Your Estate Plan?

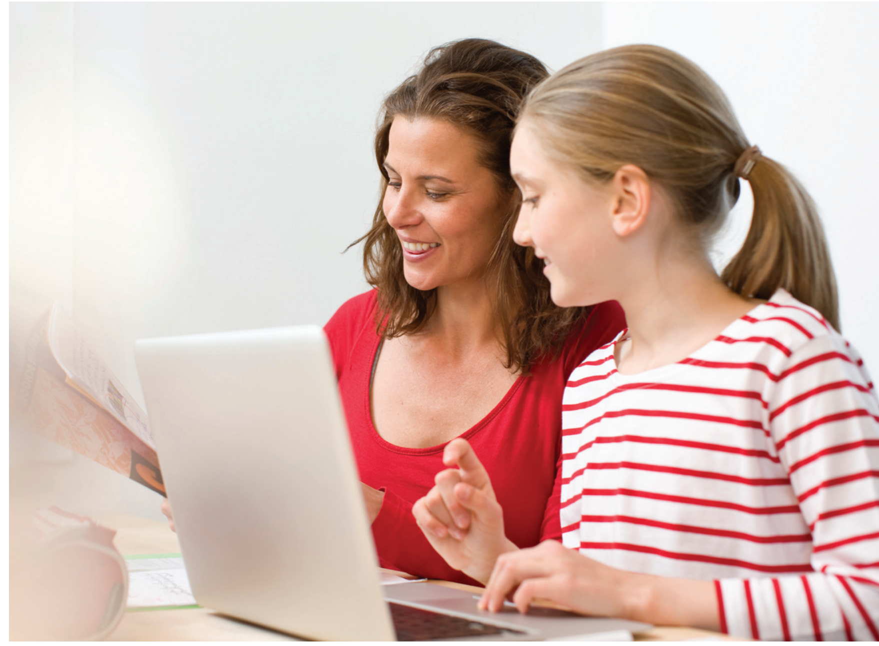
Generally speaking, most estate planning professionals will recommend that you have your plan reviewed every three to five years or upon a significant life event. Your family situation, as well as tax and other laws, can change significantly through the years, so it is important to periodically review your plan to ensure it still meets your needs.

Any of the following may indicate that you should have your estate plan reviewed:

