

*Planning your estate*

# Protecting yourself, your assets and those you care for most



Together we'll go far





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*This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is provided with the understanding that Wells Fargo Advisors is not engaged in rendering legal, accounting or tax advice. Should you require legal or tax advice, seek the services of a qualified professional.*

## Why plan now?

Perhaps it's the subject matter — death, incapacity, taxes — that causes many of us to avoid estate planning. Or maybe it just seems like too much work, and we don't know where to begin. However, there are important reasons for having an estate plan, and this guide is a good place for you to start. Simply put, a well-designed estate plan can provide confidence that you and those you care for most will enjoy the security of your assets.



If you should become incapacitated or die, an estate plan lets you address specific needs or problems, such as:

- ▶ Avoiding delay and frustration in estate settlement
- ▶ Providing for dependents with special needs
- ▶ Leaving assets to a noncitizen spouse
- ▶ Benefiting a charity
- ▶ Specifying the amount, manner and timing of distributions to young or financially unsophisticated heirs
- ▶ Leaving assets to children from a previous marriage
- ▶ Avoiding an unnecessary estate-tax liability

If you've been putting off getting your estate in order because it seems like an overwhelming task, you should know that planning to leave your assets in an orderly fashion is often easier than you anticipate.

If the estate tax is repealed (for 2010 only) as the law currently stipulates, heirs of those who pass away this year will face a new threat from capital gains taxes because only \$1.3 million in assets will receive a step-up in cost basis. (An additional \$3 million step-up would be permitted for transfers to the surviving spouse.) Not being able to step-up the cost bases of all the assets in an estate, which beneficiaries could do in 2009 and prior years, may dramatically increase the capital gains taxes due when beneficiaries sell appreciated assets, such as stock or real estate.

Predicting the character of future tax legislation is perilous — and often fruitless. You will want to keep in regular contact with your Financial Advisor regarding the most recent legislative updates. Better yet, work with your Financial Advisor and tax and legal advisors to develop a flexible asset- and wealth-preservation plan. Review it regularly in light of whatever Congress provides.

To get started, read this guide. Make notes as you go and use the handy worksheets to identify areas that need your attention. As you read, keep in mind that your Financial Advisor is available to help you through the process. When necessary, he or she can also contact experts in our Home Office to help answer your questions and develop the right estate plan for you.

## *Estate planning tip*

*Laws on asset ownership vary from state to state. Consult an attorney in your state to determine how asset titling affects your estate plan.*

## Basic concepts

Before you begin analyzing your situation, you need to understand the basics, including:

- ▶ Getting help — Know whom to call for guidance
- ▶ The process — Steps to creating an estate plan
- ▶ Types of asset ownership — The consequences of titling assets in single name, joint name or the name of your trust
- ▶ Probate — The judicial process of settling an estate
- ▶ Estate taxes — What they are and how to manage them

Also, review the glossary on pages 33-34 for descriptions of other estate-planning concepts.



## Your advisors

Estate planning requires the assistance of your attorney and CPA. Our goal in this guide is to help you understand some basic estate-planning concepts. The strategies we'll discuss are widely used but may not be appropriate for everyone. You should consult a qualified tax advisor to help you determine what is best for your specific situation. Your Financial Advisor can help you gather applicable records and work with your team of advisors.

## An overview of the process

The estate planning process involves six steps:

- Step 1:** Identify your financial and family goals
- Step 2:** Gather necessary information
- Step 3:** Evaluate estate-planning tools, such as wills, powers of attorney and trusts
- Step 4:** Work with an attorney to draft and execute appropriate documents
- Step 5:** Implement your estate plan, including reregistering securities and assets
- Step 6:** Review your plan regularly to update it for family, financial or tax law changes

## How you title assets is important

When you invest in a security, purchase a home or buy other assets, the way you title them affects not only your immediate rights but also how – and to whom – the assets will transfer at your death.

**Single ownership.** Single (or sole) ownership means you alone own and control the assets during your lifetime. When someone dies, assets in single name must pass through a legal process called probate (see page 9) unless the assets are subject to beneficiary designations (see page 18).

**Joint ownership.** Joint ownership can take several different forms. *Joint tenants with rights of survivorship*, perhaps the most common of all joint ownership types, lets you share an undivided interest in property during your lifetime. Gifting or selling this property often requires all of the owners' signatures. At the death of one owner, the property transfers automatically to the surviving owner(s).<sup>\*</sup> Although many couples consider joint ownership with rights of survivorship to be a sufficient estate plan, beware of its limitations:

- ▶ Joint ownership between spouses may unnecessarily increase the estate tax liability at the surviving spouse's death.
- ▶ Joint tenancy with a child could subject your assets to your child's liabilities.
- ▶ Joint tenancy overrides your will. After your death, you cannot depend on the surviving joint owner to split the assets among nonowners as you desire. In fact, you could create gift-tax problems for a surviving joint tenant who attempts to make such transfers.
- ▶ Joint ownership will not protect you and your spouse from guardianship proceedings. If one spouse is incapacitated, a probate court proceeding may be necessary if the other spouse needs or wants to sell the asset.
- ▶ Individuals in community-property states should always consult a tax advisor before titling property in joint names.

A special type of joint tenancy, *tenancy by the entirety*, is available to married couples in some states. Neither spouse can dispose of the property without the other's consent. This type of property may have asset-protection benefits, which vary from state to state.

### *Estate planning tip*

*You can use a professional trustee during your lifetime to pay bills from your trust and handle other financial duties you consider burdensome. Ask your Financial Advisor for more information about agency and custodial services available through our banking and trust affiliates.*

<sup>\*</sup> Special rules apply in Louisiana.

Insurance products are offered through non-bank insurance-agency affiliates of Wells Fargo & Co. and underwritten by unaffiliated insurance companies. Not available in all states.

## *Estate planning tip*

*A revocable living trust (see page 21) is an effective estate-planning tool to avoid probate. When you transfer title to a trust, those assets avoid probate. Consult your attorney about whether a revocable living trust is appropriate for you.*

**Community property** laws apply in 10 states (see the glossary on page 33 for details). In these states, assets a husband and wife acquire during their marriage belong equally to each spouse. When one spouse dies, half of the community assets may be subject to probate. During his or her lifetime, the deceased spouse can provide instructions indicating how his or her share is to be disposed of.

