

T.RowePrice®



# Your Guide to Estate Planning

Protect and preserve  
the things that matter most.

WELCOME

# Estate Planning is for Everyone

Although it may seem like an exercise reserved for people who are older, or extremely wealthy, estate planning is a critical component of everyone's overall financial plan. Planning ahead allows you to make your wishes clear regarding who will inherit your assets and under what circumstances.

In this guide, we'll outline the basics of estate planning so you can come away with a more focused picture of what you want your plan to look like. If you have a complex estate, you should consider additional planning beyond what is discussed in this guide.

## TAKE ACTION TODAY

# Get Started With Your Estate Planning To-Do List

- Determine the types of accounts and assets you want (or need) to include in your estate plan and the beneficiary and titling or ownership options for those accounts.
- Be certain that you understand the language in your current estate planning documents. If you don't, ask your attorney to explain unclear statements and how they will affect your heirs or beneficiaries.
- Determine how, under your current estate plan, assets would be distributed.
- Determine how you want your assets to be distributed after your death and whether you should make changes in ownership or beneficiary designations.
  - Review/choose an executor of your estate, trustees for any trusts, and a guardian of any minor children. Consider a durable power of attorney, advance health care directive, and organ donor papers.
  - Make sure you will be leaving adequate sources of income for your beneficiaries. Do you need to provide additional sources of income (for example, life insurance)?
  - Assess whether you wish to make any changes in the amount of control and flexibility your current plan provides your beneficiaries and, if applicable, trustees.
- Discuss with your attorney whether a revocable living trust for all or some of your assets could maximize flexibility, privacy, and convenience for you and your beneficiaries. If you have real property in states other than your legal state of residence, deeding this property to your trust may avoid potential ancillary probate.
- Have a [frank discussion](#) with your spouse and/or loved one(s) to make certain they are comfortable with the impact of your estate plan. Make any necessary changes you agree on. Be sure your loved ones know where to find [important documents](#) and information about your plan.
- Update your will and/or revocable living trust agreement with a knowledgeable estate planning attorney who practices in your legal state of residence, and make necessary updates to account ownership and/or designated beneficiaries, where applicable.

## **BEGIN BY ASKING YOURSELF: WHAT DO I WANT TO ACHIEVE?**

Above all, your estate plan should reflect your individual goals and objectives. Then, if you have a partner or children, it should balance your needs with theirs to form a joint plan that works for everyone. When developing your approach, you may wish to consider specific strategies to help you achieve significant goals, such as:

- Control
- Managing expenses and taxes
- Privacy
- Charitable bequests
- Family harmony

Just remember: Estate planning is a process. It requires you to spend some time thinking on your own, being clear and honest about what you want for your beneficiaries, and then coming together with your partner, if needed, to listen and compare notes.

After you've thought through your wishes and goals, it's a good idea to meet with an estate planning attorney. A professional advisor can help you review your arrangements to ensure that they meet your expectations as well as any obligations under state and federal law.

## **HOW THIS GUIDE WORKS**

For clarity and simplicity, we've divided this guide into three sections:

**1**

### **Getting Started: Learning the [Fundamentals](#) of Estate Planning**

Before you begin the estate planning process, it's important that you understand essential terms, tools, and considerations that may arise as you plan your estate. The more informed you are, the more confident you may be about creating a plan that fits your goals and needs. Feel free to refer back to this section at any point if you run into unfamiliar terms or phrases throughout the planning process.

**2**

### **Understanding the Mechanics: An Overview of How Estate Planning Works**

Explore basic estate planning tactics and tools that you can use to ensure that your assets are divided as you intend after your death.

**3**

### **Customizing Your Estate Plan: Steps You Can Take to Meet Your Unique Goals**

This last section helps you apply your new estate planning knowledge to develop an approach that works best for you. You'll see how specific strategies can help you address important personal goals.

*Your Guide to Estate Planning* is not intended or written as legal or tax advice, nor are the authors authorized to give such advice. Nothing is intended or written to be used, and cannot be used by any other person, for the purpose of (i) avoiding any tax penalties or (ii) promoting, marketing, or recommending to any other person any transaction or matter addressed herein. We encourage you to seek advice from your own legal or tax counsel. Also, the laws that may affect your situation can vary depending on your specific facts (including your legal state of residence); our goal is to provide the most widely used or understood meanings and explanations as opposed to those of any specific law. If you need to create or update your estate plan, you should confer with an estate planning attorney or professional advisor to help with your expectations and document your plan to comply with state and federal laws.

## SECTION 1

# Getting Started: Learning the Fundamentals of Estate Planning

Think for a moment: What would happen to your loved ones' financial security if you were to pass away unexpectedly?

How would you like your accumulated wealth to be divided? When should minors gain access to funds? Who will control the assets until that time? Answering these types of questions is the essence of estate planning.