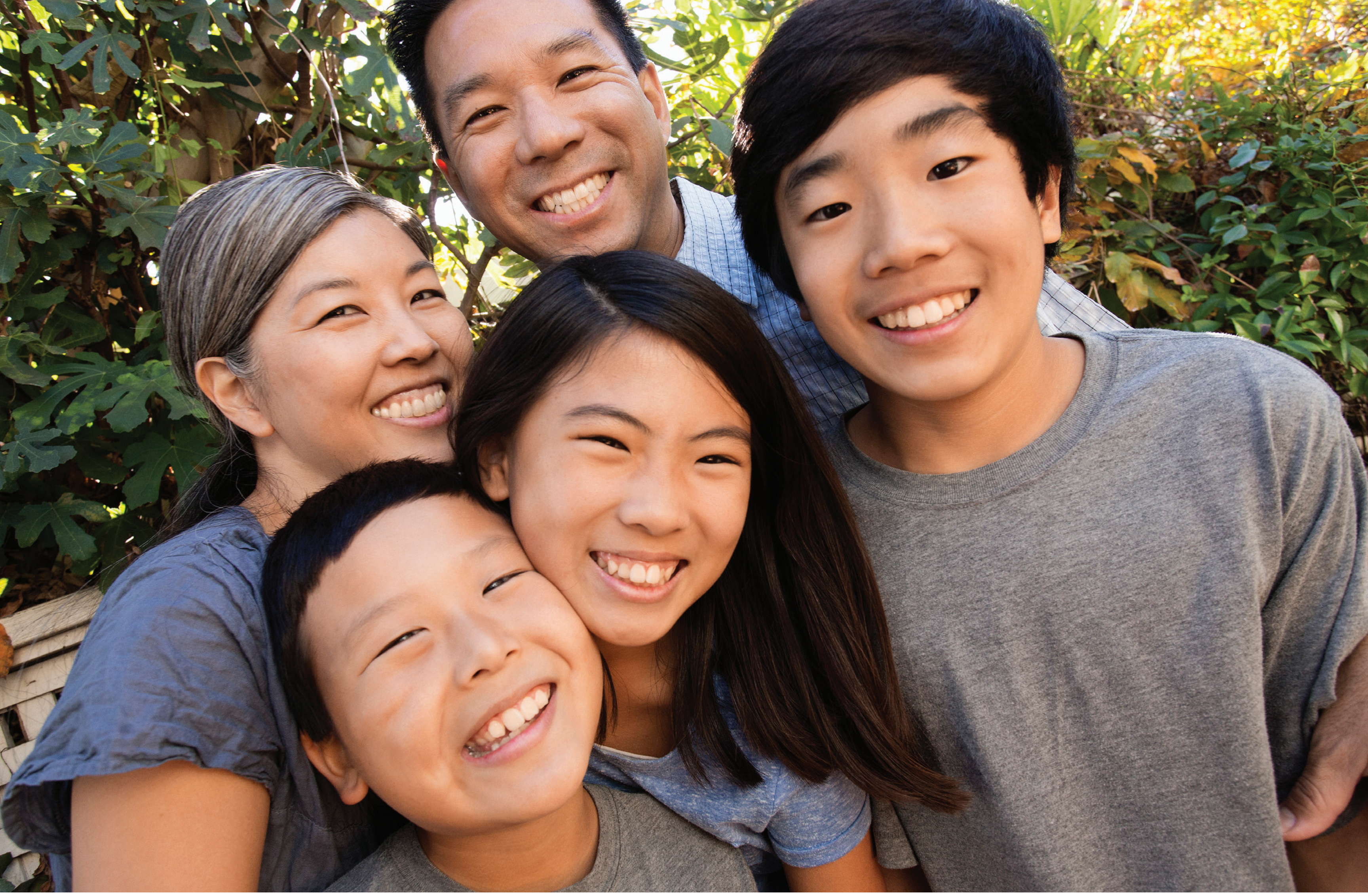
- Family changes, such as a birth, death, marriage, or divorce;
- Relocation to another state;
- Material changes in net worth, as well as the addition or deletion of life insurance;
- Significant business ownership changes;
- Preference changes as to who will receive your assets, including when and how;
- New special needs among your beneficiaries;
- A desire to make charitable contributions during your life or at your death or a desire to change the charitable contributions currently in your plan;
- A desire to make lifetime gifts to family members or friends or to change the gifting strategy currently employed;
- Preference changes as to who should represent you, including your selection for personal representative or executor, trustee, or guardian for your children;
- Major tax law changes; or
- A number of years have passed since your plan was last reviewed.

Estate Planning Checklist

The following list will help you prepare as you begin to develop your estate plan. Giving careful thought to these issues can save considerable time and expense when you actually sit down to meet with the estate planning attorney and other members of your planning team.