Community property can be owned in a trust. A few states recognize community property with rights of survivorship, which lets the deceased spouse's share pass to the surviving spouse without probate.

**Tenants in common** is a form of joint ownership that does not involve survivorship rights. Any one tenant may dispose of his or her interest without the other

owners' consent. At death, a tenant's interest does not pass directly to the other owners; instead, its disposition is governed by the deceased owner's will or revocable trust.

**Trusts.** Trusts are often used to solve problems that other forms of ownership cannot. There are many different types of trusts with different purposes. A revocable living trust is often used to avoid the probate process. This type of trust lets you keep full control of trust assets while you are alive and competent. At your death or incapacity, your designated successor trustee will step in to manage or distribute your assets as you directed in your trust document.

Trusts are not reserved for the rich and famous; many families of modest means benefit greatly from trusts (see "Evaluate Estate Planning Alternatives," beginning on page 20). Various kinds of trusts can help you:

- ▶ Avoid probate
- ▶ Provide for continued investment management in the event of your incapacity
- ▶ Ensure an orderly distribution of assets when you die
- ▶ Plan for minor and/or incapacitated children
- ▶ Fulfill charitable goals

You'll want to talk with your estate-planning advisors about the type of trust that best meets your and your family's needs.



# Probate: What is it?

Probate is a judicial process for managing your assets if you become incapacitated and for transferring your assets in an orderly fashion when you die. The court oversees payment of liabilities and the distribution of assets after your death. Generally, your personal representative (also known as an “executor”) will need to employ an attorney.

If you become unable to manage your own affairs or care for yourself, a probate proceeding may be required. The court determines whether you are legally incapacitated and may appoint a guardian or conservator to manage your assets.

Probate proceedings vary from state to state. Some states have simplified the process; in other states, probate remains time-consuming, costly and public. Even in states where the probate process has been simplified, some degree of public disclosure is likely, meaning that anyone can learn what assets you owned and who will receive them.

## Your probate estate versus your taxable estate

The *probate* estate and *taxable* estate are related but different concepts. Your probate estate is made up of assets that are subject to the probate process. Your taxable estate, on the other hand, refers to all assets that are subject to the federal estate tax (see chart below). Generally, this includes all of your probate estate and much more — in fact, it includes just about any asset in which you have an ownership interest or control.

### *Estate planning tip*

*Don't think that tax reform means you don't need an estate plan. Tax-law changes have not eliminated probate, incapacity or the need to manage assets for some children and spouses. Be sure to discuss all these aspects of your estate plan with your Financial Advisor and legal advisors.*

### What is your estate?

#### Taxable estate

If you control the use or disposition of an asset, it will generally be part of your taxable estate. Your taxable estate includes your probate estate. It also includes many nonprobate assets such as:

- Assets held in a revocable trust
- Assets held by joint tenants with right of survivorship
- Assets that have a beneficiary designation, including:
  - Transfer-on-death accounts
  - IRAs and retirement plans
  - Life insurance
  - Annuities

#### Probate estate (included in taxable estate)

*Legal title* usually determines whether an asset is part of your probate estate. For example, non-trust assets held in any of the following designations will ordinarily be part of your probate estate:

- In single name
- As tenants in common
- As community property

#### Outside the estate

If you give up legal title and control — for example, if you make gifts to individuals or an irrevocable trust — an asset may be removed from both your probate estate and taxable estate.

## Gift and estate taxes

As with many taxes, the rules governing gift and estate taxes can be confusing, but there are a few important aspects you should understand.

**Gift taxes.** Gift taxes may apply to property transfers during your lifetime in excess of certain amounts. Both annual and lifetime exclusions may apply.

The gift-tax annual exclusion permits transfers of up to \$13,000 per recipient per year (in 2010) with no federal gift tax. There are no limits regarding to whom or to how many people you can gift. A married couple can make gifts of up to \$26,000 per recipient per year.



If you make gifts in excess of your annual exclusion(s), you begin using up your lifetime “applicable exclusion.” The applicable exclusion lets an individual make lifetime gifts (in excess of annual exclusion gifts) of up to \$1 million. A married couple can make \$2 million in applicable exclusion gifts.

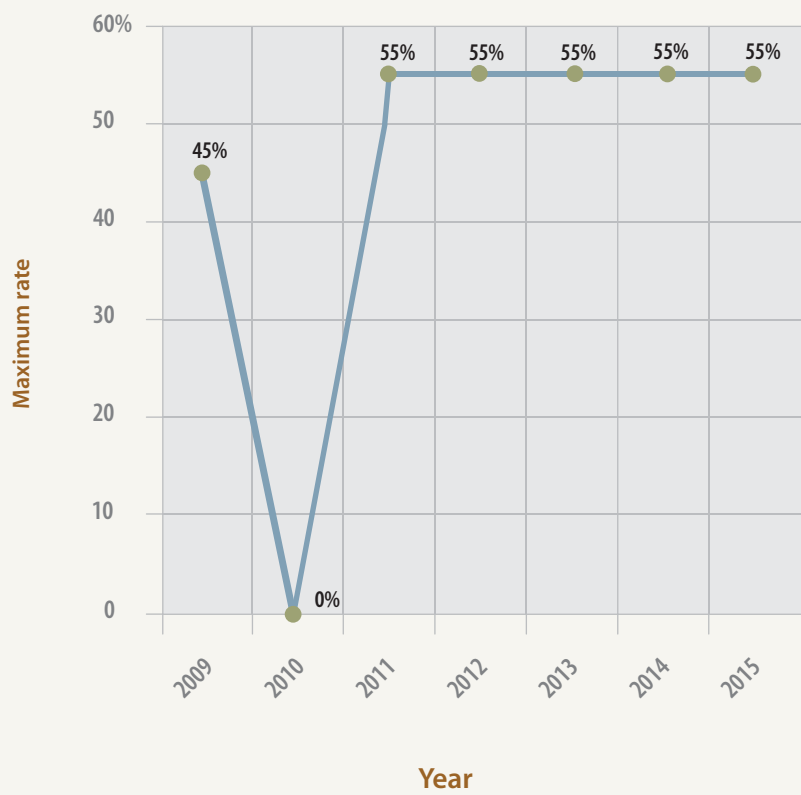
Here’s an example to illustrate how the annual and applicable exclusions interact. Let’s say you are single and gift \$50,000 to a child. The first \$13,000 is not taxed because of the annual exclusion. The remaining amount would “use up” \$37,000 of your applicable exclusion and simultaneously reduce your available exclusion at death by \$37,000.