As you contemplate your answers to these questions, it's helpful to hope for the best and plan for the worst. Just be aware that accomplishing your vision will require a comprehensive assessment of your current status and future wishes.

## **TAKING A HIGH-LEVEL VIEW**

Deciding who gets what, when, and how will be a significant part of your estate plan, so begin by developing an inventory of your major assets. We also recommend that you review your beneficiary designations for retirement plans, individual retirement accounts (IRAs), and any insurance policies. Regardless of what your will says, those designations will control the disposition of those assets. Titling of bank and investment accounts may also take precedence over the will.

You'll also want to address personal issues, including your health care, the management of your finances, and the guardianship of any minor children if you should become incapacitated. Finally, consider other special needs and circumstances, such as providing for the future education of your children and grandchildren, donating to your favorite charities, and even stating your preferences for burial arrangements—to name just a few.

In many cases, you won't be starting your plan from scratch, as you may incorporate existing documents, such as a will or trust. You can rely on your attorney to help you add to the mix, or subtract from it, as needed. Just remember to carefully ensure that your plan aligns with your wishes.

## **TERMS YOU SHOULD KNOW**

As you prepare your estate plan or review your existing one, you'll encounter some basic estate planning terms that you need to understand. Here, we've included brief explanations of some essential terms and concepts you should know.

### **1. Estate planning documents and process**

#### **Probate**

This refers to the legal process where a deceased individual's will is reviewed in a court of law to assess its validity. The term probate is also used to characterize the court-directed steps that are required to administer an estate. These include, but are not limited to, the appointment of an executor (or administrator in the absence of a will), aggregation of probate assets, settlement of liabilities, and distribution of the estate among the named beneficiaries.

#### **Wills**

The centerpiece of an estate plan is a will. A will lets you legally define who gets what from your estate, how, and when. You're also able to name a guardian for any minor children and an executor to administer your will. Without a will, the state makes these important decisions for you.

It's important to note that the assets distributed according to your will are still subject to probate.

#### **Trusts**

With a trust, you create a legal entity to hold your assets and appoint a trustee to manage it. In general, people use trusts to stipulate control of their assets in very specific or complicated situations. You can also use a trust fund to create a charitable organization, fund a scholarship, or support a business.

Trusts generally fall into two broad categories: revocable and irrevocable. A revocable trust can be changed or rescinded during your lifetime, while terms of an irrevocable trust generally can't be revised once you create it.

### **Durable power of attorney**

With a durable power of attorney, you grant another person (e.g., a family member, trusted friend, or attorney) authority to manage your financial affairs even if you become incapacitated. Because the holder of this power has broad authority, this person must be someone you trust implicitly. In some cases, you might arrange a “springing” power of attorney that takes effect only when an event such as incompetency occurs.

### **Health care directive**

Also known as an advance directive, this document covers two important aspects of your medical care: a living will and a medical power of attorney. A living will provides specific end-of-life instructions for the type of medical care you desire. A medical power of attorney, also known as a durable power of attorney for health care or a health care proxy, enables you to name a person to make medical decisions for you when you are unable to do so.

## **2. Types of accounts and assets**

### **Jointly owned assets**

If increasing the ease and speed of transfer of certain assets is important to you, one strategy you may consider is to own them jointly with right of survivorship (WROS). Thus, when one of the owners dies, the assets automatically become the property of the surviving owner(s). By simply presenting the necessary documents—such as a death certificate—to the institution holding the assets, the title generally can be changed quickly and easily.

Although many jointly owned assets are held as joint tenants WROS, some may be designated instead as tenants in common. In these situations, your share of the assets doesn’t pass to the co-owners but is transferred according to what is stated in your will. If you do not have a will, the applicable state law will determine disposition.

### **Assets with a named beneficiary**

Naming an individual beneficiary on retirement accounts is an efficient and expedient way to transfer assets to your beneficiaries. Like jointly owned assets WROS, such transfers at your death avoid probate, the legal process controlling the distribution of assets after death. Some examples of assets you may own with beneficiary designations include IRAs, employer-sponsored retirement plans, and life insurance.

You may also have assets like mutual funds and bank accounts pass to a beneficiary by completing a transfer on death (TOD) or payable on death (POD) form provided by the asset custodian.

### **Solely owned assets\***

Assets that you own by yourself without a beneficiary designation will be distributed according to your will. If you do not have a will, the laws of your legal state of residence and the state in which your real property (and sometimes personal property) are located will determine the distribution of assets and how tax and other liabilities will be settled.

\*Community property states are states in which some or all of the assets earned and accumulated during your marriage may be deemed “community property,” regardless of title. The community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.