- **Legal Instruments:** What legal instruments do you already have in place — a will, trust, or power of attorney? If you do have existing estate planning documents, when were they last updated? Be sure to take a copy of any prior executed documents to the attorney when you update your plan.
- **Representatives:** Who will be your personal representative or executor? Whom do you want to nominate as guardian of your children, and will such person(s) accept the responsibility? Do you need an individual or corporate trustee, and do you want them to serve now or only when you are unable to serve? Who will be the financial advisor for your family?
- **Property:** What property currently makes up your estate? What are your real estate holdings? Do you own a business? What makes up your savings and investments? How much personal property do you have? Are you expecting any future assets or inheritances? How are you holding your assets — individually, in trust, or in joint tenancy? Are any of your assets illiquid such that you will need cash reserves or other provisions? Do you need life insurance? What is the composition of your liabilities?
- **Heirs:** To whom do you want your assets to be distributed — spouse, children, parents, siblings, grandchildren, friends? When do you want them to receive your property? Will they receive it outright or in trust? Will they need a financial advisor? Are there any contingent beneficiaries?
- **Health Care:** What are your health care preferences? Who will make decisions for you? What are your feelings about long-term care? Do you have adequate funds to pay for a long-term care need?
- **Special Circumstances:** Are there any special circumstances in your life, such as a second marriage or children from a prior marriage?
- **Special Needs:** Are there any special needs among your beneficiaries with regard to health, education, or maintenance issues?
- **Contingencies:** What if you die early or become disabled?
- **Gifting:** Would you like to engage in lifetime gifting?
- **Charity:** Do you have any interest in including charitable organizations in your plan during life or upon your death? Do you own any low cost basis assets?
- **Taxation:** How can you minimize taxes?
- **Business Ownership:** Do you own a small business? What is your succession plan, or whom do you want to take over the business when you are no longer involved? What kind of liquidity needs do you have for the transfer of the business, and how can you ensure those needs are adequately funded?



Glossary of Estate Planning Terms

We have included the following glossary to help you better understand the many estate planning terms and concepts.

Administrator – Person named by the court to represent the estate when there is no will or when the will does not name an executor. Also called a personal representative.

Annual Exclusion Gift – Amount that a donor may transfer to a donee, free of transfer tax, each calender year. The donor may make these gifts to multiple donees. In 2020, the annual exclusion gift is $15,000 per donee per calender year. Consult with your tax professional regarding gifts exceeding the annual exclusion.

Ascertainable Standards – Limited trustee powers to provide health, education, maintenance, and support for a surviving spouse or others. This may avoid trust assets being included in a beneficiary's estate.

Beneficiary – The person(s) who and/or institution that receives the benefits of the trust.

Charitable Remainder Trust (CRT) – A common form of charitable tax planning, typically with highly appreciated assets. The individual (or donor) gifts assets to the CRT and receives an income tax deduction (subject to IRS limits), a lifetime income stream, avoidance of capital gains taxes, and reduction of the taxable estate. The beneficial charity receives the remaining assets of the trust at the death of the donor.

Codicil – A written change or amendment to a will.

Community Property – A form of property ownership for husband and wife that is recognized in nine states. One of the primary benefits of community property is the full step-up in basis to the fair market value that occurs upon the death of either spouse. Community property states are: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.

Conservator – An individual or entity appointed by the court to administer the financial affairs of a minor or incapacitated adult.

Credit Shelter Trust – A trust that uses an individual's estate and gift tax exemption.

Crummey Trust – An irrevocable trust used to qualify gifts to the trust for the annual exclusion ($15,000 for 2020). Each time a contribution is made, the beneficiary must be given the temporary right to demand withdrawals from the trust assets equal to the value of the gift. Commonly used in the context of an irrevocable life insurance trust.

Disclaimer – The refusal or rejection of any right, interest, or property that was offered to a person. Taxpayers have up to nine months from the time the gift was made to disclaim an asset (in an estate, the time is nine months from the date of death).

Durable Power Of Attorney – See Power of Attorney.

Estate Taxes – A federal tax imposed on the value of property owned by the decedent at death.

Estate and Gift Tax Exemption – The amount an individual can transfer during life or at death before owing estate or gift taxes. In 2020, this exemption is $11,580,000 per individual.

Executor – Person or institution named in a will to carry out the instructions of the will (female is Executrix). Also called personal representative.

Family Partnership – A voluntary contract between family members (i.e., spouse, ancestors, and lineal descendants) for tax purposes. There are typically two types of interests created: general partner and limited partner interests. The partnership generally provides a way to transfer assets to family members while maintaining control. There may also be discounts applied to the value of the transferred interest, thus providing an opportunity to leverage the gift.