Federal gift-tax returns are required for gifts in excess of the annual exclusion. However, no gift tax is due until the applicable exclusion is completely used up.

**Estate taxes.** The federal estate tax applies to asset transfers at your death.

In 2010 only, under current legislation, there is no estate tax. However, Congress is likely to enact some sort of legislation regarding estate taxation for 2010. Be sure to keep in close contact with your Financial Advisor and tax and legal professionals for updates. Because many professionals believe Congress will reinstate the estate tax for 2010 in a form similar to what it was in 2009, the examples in this workbook show what would have happened to the estate of an individual who died last year. Under current law, the estate tax will return in 2011 with a \$1 million applicable exclusion — the value an estate must exceed before it’s subject to estate taxes — and a 55% top tax rate.

### Estate tax maximum rate\*



\* Under current legislation (as of January 2010)

## The unlimited marital deduction

The marital deduction lets you transfer an unlimited amount of assets to your spouse without incurring gift or estate taxes.\* This simply defers taxes until the death of the second spouse. However, taking full advantage of the marital deduction can actually result in increased estate taxes. Here's why:

If you leave everything to your spouse, all of your assets will end up in his or her taxable estate. The survivor will only have his or her applicable exclusion to use, and your exclusion will not be used. To make sure that both exclusions are used, you must transfer at least some of your assets to someone other than your spouse.



A credit shelter trust lets both spouses use their applicable exclusions. You'll read more about credit shelter trusts in "Evaluate Estate Planning Alternatives" on page 20.

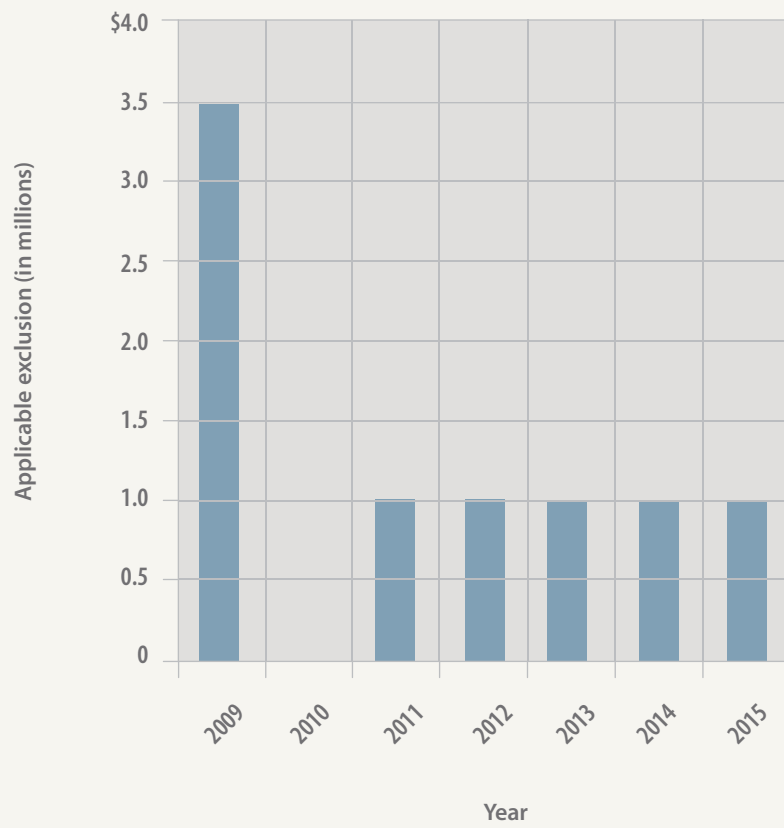
So far we've discussed only federal estate and gift taxes. Some states also impose gift, estate or inheritance taxes. The rules vary widely from one state to another. In some, the applicable exclusion is lower than the federal exclusion.

The important thing to remember is that estates not subject to federal estate taxes may still need to plan for state estate taxes. It's important to work with your Financial Advisor, CPA and attorney to determine how your state's legislation will affect your overall plan.

Now you're ready to begin establishing a plan for your estate.

\* The unlimited marital deduction is only available for gifts to a spouse who is a U.S. citizen.

### Estate-tax applicable exclusion



## Step 1: Identify your goals

Your estate plan can accomplish a multitude of goals, such as:

- ▶ Providing for your own comfort during your lifetime and for continued asset management should you become incapacitated
- ▶ Specifying the amount, manner and timing of asset distributions to heirs
- ▶ Easing or avoiding the probate process
- ▶ Providing income for beneficiaries after your death
- ▶ Leaving a nest egg for children, grandchildren or subsequent generations
- ▶ Reducing estate taxes



In addition, you may have specific needs or problems. These could include:

- ▶ **Dependents with special needs.** If you have children with disabilities who cannot manage their own finances or who rely on government programs for care, you may want to provide an income stream or investment management for them or ensure their continued qualification for benefits.
- ▶ **Spendthrift beneficiaries.** You may want to put assets into a trust with a provision preventing beneficiaries from spending the assets “in advance;” this type of trust may also protect assets from potential creditors.
- ▶ **Second marriage.** If you and/or your spouse have children from previous marriages, your estate plan can ensure that each spouse’s assets are divided among the children in a manner you specify. You may also want to define how much access the surviving spouse will have to your assets after your death. A qualified terminable interest property (QTIP) trust, explained in the glossary on page 34, is commonly used in these circumstances.
- ▶ **Noncitizen spouse.** If you and/or your spouse are not U.S. citizens, you have special planning needs. Because the marital deduction is available only for transfers to U.S. citizens, ask your attorney about a qualified domestic trust (QDOT). This trust lets an individual provide for a non-U.S.-citizen spouse without incurring an immediate estate tax.