### **Donor-advised funds (DAF)**

DAFs—such as T. Rowe Price Charitable—are funds that are maintained and operated by public charities, also known as the sponsoring organization. Each account is funded by individual donors who receive a tax deduction (subject to IRS limits) for the years in which they make their contributions. With a DAF, you can make grant recommendations in the future to advise the fund as to which charities you’d like your donation to support. And, just as you can with a private family foundation, you can establish a DAF in your name or your family’s name and add money to it through your will or trust.

You can learn more about DAFs and T. Rowe Price Charitable at [trowepricecharitable.org](http://trowepricecharitable.org).

### **3. Trusts**

#### **Revocable living trusts**

This widely used category of trust enables you to maintain control over your assets during your lifetime. To be effective, assets must be retitled in the name of the trust. When you die, these assets can generally be disposed of privately without going through probate.\*

Usually, you serve as your own trustee for this type of trust, although you could name an institution or someone else to serve in this capacity. The trust is revocable, meaning you can amend it or cancel it at any time.

Because you retain control over the trust, its earnings, gains, and losses are reported on your personal income tax return.

\*A few states have laws that may require trust documents to be publicly held. Check with your estate planning attorney for more information.

#### **Pour-over wills**

A living trust can be combined with an abbreviated will called a pour-over will. This covers assets not already in the trust by allowing the executor of your estate to “pour over” those assets into your trust after your death.

Assets added to a trust under a pour-over will do not avoid probate. However, this still affords increased privacy, since trust agreements in most states don’t have to be filed with a court.

#### **Charitable trusts**

A charitable trust may satisfy your charitable inclinations while providing estate planning benefits. There are several options to consider. For example, a charitable remainder trust may be created to provide income to one or more individual beneficiaries for a specific term or for life, with the remainder later passing to a charity or charities of the donor’s choosing. Conversely, a charitable lead trust provides income to a charity for a specific period of time, with the remainder passing to family members.

#### **Irrevocable trusts**

This category of trust transfers ownership of assets from your estate into a designated trust. Removing rights of asset ownership using an irrevocable trust may be desirable if you seek to minimize estate tax liability, enhance eligibility for government programs (e.g., Medicaid), or protect your assets from legal judgments or creditors. The trust is irrevocable, meaning you cannot amend it or cancel it without meeting specific criteria. While laws vary from state to state, any changes to an irrevocable trust generally require the granting of permission from your named beneficiaries. Testamentary trusts, described further on page 17, are created upon death and are inherently irrevocable.

While the property transferred to an irrevocable trust is no longer under your ownership or control, assets held in this type of trust are distributed to your beneficiaries at your death. An irrevocable trust also allows you to specify under what conditions your beneficiaries will receive assets.

An irrevocable life insurance trust is a type of irrevocable trust that enables life insurance proceeds to pass directly to your beneficiaries without estate taxes, as long as specific requirements are met. This can be critical when the death benefit from a policy is significant.

By placing existing policies in an irrevocable trust or by simply having the trustee purchase the policies in the first place, the death benefits are kept out of your taxable estate because the IRS deems that you do not have control over the policy. A common strategy is to contribute cash to the trust up to the annual gift tax exclusion amount, which the trust uses to pay the life insurance premiums. It’s important to note, however, that the IRS imposes strict requirements for trusts to secure this favorable tax treatment, such as preventing you from acting as the trustee or changing the terms of the trust.

Keep in mind: If you die within three years of the time that your existing policies are transferred to the trust, the face value of the policies will be included in your taxable estate.



## SECTION 2

# Understanding the Mechanics: An Overview of How Estate Planning Works

How does everything you own eventually pass to someone else at your death?

Wills and trust agreements can simplify the process by leaving a personal and legally enforceable statement of your wishes. But certain assets can pass outside of your will or trusts, such as life insurance death benefits, IRAs, and retirement plan assets with a named beneficiary. In addition, your will or trusts will not cover any assets you own jointly WROS, such as a house or car, or business interests where a buy-sell agreement among business owners may be in place.

To control the flow of assets to beneficiaries and maintain flexibility for future use, you need to understand the [fundamental mechanics of estate planning](#).

## ASSET OWNERSHIP

A helpful starting point for understanding the basics in estate planning is to understand asset ownership. There are three main ownership categories for estate planning purposes:

1. Assets and property that you own jointly WROS
2. Assets you own by yourself for which you have named a beneficiary
3. Assets you own by yourself\* for which you have no designated beneficiary or where your estate is the beneficiary

\*Including assets owned jointly as a tenant in common.

### Joint ownership and beneficiary designations

The first two categories above are easy to understand and quantify. If you own a home jointly, the joint owner will inherit the home directly if you die first, and vice versa. If you own IRAs, retirement plan assets, or life insurance, the designated beneficiaries will inherit those assets or death benefits.