Fiduciary – One who has the legal duty to act primarily for another's benefit. Implies great confidence and trust and a high degree of good faith (usually associated with a trustee).

Form 706 – IRS Estate Tax Return.

Form 709 – IRS Gift Tax Return.

Form 1041 – IRS Estate and Trust Income Tax Return.

Gift Tax – A tax imposed on transfers of property during the donor's lifetime.

Grantor – The person who sets up or creates a trust. Also referred to as settlor, trustor, or creator.

Grantor Retained Trust – An irrevocable trust where the grantor assigns trust assets but retains either income or the use of the property for a specified number of years. The trust assets are distributed to the beneficiaries at the termination of the trust, which is a prearranged date in the future. There are three different types of grantor retained trusts:

GRIT – Grantor Retained Income Trust
GRAT – Grantor Retained Annuity Trust
GRUT – Grantor Retained Unitrust

Gross Estate – The value of an estate before any deductions (i.e., debts, charitable contributions, etc.). (Probate fees are usually calculated on the gross value of the estate.)

Guardian – One who is legally responsible for the care and well-being of another person. Appointed by a court, the guardian is under the court's supervision.

Health Care Directive (also known as a Living Will) – A written document stating an individual's wishes regarding whether certain procedures are performed, including artificial nutrition and artificial hydration, in the event of a terminal illness or injury.

Health Care Power of Attorney – A written document allowing an individual (the principal) to name another individual (the agent) to make health care decisions on behalf of the principal. Often executed in conjunction with a Health Care Directive.

Incapacitated/Incompetent – Describes one who is unable to manage his or her own affairs, either temporarily or permanently.

Intervivos Trust – Another name for a living trust. See Living Trust.

Intestate – Dying without a will. When an individual dies intestate, the state statutes will typically dictate the distribution of assets.

Irrevocable Trust – A trust in which the grantor does not have the power to revoke, amend, or make withdrawals of principal.

Irrevocable Life Insurance Trust (ILIT) – This is a type of irrevocable trust established for the purpose of purchasing and owning life insurance, thereby excluding the life insurance proceeds from the estate of the insured for estate tax purposes. The corpus of the trust consists, in whole or in part, of life insurance policies purchased and owned by the trustee and payable to the trust on the death of the insured.

Joint Tenants With Rights of Survivorship (JTWROS) – Occurs when two or more persons own an undivided interest in the same property. Death of a joint owner immediately transfers ownership to the surviving joint tenant(s); different from tenancy-in-common. See Tenancy-in-common.

Living Trust – A trust created during one's lifetime.

Marital Deduction – This deduction is available for transfers between spouses either during their lifetimes or at death. Under federal laws, there is an unlimited marital deduction, meaning there is a complete interspousal exemption for qualifying transfers regardless of the amount.

Minor Child – A child under the legal adult age; varies by state (usually 18 or 21).

Net Value of Estate – The value of an estate after all debts and expenses have been paid. (Federal estate taxes are based on the net value of an estate.)

Personal Property – Movable property (as opposed to real property, such as land, which is permanent), includes furniture, automobiles, equipment, cash, and stocks.

Personal Representative – Another name for an executor or administrator.

Portability – The ability to transfer a deceased spouse's unused portion of his or her estate and gift tax exemption to a surviving spouse. Portability must be elected on the estate tax return (Form 706).

Pour Over Will – A will often used in conjunction with a living trust stating that any property not titled in the living trust will become part of, or "pour over" into, the living trust upon death. The terms of the living trust will then control the ultimate distribution of those assets. A pour over will must go through probate prior to the assets being distributed to the trust.