(continued)

- ▶ **Controlling assets.** You can control how assets are paid out of a trust based on specific criteria you establish, or you can give a trustee discretion in making distributions.
- ▶ **Benefiting a charity.** Charitable strategies can provide significant tax advantages today while leaving a lasting legacy for years to come.

Use the area below to write down your goals. Then discuss them in detail with your estate-planning advisors and identify your most important objectives.

### Your objectives

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

### *Estate planning tip*

*Gather account statements, titles, deeds, etc., to review how you currently title your assets. Also, make a list of assets that have beneficiary designations, such as insurance policies, annuities and retirement accounts.*

## Step 2: Gather records

After establishing your goals, take inventory of your assets. Use the worksheet on page 17 to record how your assets are owned. If you would like assistance, ask your Financial Advisor to prepare a Net Worth Statement.

The list on page 18 is your guide to important papers. Use it to gather relevant documents.



## Your estate inventory

Assets	You or your trust	Spouse or spouse's trust	Joint	Total
Checking and savings				
Money market funds/ accounts				
CDs				
Stocks and stock funds				
Bonds and bond funds				
Other marketable securities				
Real estate (not your primary residence)				
Business assets				
Personal residence				
Personal property				
Other assets				
Annuities*				
Life insurance*				
IRAs*				
Retirement plan accounts*				
<b>Total assets</b>				

\*These assets typically require you to name a beneficiary: Record on page 19.

Liabilities	You or your trust	Spouse or spouse's trust	Joint	Total
Short-term debt				
Home mortgage				
Other long-term debt				
<b>Total liabilities</b>				
Subtract total liabilities from total assets for total estate value				

## Estate planning tip

Ask your Financial Advisor to review ownership and beneficiary designations on any insurance policies you own.

### Important documents

- Net worth statement
- Prenuptial or postnuptial agreements
- Divorce decrees
- Bank statements
- Stock certificates
- Bond certificates
- Brokerage statements
- Life insurance policies
- Disability-income insurance policies
- Personal property and casualty insurance
- Deeds and leases to property
- Stock-option plan documents and statements
- Pension/retirement plan statements
- Employment contracts
- Partnership agreements
- Past three years' federal tax returns
- State/local tax returns
- Business financial statements
- Buy-sell agreements
- Other business-related documents
- Will
- Trust agreements
- Powers of attorney
- Safe-deposit box information (and key)

## The importance of beneficiary designations

Certain assets, such as annuities, life insurance, IRAs and retirement plans, let you designate beneficiaries to receive the assets upon your death. Transfer-on-death (TOD) accounts also have beneficiary designations.\* Assets with beneficiary designations generally avoid the probate process when they pass to your beneficiaries.

Beneficiary designations take precedence over any other instructions you provide in a will or trust. Use the work area on the next page to record the name(s) of your beneficiary(ies) for each of the listed assets you own.

\* TOD accounts are recognized in most states. Check with your estate-planning advisor for details on this type of account and its availability in your state.

## Your beneficiary designations

### Annuities

Issuer	Beneficiary (primary/contingent)
_____	_____
_____	_____
_____	_____
_____	_____

### Life insurance policies

Issuer	Beneficiary (primary/contingent)
_____	_____
_____	_____
_____	_____
_____	_____

### IRAs

Current custodian/trustee	Beneficiary (primary/contingent)
_____	_____
_____	_____
_____	_____
_____	_____

### Retirement-plan accounts

Current custodian/trustee	Beneficiary (primary/contingent)
_____	_____
_____	_____
_____	_____
_____	_____

### Transfer-on-death accounts

Institution	Beneficiary (primary/contingent)
_____	_____
_____	_____
_____	_____
_____	_____

### *Estate planning tip*

*As your life circumstances change – due to such events as deaths, births, divorces – be sure to review beneficiary designations with your attorney and tax advisor.*

## *Estate planning tip*

*Keep important estate planning documents in a safe place and tell a family member or another trusted person where you keep them. Be sure that someone other than you has keys or the combination.*

### **Step 3: Evaluate estate planning alternatives**

You have an estate plan — even if you haven't created it yourself. If you die without a will, state law will determine how your assets will be distributed. State law will also determine who manages your assets if you are unable to handle your own financial affairs while you are alive.

Your state's plan may be quite different from the one you would devise. In some states, if you die without a will, your spouse may not receive all of your assets — your children or even your parents could share in your estate with your spouse.



Creating your estate plan lets you control how assets will be managed for your family and loved ones. You have many tools available to help you; some of those most commonly used are a will, a power of attorney, a revocable living trust, a credit shelter trust and an irrevocable life insurance trust (ILIT).

### **Your will**

A will is simply your plan for distributing your assets to your family and other beneficiaries. Your attorney can customize its provisions to meet your needs. You appoint a personal representative to distribute your assets. If you have minor children, you can designate a guardian for them.

A will does not avoid probate. In fact, to be effective, a will must be filed in probate court. Also, a will does not take effect until you die; therefore, it cannot provide for management of your assets if you become incapacitated.

## A durable power of attorney

A power of attorney is a legal document in which you name another person to act on your behalf. The person you name is called your “agent” or “attorney in fact.” You can give your appointed agent broad or limited management powers. You should choose this person carefully because he or she will generally be able to sell, invest and spend your assets.

A traditional power of attorney terminates upon your disability or death. However, a *durable* power of attorney will continue during incapacity to provide a safety net of financial management. A durable power of attorney terminates upon your death.

## A health care power of attorney and living will

A durable power of attorney for health care authorizes someone to make medical decisions in the event you are unable to do so yourself.

A living will expresses your intentions regarding the use of life-sustaining measures in the event of a terminal illness. It expresses what you want but does not give anyone the authority to speak for you.

## A revocable living trust

A revocable living trust can accomplish a variety of goals. You can provide for continued management of your financial affairs during your lifetime, at your death and even for generations to come. Your revocable living trust avoids probate and reduces the chance that personal information will become part of public records.

Every trust has three important components. The grantor (or settlor) — generally you — creates the trust and transfers assets to it. The beneficiary(ies) — often you and your family — receive the income and/or principal of your trust according to its terms. The third component, a trustee — who could be you, a family member or a corporate trustee — manages the trust assets.