The distribution of these assets isn't controlled by your will or trust—if you have one—assuming that the beneficiaries you name survive you. This is one reason why using beneficiary designations can be a convenient way to transfer assets to your heirs. However, it is critical for you to periodically review your beneficiary designations for assets to ensure that they are distributed in accordance with your wishes. You may also want to talk with an estate, tax, or financial advisor about the income tax effects of different types of accounts on your beneficiaries. (For many people, that can be more important than estate taxes.)

### Considerations for sole ownership

One of the primary advantages of owning assets in your own name is that they can pass to your beneficiaries according to your own terms and conditions (as spelled out in your will and/or trust agreement). Simply leaving assets to someone by beneficiary designation, for example, with no instructions on how they should be invested or used could lead to problems for the individuals inheriting them. If they have no financial experience or may spend imprudently, they might not manage or invest the inheritance wisely.

Naming a minor child as a beneficiary can also raise special concerns. While the child is a minor, assets left to him or her will be held in a custodial account, typically by a bank or another financial institution. When the child reaches the age of majority—usually 18 or 21, depending upon the state—he or she automatically gains control of these assets. Consider this aspect and the age of inheritance carefully where sizable assets are involved. If you do intend to leave assets to a minor, ensure that you are comfortable with entrusting those assets to the minor's guardian (or successor guardian), as they would likely assume responsibility for, and access to, that minor's assets until the age of majority.

## DISTRIBUTING ESTATE ASSETS

As you begin to coordinate the components of your estate plan, review the joint ownership and beneficiary designations for each of your assets carefully. These arrangements override instructions you make in your will. If you haven't named a beneficiary of your 401(k) plan assets, for example, your estate may become your beneficiary by default.

For other assets, refer to your will or trust document (or to your state's probate code) to determine how they will be distributed. If you have a will and/or a trust, take the time to make sure you understand what it says and that it is up to date. Even the most complex wills and trusts tend to be organized to cover the following topics:

- Designation of an executor of your will and, if needed, a guardian for minor children
- Identification of a trustee's and/or executor's powers
- Payment of taxes and final expenses
- Distribution of personal property
- Specific bequests to individuals and charities
- Creation, funding, management, and naming of a trustee of any trusts
- Distribution of remaining assets—sometimes called your residual estate

To understand how your solely owned assets will be distributed if you do not have a will, you can ask the probate court in your legal state of residence to provide the distribution formula. For example, if you are married with children and die without a will, perhaps half of your solely owned assets will go to your spouse and half to your children. If you are unmarried and have no children, your assets may go to your parents and not your siblings. Is that what you would want?

### **A CLOSER LOOK: HOW ASSETS MAY BE DISTRIBUTED VIA A WILL**

Let's say that, on the date of your death, your solely owned assets total \$300,000. About \$75,000 of that is your personal property (e.g., your jewelry, furniture, and paintings), \$125,000 is the value of your residence, and \$100,000 is cash and securities. Your will could direct to distribute these assets as follows:

- Personal property: \$12,000 worth of jewelry to my daughter, two paintings by local artists worth \$18,000 to my son, and \$45,000 worth of antique furniture divided equally between my two children.
- Specific bequests (from cash and securities): \$25,000 to the Wilderness Society.
- Trusts (from cash and securities): Create a trust for my granddaughter and fund it with \$50,000. Principal and income of the trust may be used at any time, at the discretion of the trustee, to pay for her educational expenses. Any assets remaining in the trust when she reaches age 25 are to be distributed outright to her.
- Remaining assets: \$150,000 is the value of the remainder (i.e., \$300,000 - \$75,000 - \$25,000 - \$50,000 = remainder) and is to be distributed in equal shares outright to my two children, per stirpes (see Per Capita vs. Per Stirpes box on page 12).

### **CONTROL OVER YOUR ASSETS**

Asset distribution and tax issues are not the only concerns for estate planning. Future control of your assets can be just as important. Consider these issues:

- If your spouse, a friend, your adult children, an unmarried partner, or your parents inherit your assets outright (not in a trust or a custodial account), they will have complete control over whatever they receive. But is this the optimal approach?
- If your minor children or grandchildren inherit large sums from you as soon as they reach age 18 or 21, will they be ready for that kind of responsibility?
- And what about your spouse? If he or she is financially experienced, you may be comfortable leaving your assets outright. But managing investments, paying taxes, and assuming sole responsibility for the family's financial needs can be a daunting task.

Fortunately, several options exist for alleviating these burdens. As you review your will or trust documents, consider the following steps:

- Note provisions that may appear under "Disposition of Assets."
- Look for phrases that indicate how and when income and principal may be distributed, such as "all income at least annually," "income as needed," or "principal at the discretion of the trustee."
- If you're married or have children or grandchildren, look to see what phrases appear under trusts for each of them.
- Think about appropriate ages when younger beneficiaries should become eligible to receive distributions of principal.