Power of Attorney – A legal document that allows an individual (the principal) to designate someone (the attorney-in-fact) to have full legal authority to act on the principal's behalf in his or her absence. The document may be drafted to give the attorney-in-fact immediate authority or to give him or her authority upon the occurrence of an event. Upon the disability or death of the principal, the power of the attorney-in-fact terminates. Most states permit a Durable Power of Attorney, which is valid through disability and only ends at death. Limited powers of attorney give someone else only limited authority for a very specific purpose (e.g., to sell a car).

Probate – The legal process to determine whether the decedent had a will and to file that will with the probate court. The court determines whether the will is valid, hears all claims, and orders creditors paid and property distributed according to the terms of the will.

Probate Fees – Costs associated with the probate process, usually a percentage of the gross value of the estate, range from 2 to 4 percent. Administration fees may be assessed in addition to the probate fees.

Probate Guardianship – A court-controlled program for persons who are unable to manage their own affairs due to disability or incompetence (often called living probate), or for minor children.

Qualified Personal Residence Trust (QPRT) – A type of trust in which an individual (grantor) transfers his or her home to the trust for a specified number of years with the right to occupy the home during that period. At the termination of the trust, the beneficiary of the trust owns the home, and if the grantor remains in the home, the grantor must pay fair market value rent. The value of the gift for gift tax purposes is considered to be the present value of the future gift, according to IRS tables.

Qualified Terminable Interest Property Trust (QTIP Trust) – Gives the first spouse to die the ability to control where the corpus of the trust will go after the death of the second spouse. To qualify for marital deduction and avoid estate tax at the first spouse's death, this election requires that the surviving spouse receives the income from the QTIP trust for life. The balance of the trust is included in the surviving spouse's gross estate upon death, and the assets are distributed in accordance with the wishes of the first spouse to die, as per instructions included in the trust when created.

Rabbi Trust – A trust established by an employer for the purpose of accumulating assets for unfunded non-qualified deferred compensation obligations. A rabbi trust is designed to provide employees some assurance the obligations will be paid while preserving tax deferral.

Real Property – Land and/or property that is "permanently" attached to land (such as a building or house).

Revocable Living Trust – The opposite of an irrevocable trust; a revocable trust is created while one is still living. The grantor has the right to revoke or amend the trust at any time. The trust has instructions for its management and distribution upon disability or death of the grantor.

Settlor – See Grantor.

Special Bequests (also known as special gifts) – A separate listing of personal property to be distributed to selected persons; can be changed or revoked at any time.

Statutory Fees – Probate costs established by some states.

Successor Trustee – Person or institution named in the trust to take over the management of the trust should the current trustee die, resign, or become unable or unwilling to act.

Tenancy-by-the-Entirety – Ownership structure only allowed between a husband and wife. Termination of the status requires joint action by both spouses (i.e., divorce). This type of ownership is not available in all states and is typically used in separate-property states.

Tenancy-in-Common – A form of joint ownership involving two or more persons. Upon the death of a tenant-in-common, ownership transfers to the beneficiaries or heirs designated by the deceased joint owner, not to the remaining joint owner(s). A tenant-in-common may dispose of an ownership interest in an asset at any time, without consent of the other joint owners.

Testamentary Trust – A trust established through a will. A testamentary trust becomes effective only upon death.

Testator – One who creates a will.

Trust – A fiduciary relationship in which one person (the grantor) transfers legal title of property to a fiduciary (the trustee), who manages the property for the benefit of another person (the beneficiary).

Trustee – The person or institution who accepts and manages property according to the instructions in the trust agreement.

Trustor (also referred to as Grantor or Creator) – The individual who establishes a trust.

Unlimited Marital Deduction – The ability of one spouse to transfer all or a portion of his or her assets to the surviving spouse free of any estate or gift taxes. The amount that may be transferred is unlimited.

Will – A legally binding direction regarding the disposition of one's property at death. It is not effective until death and can be revoked or changed up to the time of death or until there is a loss of mental capacity to make a valid will. A will can also nominate an executor, as well as a guardian of minor or special needs children.

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