You can change a revocable trust’s provisions at any time during your life. If you act as your own trustee, you continue to manage your investment and financial affairs. In this case, your account might be titled “(Your Name), Trustee of the (Your Name) Revocable Living Trust Dated (Date).” Because this legal entity exists beyond your death, property titled in the trust does not need to pass through probate.

## Estate planning tip

*Your successor trustee must be able to handle many fiduciary, administrative and investment-related duties according to the terms of the trust document. By naming a professional or corporate entity as trustee or successor trustee, you provide for continuous management of your assets and professional administration in carrying out the trust's terms.*

## Choosing a trustee

Choosing your trustee or successor trustee is one of the most important estate planning decisions you will face. A successor trustee takes control when the original trustee dies or becomes incapacitated.

If you wish, you can name someone other than yourself as trustee during your lifetime. The trustee takes care of day-to-day trust-related duties, freeing you to devote more time to other activities — building a business, furthering a career, enjoying family during retirement or traveling. In most cases, however, the successor trustee does not take control until after your incapacity or death.



Although a family member or a close associate may first come to mind, a professional trustee is another alternative. An individual trustee may die or become incapacitated, but a corporate trustee's existence is perpetual, providing continuity of trust administration. If you choose an individual as trustee, you should consider naming a corporate trustee as a “backup” in case all the named individuals die or are unable to serve. Alternatively, an increasing number of families are naming a family member and a corporate entity as co-trustees to combine the personal element with a professional staff.

## Your trustee's duties and responsibilities

This list includes the basic obligations a trustee must fulfill. As your estate grows more complex, so will your trustee's duties.

- ▶ Accept responsibility for and control trust assets
- ▶ Review and implement the trust's terms
- ▶ Take inventory of assets and determine tax cost bases
- ▶ Establish and maintain accounting records
- ▶ Evaluate quality of assets; determine whether to hold or sell each security and whether to increase or decrease the stake in a particular security
- ▶ Manage assets and establish investment strategy

(continued)

- ▶ Regularly review trust assets for quality and diversification
- ▶ Collect dividends and interest; reinvest cash
- ▶ Record all income and principal receipts and disbursements
- ▶ Satisfy financial obligations (pay bills, etc.)
- ▶ Distribute income to beneficiaries as required by the trust's terms
- ▶ Exercise discretion over additional principal distributions to beneficiaries, if the trust's terms permit
- ▶ Track cost bases of all assets
- ▶ File annual fiduciary income tax returns
- ▶ Provide necessary tax documentation to beneficiaries
- ▶ Seek legal counsel when necessary
- ▶ Divide shares properly among beneficiaries
- ▶ Provide accounting and tax data to each beneficiary

## Estate tax-saving strategies

If you are concerned about estate taxes, there are a variety of reasonably simple tools available to help reduce your tax bill, including:

- ▶ Credit shelter trust planning
- ▶ Annual gifting
- ▶ Life insurance

**Credit shelter trust planning.** A credit shelter trust enables married couples to use each spouse's applicable exclusion. The credit shelter trust is created from the estate of the first spouse to die; an amount equal to the applicable exclusion is set aside in the trust. The surviving spouse can receive income from the trust and may have access to principal. When he or she dies, assets in the credit shelter trust are distributed to heirs as directed in the trust document. Because the surviving spouse has limited control over the distribution of the trust assets, the assets are not considered part of his or her taxable estate.

## *Estate planning tip*

*Avoid a common mistake: Jointly owned assets will pass automatically to the surviving joint owner and not according to your will or trust, possibly negating a well-designed estate plan. If you intend to fund a credit shelter trust, assets should be registered in single name or in your revocable living trust. Discuss proper asset ownership with your estate-planning attorney.*

For example, Bill and Sharon, a married couple, had an estate worth \$7 million. They owned all of their assets jointly with rights of survivorship. Bill passed away in 2009. The entire estate became Sharon's. If she also died in 2009, her estate would probably have been worth \$7 million or more. In 2009, she would have had a \$3.5 million applicable exclusion, but federal estate tax on her assets would have been \$1.575 million. Bill's exclusion would not have been used and, in effect, would have been wasted.

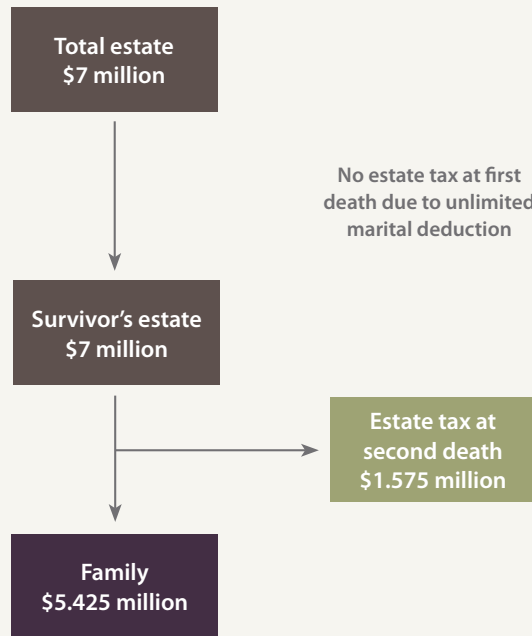
By using a credit shelter trust, Bill and Sharon could have avoided owing any federal estate tax. Let's say that instead of owning all of their assets jointly, Bill and Sharon split their estate so each spouse owned half. At Bill's death, his \$3.5 million estate could have passed to a credit shelter trust for Sharon's benefit instead of going directly to her. Because of Bill's \$3.5

million applicable exclusion, no estate tax would have been due when this amount passed into the trust in 2009. If Sharon also died in 2009, the balance in Bill's credit shelter trust — including any appreciation — would have been excluded from her estate and would have passed to Bill and Sharon's heirs free from estate tax. Assuming the assets remaining in Sharon's name were still equal to or less than the applicable exclusion at her death, there would have been no federal estate taxes due.