- Decide whether to allow earlier distributions for specific purposes, such as college or medical needs.
- Assess whether the trust document should include additional control provisions, such as a “spendthrift” clause. A spendthrift clause limits the ability of beneficiaries to transfer their interest in the trust property and, therefore, protects these assets from potential attachment by creditors.

### PER CAPITA VS. PER STIRPES: A KEY DIFFERENCE

Let’s say you’re a grandparent and you stipulate in your will, trust agreement, or beneficiary designation form that 50% of your assets should go to each of your two children. If one child predeceases you, should that child’s share go to your other child or to the deceased child’s children (your grandchildren)?

- Per capita distribution means the deceased child’s assets go to your surviving child—and nothing goes to the grandchildren.
- Per stirpes distribution means the deceased child’s assets go to his or her children.

At T. Rowe Price, for example, your IRA assets would be distributed per capita to the beneficiaries on file with us unless you specifically stipulated to the contrary. Thus, if your daughter, the mother of your grandchildren, predeceased you but your son (who has no children) survived, your son would inherit 100% of your IRA, and your grandchildren would get zero. On the other hand, if you had named your beneficiaries as 50% John Doe and 50% Susan Doe, per stirpes, John would inherit 50% of the IRA assets, and your grandchildren would inherit Susan’s 50% share.

We recommend that you review all existing beneficiary designations with your estate planning attorney to ensure that they will actually accomplish what you intend.

A trust agreement can also be drafted to provide your beneficiaries with flexibility. Look for language in your documents that allows for the unforeseeable. For example:

- If your spouse no longer needs the income from your bypass trust (see page 17), or if it might pose an income tax burden, does your trust agreement include a “sprinkling” provision that would allow your trustee to redistribute income to a child or grandchild who needs it more?
- If your daughter wanted to change the trustee to the trust department in her local bank, does your trust agreement include a clause allowing such a move?

As with other aspects of estate planning, you have the opportunity to choose the degree of flexibility that would be most appropriate for your particular beneficiaries.

### SUPPORTING YOUR HEIRS

#### Financial management of assets for your heirs

Will any individuals be inheriting potentially large sums of money or assets that require special management expertise, such as the following?

- Rental properties
- Stock options
- A closely held business
- Individual securities or mutual funds

If “yes,” have you considered whether these individuals have the expertise and/or time to manage their inheritances? If not, have you arranged for such management in your will or trust agreement or in some other legal contract?

Now is the time to reflect on what issues might arise for your heirs, given your current estate plan. Perhaps you can think of ways you’d like to change these arrangements. If you own a closely held business, for example, you may wish to have a buy-sell agreement establishing the method for valuing the business at the time of your death and providing a means for liquidating the business interest.

### **Income for your beneficiaries**

If you have family members or friends who have been relying on you for some or all of their income, think about how they would fare in the future if they had to rely on their inheritance from you instead. Here are some questions to consider:

- Is the person self-sufficient? Does he or she have enough support without having to rely on your resources?
- Do you have children this person would support through college?
- Do you have a pension that your spouse would inherit to meet financial needs?
- Would your spouse receive Social Security?

These are complex issues, so it's best to consult with professional advisors to identify solutions for your personal situation. They can help you devise and implement strategies that are designed to meet your objectives.

### **ADDRESSING ESTATE TAX ISSUES**

Taxes can have a significant effect on how much is finally transferred to your heirs or beneficiaries. Recent tax law changes have reduced concerns about estate taxes for most individuals and couples. However, estate tax laws can be changed at any time, and current exemptions are scheduled to revert to pre-2018 levels in 2026.

You can pass \$12.92 million to your heirs completely free of federal estate tax in 2023, with this amount increasing in the future based on inflation. If you're married, your spouse can do the same. Thus, a couple can transfer up to \$25.84 million without any federal estate tax. In addition, assets

passed to a spouse generally qualify for the unlimited marital deduction, which delays estate tax on those assets until the second spouse dies. For any excess assets after deductions and the exemption amount, the top estate tax rate is 40%.

Wealthier couples with estates exceeding the exemption amount may reduce or eliminate federal estate taxes through deductions, including charitable bequests, and other estate planning techniques. In addition, depending on where you reside, you may have to contend with state estate and inheritance taxes. So, it's a good idea to rely on your tax advisor and estate planning attorney for guidance. See page 18 for further discussion.

### **A note for single people**

If you are divorced or widowed or have never married and you plan to leave assets to children or other individuals, you cannot take advantage of the marital deduction. Therefore, your estate may be more likely to incur estate tax than if you were married. If you expect to have a taxable estate—including life insurance amounts from policies you own—that exceeds the current exemption amount, we recommend that you consult with an estate planning attorney.