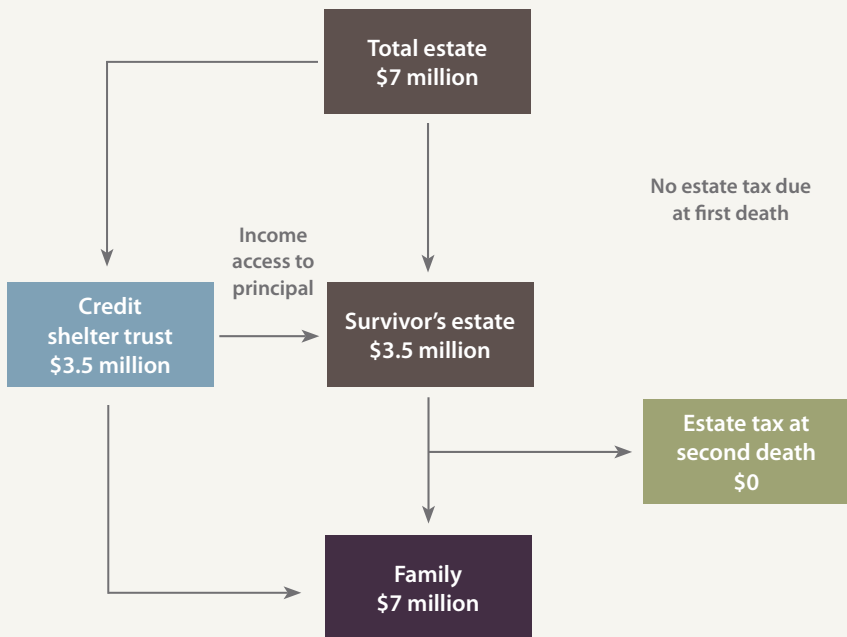
The trust could have directed that all of the income be paid to Sharon (or used on her behalf). In addition, the trustee could have been empowered to distribute principal to Sharon, if needed. In Bill and Sharon's case, using a credit shelter trust could have saved \$1.575 million in estate taxes.



**Without a credit shelter trust (in 2009)**



**With a credit shelter trust (in 2009)**



This hypothetical example is designed to illustrate the effect of certain planning strategies based on stated assumptions. The strategy described may or may not be suitable for your particular situation. Before implementing any strategy, you should seek the advice of your tax or legal advisors. No guarantee of specific results is made; past performance is no guarantee of future results.

**Giftgiving.** A simple way to reduce estate taxes is through gifting. As previously discussed, you may gift up to the annual exclusion of \$13,000\* each year to as many individuals as you want without incurring gift taxes. A married couple can make gifts of up to \$26,000 each year to as many individuals as they wish.

For example, Paul and Anne are married and have two married children and four grandchildren. They can give \$26,000 each year to each child, each child's spouse and each grandchild — a total of \$208,000 in this example — free from gift taxes.

Giftgiving also removes any future growth of the gifted assets from your estate.



Which assets are best to gift? Here are some considerations:

- ▶ **Appreciated securities.** If you gift appreciated securities while you're living, the recipient assumes your cost basis, so you also transfer a potential capital-gains tax liability. If you hold appreciated securities until death, the tax basis is "stepped up" to the property's fair market value on the date of death (or in some cases, an alternate date six months later<sup>†</sup>), potentially eliminating capital gains tax but subjecting securities to possible estate tax. Work with your tax advisor and Financial Advisor to determine what is best for your situation.
- ▶ **Assets in loss positions.** To calculate a loss, the cost basis of a gifted asset is its fair market value rather than your purchase price; as a result, you cannot transfer a taxable loss to a beneficiary.

Weigh the advantages of a gifting program against the fact that you lose control of the gifted assets. Take care not to jeopardize your financial security simply to avoid estate taxes.

\* The amount of the annual exclusion is adjusted periodically for inflation. The amount is rounded down to the nearest \$1,000 increment.

<sup>†</sup> Current law limits the step-up in cost basis in 2010 only.

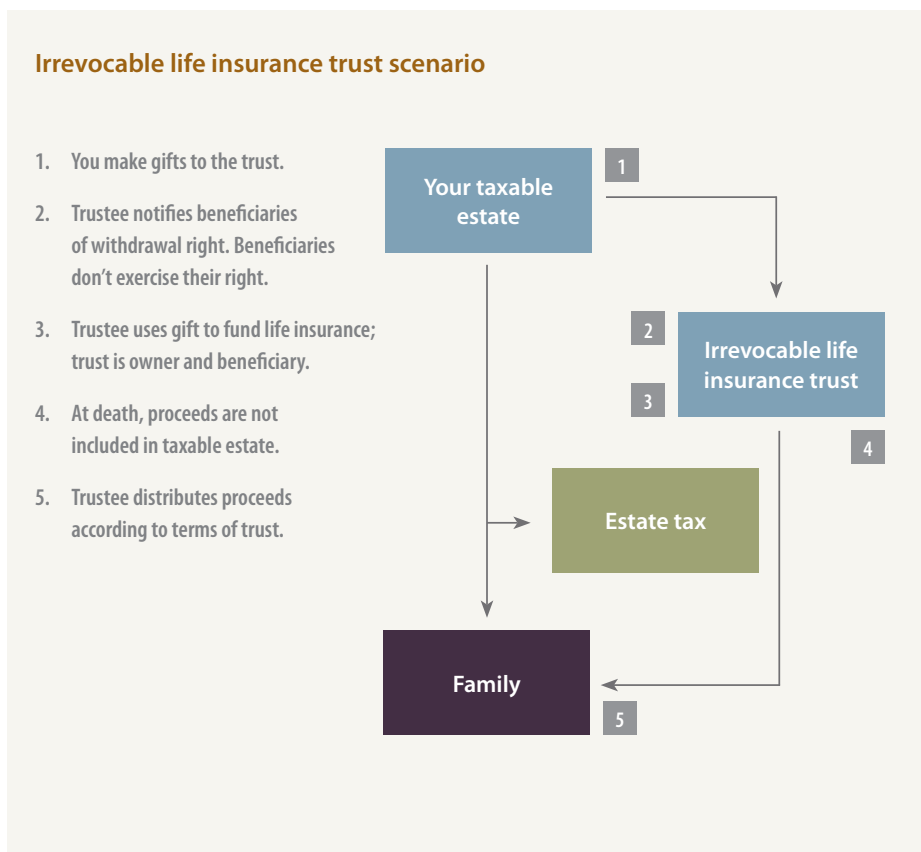
**Life insurance.** Life insurance can make your gifting more effective. To make it work, the insurance must be held outside of your taxable estate.

Life insurance proceeds are income-tax-free to beneficiaries. However, if you own the life insurance policy, the death benefit is part of your taxable estate. The result is different if your children own the policy. You can make gifts that are used to acquire the insurance. When you die, the proceeds are free of federal estate and income taxes.

Another solution is to have an irrevocable trust own the policy. If you have several children, it may be simpler to have a trust as the owner. Trust ownership may also be preferable if you have young children or do not want to give children control over the policy. When you die, the proceeds are paid into the trust and distributed according to your directions. The life insurance proceeds are not included in your taxable estate and are available for distribution to your family or to pay estate taxes.

Ask your Financial Advisor about the many types of policies available, including survivorship life policies, and which one might be right for you.

These estate planning alternatives can address many – but not all – family situations. Work closely with your Financial Advisor to detail your estate planning objectives, family circumstances, assets and projected estate tax liability before visiting your estate-planning attorney.



## Estate planning tip

*Ask your Financial Advisor about reports to help you track the cost bases of your securities. You can also request to have these reports or duplicate statements provided to your tax advisor to help better manage your tax situation throughout the year.*

## Step 4: Put your team in place

As you've read, you'll need to work closely with a team of advisors to put your estate plan into place. Your attorney must draft any estate planning documents, including a will, power of attorney and trusts, if appropriate. If you have not yet developed a relationship with an attorney, your Financial Advisor can suggest several you can interview.

Choose your attorney and CPA carefully, selecting professionals you trust with working styles that match yours, your family's and those of your other professional advisors.



Make sure you are well-prepared for the meeting with your attorney. To make your appointment as productive as possible, take the time to:

- ▶ Outline your objectives
- ▶ Gather account statements
- ▶ Have your Financial Advisor prepare a Net Worth Statement
- ▶ Determine how assets are titled (who owns what)
- ▶ Make a list of all beneficiary designations on IRAs, retirement plans, insurance policies and annuities
- ▶ List the names and ages of family members and their spouses
- ▶ Decide whom you may want to be executor, guardian or trustee

The worksheets included in this brochure can help make your meeting with the attorney more productive. Also, being well-organized may help reduce the billable hours needed to prepare your estate plan.

## Preparing to visit your attorney

- Complete the estate inventory on page 17. You may want to make copies for each meeting participant.

### Bring copies of:

- Existing wills
- Existing power of attorney
- Existing trusts
- Life insurance policies (list beneficiaries on page 19 and bring copies)
- Employer benefits statements (list beneficiaries on page 19 and bring copies)
- Copies of all of your most recent bank statements
- Copies of all of your most recent brokerage statements
- Copies of your income tax returns for the past three years
- Buy-sell agreements for your business (if applicable)

If you own property in more than one state, which states?

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Name of CPA or tax advisor

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## Estate planning tip

*You and your attorney should review the ownership (single, joint, or trust) of each asset and check whether that ownership is consistent with your estate plan. If you have a newly created trust, you'll want to reregister assets according to your attorney's instructions. Ask your attorney to help provide the appropriate registration and beneficiary designation language. Your Financial Advisor can help you reregister your brokerage accounts.*

## Step 5: Implement your estate plan

Documents such as a will, trust or power of attorney create the framework for your estate plan. To ensure that assets are distributed according to these documents, make sure you title assets appropriately and update beneficiary designations as directed by your attorney.



Depending on your estate plan, you may want to:

- ▶ Consolidate assets and consider the benefits of street name registration for your securities.
- ▶ Make annual exclusion gifts.
- ▶ Apply for life insurance.
- ▶ Tell your beneficiaries about your estate plan and where you've placed important documents. (Ask your Financial Advisor for a copy of our "Your Financial Information" organizer.)

If you've decided to delegate investment management of some or all of your assets to a trustee, your Financial Advisor can help implement that arrangement.

## Step 6: Review your estate plan

Ideally, you should review your estate plan each year. Discuss the timing of this review with your estate-planning advisors and avoid busy seasons (holidays, tax season, etc.). However, major life changes sometimes warrant an immediate review. Make this review a time of reflection when you can calmly discuss:

- ▶ Your family situation (weddings, births of children or grandchildren, divorces, deaths, health changes)
- ▶ Your estate planning objectives (benefiting a favored charity, reducing an estate tax liability, providing for different beneficiaries, etc.)
- ▶ Changes in your financial situation (a new job, changes in income, an inheritance, portfolio growth)
- ▶ New legislation that may affect your estate plan

Changing beneficiary designations and amending your will and/or trust are relatively easy tasks. Your estate-planning advisors can recommend when such adjustments are necessary.

Your estate plan will work better if you take care of regular maintenance. If you fail to review your estate plan regularly, you may expose your loved ones to unnecessary tax consequences, unintended results or family disputes.

## Your most important step: Take action

Review the worksheets in this brochure with your Financial Advisor. He or she will explain the investments and services available to you through Wells Fargo Advisors and the advantages of working with a full-service financial institution.

There is no better time than now to create an estate plan for yourself, your family and future generations.

## Appendix: Gift and estate tax tables

**How to use these tables:** Compute the tentative tax from the first table below, and then apply the applicable credit from the second table. For example, if an individual died in 2009 with a \$7 million estate, the tentative tax would have been \$3.0308 million, the applicable credit would have been \$1.4558 million, and the estate tax due would have been \$1.575 million.

Step one: Compute tentative estate* or gift† tax				
Taxable estate		2009 tentative tax (before credits)		
More than	But not more than	Pay	+%	Of amount more than
\$1,000,000	\$1,250,000	\$345,800	41%	\$1,000,000
1,250,000	1,500,000	448,300	43	1,250,000
1,500,000	2,000,000	555,800	45	1,500,000
\$2,000,000 or more		780,800	45	2,000,000

Step two: Apply applicable credit		
Credit/exclusion for estate taxes		
Year	Applicable credit	Applicable exclusion‡
2009	\$1,455,800	\$3,500,000
2010	Not applicable - estate tax repealed	
2011 and thereafter	\$345,800	\$1,000,000
Credit/exclusion for gift taxes		
2009	\$345,800	\$1,000,000

\* Under current law, the estate tax is repealed for the year 2010 only. In 2009, the maximum estate-tax rate was 45%.