## SECTION 3

# Customizing Your Estate Plan: Steps You Can Take to Meet Your Unique Goals

Now, it's time to apply your estate planning knowledge to develop strategies that work best for you and your beneficiaries.

At this point, you may be ready to make changes to your existing estate plan or begin the process of creating one. Let's examine some potential strategies for common or key goals of estate planning, such as:

- Control
- Managing expenses and taxes
- Privacy
- Charitable bequests
- Family harmony

Keep in mind that although a strategy may be effective for meeting one of your goals, the same strategy could be completely detrimental to accomplishing another goal. Therefore, it is important that you consult with your attorney first. These suggestions are provided to make you aware of your options and appreciate how your attorney can help you meet your goals.

# Control

## I want to increase control over the assets in my estate.

To control the disposition of your estate assets and avoid potential ambiguities—such as how your assets will be managed, invested, or spent—your attorney should draft or update a will and/or living trust agreement, as well as a durable or limited power of attorney. More specifically:

### **To avoid or minimize probate (which may or may not be advisable):**

- Establish and fund your revocable living trust.
- Own certain assets in joint tenancy WROS.
- Ensure that beneficiary designations from your estate are correct and up to date.
- Create POD or TOD arrangements with your financial institutions for certain assets.

### **To increase restrictions on access to assets:**

- Create trusts under your will, and consider whether a bypass and/or qualified terminable interest property (QTIP) trust might be appropriate. (See descriptions on page 17.)
- Establish designated limits on the distributions of principal and income (in certain instances).
- If you have created trusts for young beneficiaries, consider increasing the ages at which they can receive distributions.

### **To restrict the use of the trust assets or restrict withdrawals:**

- Consider carefully who or what institution you will name as trustee and/or executor. (Some trustees may be less likely than others to acquiesce to requests from trust beneficiaries for discretionary distributions from testamentary trusts.)
- Don't include a clause in your trust agreements allowing your beneficiaries to change trustees under circumstances other than a court order.

### **If you are leaving assets by beneficiary designation:**

- Understand how a plan or account custodian would handle per capita or per stirpes beneficiary designations.
- Consider leaving inheritances in trust instead of outright to individual beneficiaries. (Be sure to learn any trade-offs of this approach, including income tax effects.)

### **If you own real estate in a state different from your legal state of residence:**

- Consider putting the property in your revocable living trust now to avoid ancillary probate (probate in the state where the real estate is located in addition to probate in your legal state of residence).

### **If you are nearing retirement or already retired:**

- Research applicable laws in states where you might wish to relocate.

## I want to delegate control over the assets in my estate.

To delegate control over the assets in your estate, your attorney should review or update your will and/or living trust agreement and grant more authority under a power of attorney. Or you can:

- Name a family member or close friend as trustee and/or executor. This individual may be more likely to acquiesce to permissible requests from trust beneficiaries for discretionary distributions from testamentary trusts.
- Leave your spouse a “power of appointment” over some or all of the assets in your testamentary trusts. (Caveat: This may have estate tax consequences.)

### **To allow beneficiaries increased access to assets after your death:**

- Reduce the number of trusts, limit their restrictive provisions, or eliminate the use of trusts entirely under your will.
- Provide your surviving spouse with the right to dissolve the marital trust at any time.
- Give your trustee discretion to make distributions of principal and income whenever possible (some trusts require restrictions). You might consider including an allowance in your bypass trust, known as a sprinkle or spray provision, that gives your trustee discretion to distribute trust income to multiple beneficiaries of the trust.



## TESTAMENTARY TRUSTS: CONTROL DISTRIBUTION OF ASSETS TO YOUR BENEFICIARIES

A trust that comes into existence after your death—generally created by a will—is called a testamentary trust and can last for the lifetime of a surviving spouse, another beneficiary, or for a set number of years. The most common types of testamentary trusts are bypass trusts, marital power of appointment trusts, and qualified terminable interest property trusts.

### ▪ **Bypass Trust (A-B Trust)**

A bypass trust, popular among married couples in the past, was often used to minimize estate taxes by taking full advantage of federal estate tax exemptions. However, portability provisions in tax law have reduced the need for many couples to implement this technique for estate tax savings. The arrangement is also commonly referred to as an A-B trust or credit shelter trust.

Here's the basic premise: Rather than pass assets directly to your spouse upon death, you direct that the trust is to be funded with solely owned assets up to the personal exemption amount for estates. If properly structured, the assets in the bypass trust would then bypass the surviving spouse's taxable estate at his or her death.

This type of trust may offer other advantages, such as providing income for family members during a surviving spouse's lifetime and creditor protection. It could potentially help reduce state estate taxes, even if it is not necessary for federal purposes.

### ▪ **Marital Power of Appointment Trust**

A marital power of appointment trust is usually used in conjunction with a bypass trust and is funded with any amount exceeding the current federal estate tax exemption. Unlike assets in a bypass trust, assets in a marital power of appointment trust are included in the surviving spouse's taxable estate.