† In 2010 only, the gift tax rate is 35%.

‡ The exclusion is the amount that can be transferred without incurring tax because of the credit. Note the difference between the gift-tax and estate-tax exclusions.

# Glossary

## Annual exclusion

Each year a donor may gift up to \$13,000 per donee (\$26,000 if spouse joins) free from gift tax as long as the gift represents a present interest in property (i.e., the recipient must have an immediate right to use the property). The limit is indexed for inflation.

## Applicable credit/applicable exclusion

The applicable credit is a direct reduction of estate taxes. The applicable credit for 2009 was \$1.4558 million. A transfer of \$3.5 million was offset by the \$1.4558 million credit. The amount that can be transferred without incurring estate taxes is referred to as the “applicable exclusion.”

## Beneficiary

A person designated to receive an inheritance, annuity, life insurance proceeds, or income or principal from a trust.

## Charitable lead trust

This trust makes payments to a charity for a time period. The remainder (the value at the trust’s termination) goes to a noncharitable beneficiary, such as your family.

## Charitable remainder annuity trust (CRAT).

This trust pays a fixed amount of income for a time period to a noncharitable beneficiary (for example, to the donor for life). The remainder (the trust’s value at its termination) goes to a charity.

## Charitable remainder unitrust (CRUT)

This trust pays a certain percentage of the trust’s fair market value to a noncharitable beneficiary for a time period (for example, to the donor for life). The remainder (the value at the trust’s termination) goes to a charity.

## Community property

A form of property ownership applicable in Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, Wisconsin and Alaska (if elected). Property acquired during marriage is treated as community property in which both husband and wife have an undivided one-half interest. Each spouse can dispose of one-half of the property by will or trust.

## Conservator/guardian

A person appointed by a court to manage the assets and/or personal affairs of a minor or disabled person.

## Credit shelter trust

This trust uses the applicable exclusion of the first spouse to die; it is usually created by a will or revocable trust. The surviving spouse may receive income and principal as provided by the trust’s terms.

## Crummey power

A power to withdraw funds from a trust for a limited time period. The beneficiary must have notice of the right to withdraw. This provision is often used to make gifts to trusts that qualify for the gift-tax annual exclusion.

## Disclaimer

The refusal of a gift or bequest. A disclaimer does not result in a taxable gift to the contingent beneficiary. The disclaimer must be written and delivered to a transferor within nine months of the creation of the disclaimed interest. The person making the disclaimer cannot accept benefits or redirect the gift. A partial disclaimer is possible.

## Dynasty trust

A trust that, under the laws of certain states, may continue in existence forever.

## Generation-skipping trust

A trust with a beneficiary two or more generations younger than the grantor. A generation-skipping trust is usually designated to utilize the generation-skipping exemption (\$3.5 million in 2009). Transfers in excess of the exemption result in the generation-skipping tax, which is paid in addition to any gift or estate tax on the same amount. (See also “Dynasty Trust.”)

## Grantor

A person who establishes a trust; also called a “donor,” “settlor,” “trustor” or “trust creator.”

### **Intestacy**

The situation in which an individual dies without a will. State law will govern how property is distributed.

### **Marital trust**

A trust for a surviving spouse; this usually qualifies for the marital deduction.

### **Minor's trust [2503(c) trust]**

An irrevocable trust designed to hold principal and income until a child reaches age 21. Funds can be used for the beneficiary. Accumulated income is taxed at trust rates. Gifts to this type of trust may qualify as annual-exclusion gifts.

### **Personal representative**

A person who has legal authority to manage and distribute a decedent's estate. Sometimes called an "executor" or "administrator."

### **Pour-over will**

A will that transfers assets to a previously established trust; this is typically used with a living trust.

### **Qualified domestic trust (QDOT)**

A trust for a spouse who is not a citizen of the United States. The trust lets an individual defer the estate taxes that would otherwise be due. The non-U.S.-citizen spouse has access to the trust income and principal (estate taxes are generally paid on principal distributions). A QDOT requires a U.S.-citizen trustee or domestic corporate trustee.

### **Qualified terminable interest property (QTIP) trust**

A marital trust designed to provide income for a spouse while preserving principal for children from a previous marriage. With a QTIP, the deceased spouse is able to control the access the surviving spouse has to the principal.

### **Self-administered living trust (SALT)**

A revocable living trust for which the grantor is the sole trustee and makes his or her own investment decisions.

### **Testamentary trust**

A trust created in a will. The trust comes into being only after the testator's death.

### **Transfer on death (TOD)**

A designation that permits the transfer of individual or joint accounts to a beneficiary without probate. Permitted in most states.

### **Trustee**

The person responsible for management of a trust. A trustee holds legal title to trust assets as a fiduciary, meaning that he or she has a legal duty to the beneficiaries.

### **Unlimited marital deduction**

Federal estate-tax laws permit unlimited asset transfers to a spouse (who is a U.S. citizen) during lifetime or at death without incurring federal estate or gift taxes.

### **Wealth replacement trust**

A trust designed to ensure that heirs receive an estate's value, which may be depleted by federal estate tax or charitable gifts. A wealth replacement trust usually takes the form of an irrevocable life insurance trust.

### **Will**

A legal document that provides for the distribution of a person's assets at death through the probate process.

## Our commitment to you

*We will honor our relationship with you.*

When you work with a Financial Advisor from Wells Fargo Advisors, you have someone who takes the time to listen, to understand your needs, and to help you clarify your goals, and who takes seriously the safety and security of your money and investments.

*We will be fully invested in your success.*

Your Financial Advisor will help you stay on track to meet your goals through intelligent financial solutions, in-depth analysis of your investments and regular feedback on your progress.

*We will be with you every step of the way.*

Your needs and goals will change over time. That's why your Financial Advisor will be there to provide ongoing advice - along with the exceptional service you deserve - through the ups and downs of markets and economic cycles.

Trust services available through banking and trust affiliates in addition to nonaffiliated companies of Wells Fargo Advisors.

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**Not Insured by FDIC or any Federal Government Agency ► MAY Lose Value ► NOT a Deposit of or Guaranteed by a Bank or Any Bank Affiliate**

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