Money in this type of trust can usually be used for the needs of the surviving spouse. The surviving spouse is also granted a power of appointment to provide flexibility in distributing assets to children or other heirs at death.

### ▪ **Qualified Terminable Interest Property Trust**

A QTIP trust is usually created to benefit the spouse of a second marriage when there are children from a previous marriage. Upon the death of the surviving spouse, any remaining trust assets—after payment of estate taxes—go to the children from the first marriage.

Both marital power of appointment and QTIP trusts are designed to qualify for the unlimited marital deduction.\* This means that zero estate taxes are due on the trust assets when the original owner dies—regardless of the total value of assets—and the assets go to the surviving spouse. It's important to note that because these trust assets are not taxed at the first spouse's death, any excess is included in the surviving spouse's taxable estate.

\*If one spouse is not a U.S. citizen, different marital deduction rules apply. Consult an estate planning attorney or tax advisor for further details.

# Managing Expenses and Taxes

## I want to reduce potential expenses and income taxes for my estate and beneficiaries.

You can reduce the potentially high costs of probate in some states by funding a trust.\* Putting real estate in another state in your trust can be a particularly effective strategy for avoiding ancillary probate, which could be cumbersome and costly for your heirs.

Some assets that your loved ones will inherit, such as life insurance death benefits, are generally tax-free. However, when your beneficiaries withdraw funds from Traditional (tax-deferred) IRAs and 401(k) accounts, they will incur ordinary income taxes. Non-spouse beneficiaries generally have to withdraw all of these balances within 10 years of your death. Therefore, your estate plan should take beneficiaries' tax situations into account. In addition, the plan should be coordinated with retirement income decisions such as which accounts to draw down in retirement (and which accounts to preserve for beneficiaries).

\*The cost associated with creating a trust can be substantial and may exceed the expense of probate.

## I have a larger estate and want to reduce my potential estate tax liability and/or the estate tax liability of my spouse if he or she survives me.

- Discuss with your estate planning attorney the pros and cons of including a bypass trust in your will versus relying on portability provisions in federal tax law that potentially can achieve a similar result.
- Make current donations to charities or to a donor-advised fund, such as T. Rowe Price Charitable, and/or leave specific bequests to charity.
- Make annual gifts to family, and perhaps friends, of up to \$17,000 each, tax-free in 2023. If you make gifts to individuals jointly with your spouse, together you can give up to \$34,000 annually, gift tax-free, to each recipient to reduce the size of your joint taxable estate.

Note: The annual gift tax exclusion amount is indexed for inflation for future years but only in \$1,000 increments.

- Make current gifts to heirs up to the allowable lifetime gift tax exemption amount (\$12.92 million per spouse, indexed for inflation) without paying any gift taxes. It's important to note that whatever part of the lifetime gift tax exemption you use now will be subtracted from the amount that can ultimately be passed estate tax-free to your heirs. For instance, if you are extremely comfortable financially and are certain the assets won't be needed for daily living expenses or long-term care, giving them away now potentially lowers the total tax paid by removing the assets and any associated growth from your taxable estate.
- Consider funding a 529 college savings plan account for each of your children or grandchildren. These plans allow you to contribute five years' worth of annual exclusions at one time (\$85,000 in 2023) without gift tax consequences, provided that further gifts are not made to the beneficiaries during the five-year period.
- Pay tuition and medical expenses for grandchildren or other beneficiaries directly to service providers, over and above the annual gift tax exclusion amount, without incurring any gift taxes.
- Transfer existing life insurance policies to an irrevocable life insurance trust (certain tax rules apply).
- Discuss other gifting strategies involving irrevocable trusts with your estate planning attorney. Some strategies, such as grantor-retained annuity trusts, are particularly advantageous in low interest rate environments. It may be beneficial to initiate those strategies before the lifetime exemption is scheduled to change in 2026. In addition, any tax strategies could be limited by legislation, which is another reason not to delay setting up a conversation with an attorney.
- Purchase more life insurance on your life (usually best purchased by the trustee of an irrevocable life insurance trust) to pay estimated estate taxes when you or your spouse passes away.

# Privacy

I want to increase the privacy and confidentiality of my estate plan.

**To increase the privacy and confidentiality of your estate plan, you can:**

- Create a revocable living trust, along with a pour-over will, enabling your executor to “pour over” assets not already in the trust into the trust after your death. Thus, the trust, not your will, will control the disposition of most of your assets. And unlike wills, trusts are not a matter of public record in most states.\*
- Re-title assets to your living trust now or at least appoint someone with power of attorney to preserve the option of funding it at a later date if you become incapacitated and cannot do it yourself.

\* Check with your estate planning attorney for information about your state.

# Charitable Bequests

I want to leave a legacy of philanthropy.

To leave an inheritance that benefits one or more of your favorite charities while also taking care of certain individuals, consider creating a charitable remainder trust now or under your will or trust agreement. With this type of trust, a loved one can receive income from the charitable trust for life or a specified period of time. Then, the charity or charities of your choice will receive the balance remaining in the trust at the end of the term.

Alternatively, you may wish to leave a bequest to a donor-advised fund, or DAF. You can provide recommendations to the DAF on future distributions, or you can name an individual or family member to act on your behalf. This may be an ideal way to involve your heirs in philanthropy and create a legacy of giving that continues on in your family for generations to come.

If your children or other beneficiaries are in high tax brackets, it may be tax-effective to name charities as beneficiaries for some portion of tax-deferred accounts such as Traditional IRAs or 401(k) plans. You may also consider leaving bequests to charities outright or for specific purposes, such as the organization's endowment or student scholarships.

Charitable donations during your lifetime can also help you achieve your charitable objectives and reduce income taxes. For example, if you do not need all of your required minimum distributions (RMDs) from IRAs for living expenses, consider a qualified charitable distribution (QCD). You can distribute up to \$100,000 directly from a Traditional IRA to qualified charities each year. QCDs can count toward your RMD and won't be included in your taxable income. The SECURE 2.0 Act passed in 2022 makes certain charitable trusts and annuities eligible for QCDs and indexes the \$100,000 annual limit to inflation. This strategy is particularly valuable for people who do not itemize deductions. Be sure to coordinate lifetime donations with the philanthropic aspects of the estate plan.

# Family Harmony

## I want my family to feel that my estate has been distributed fairly.

It is critical to consider the legacy established by your estate plan and how this can promote family harmony. For many of us, this is one of the most important and lasting outcomes of an effective approach. To increase your likelihood of success, consider the following actions:

- Align your plans with those of your spouse or partner.
- Understand your heirs' needs, desires, and concerns.
- Divide assets distributed to your heirs in a fair and equitable fashion.
- Consider including a provision in your will or trust adjusting bequests to reflect gifts given to heirs outside the will or trust.
- Establish provisions to protect the interests of your descendants. For example, you may want to prioritize your own children over stepchildren or members of another family if your widow(er) remarries.
- Share your plans in advance with all directly affected parties.

## I want to improve the ease and speed of transfer of assets to my beneficiaries.

To improve the ease and speed of transfers to beneficiaries, you can:

- Title more assets in joint tenancy WROS.
- Arrange for some assets to be payable directly on death by way of POD or TOD arrangements to certain beneficiaries.
- Make some gifts of assets now if you have more than enough to live on.
- Consider declaring assets to be marital property if you live in a community property state or are moving from a community property state to a common law state.

## I want to support care for minor children and/or loved ones over a long period of time.

If you have minor children or grandchildren, review the trust(s) you have created for them. While the children are younger than college age, you may leave money to all of them in a single trust. This gives your trustee the flexibility to distribute the trust assets on an as-needed, but not necessarily equal, basis, just as you do for them today. Once the youngest child reaches an age you specify, the single trust can be divided into equal shares and managed separately. Consider including a spendthrift clause in each trust to protect trust assets from creditors.

One simple method of leaving money to young children is to use UGMA (Uniform Gifts to Minors Act) and UTMA (Uniform Transfers to Minors Act) accounts. Assets in these accounts usually become the children's property at age 18 or 21, depending on state law. Alternatively, consider creating trusts that distribute their inheritances gradually (for example, one-third at age 25, half of the remainder at age 30, and so on). This could give the children time to learn financial responsibility.

## I want to protect the interests of my beneficiaries when selecting a trustee.

Choosing your trustee, or co-trustees, can be one of the most important steps in your estate planning strategy. Larger trusts may require the services of a trust company or bank trust department as trustee or co-trustee with a family member. But smaller trusts can be complicated too. Choosing a friend or relative may offer emotional support, but make sure this person is up to the financial duties of the job. You may also consider giving the trustee the power to hire professional advisors. Remember to designate a successor trustee in case your first choice can no longer do the job.

Fulfilling the responsibility of trustee can be quite a burden, especially as trust assets grow and family circumstances change. Even minor oversights by a well-intentioned trustee can create friction within families.

To avoid misunderstandings and potential strife, communicate your plans, wishes, and intentions to your entire family and any other beneficiaries, as well as to your trustees.

### **THE MOST IMPORTANT ACTION STEP: CONFER WITH AN ESTATE PLANNING ATTORNEY.**

To make changes to an existing estate plan or to begin the process of creating one, T. Rowe Price encourages you to make an appointment with your estate planning attorney. Take with you any notes you've made as a result of this guide and a concise summary of what you want your new or revised estate plan to accomplish.

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