

# Leaving a legacy

UNDERSTANDING ESTATE PLANNING  
& WEALTH TRANSFER CONCEPTS

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Many of us spend a lot of time preparing for retirement. We save. We invest. Along the way, we buy a home and maybe raise a family. If all goes according to plan, we'll enjoy a long and healthy retirement.

Eventually, however, there will come a time when the wealth we've accumulated will pass to our loved ones. While no one likes to think about this, it can be a mistake to avoid legacy planning. The reality is that there are things that can (and do) go wrong if we don't take the time to plan.

My name is \_\_\_\_\_, and today we're going to talk about leaving your legacy.

## Important things you should know

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While you look at this disclosure, I'll take a moment to commend you for attending this seminar. This topic is just too difficult and emotional for some people. In fact, one study showed that 1/3 of older Americans have not talked with family members about later-life and end-of-life plans. And 1/3 of adult children have no idea whether their parents have financial protections in place.

So it's great that you're here. You can really help out your family members by taking the steps we'll talk about today. After all, your legacy is about more than money. It's about how people feel when they remember you. It will be hard enough on your family members when you pass away. Reducing their paperwork and tax headaches can be a thoughtful parting gift.

Source: 2018 Wells Fargo Elder Needs Survey

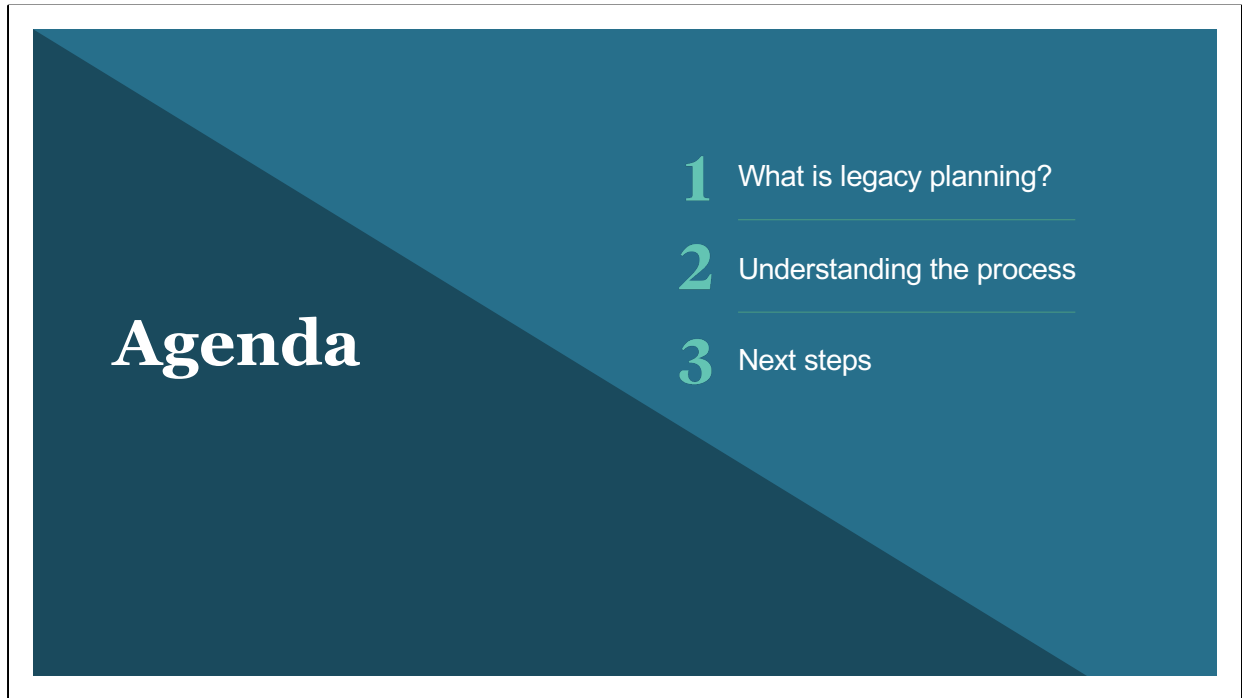
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The presentation begins with an explanation of what I mean by the phrase “legacy planning” and why it’s important. That’s followed by a lot of information that will help you understand the process of planning your legacy and the things you’ll want to consider to make sure your plan is right for your family. Then I’ll conclude with some suggested next steps that will help you get the ball rolling.



So, let's jump into the presentation. You might be wondering why I'm saying "legacy planning" instead of "estate planning"...

What is legacy planning?

## It's more than just estate planning



**Wills and trusts are important, but they might not cover everything.**



### Questions to consider:

- ▶ Do you own a home or other real estate?
- ▶ Do you have retirement and/or other financial accounts?
- ▶ Do you own a business?



**Legacy planning means understanding how everything works together.**

... That's because legacy planning is about more than just estate planning. Don't get me wrong: Estate planning is extremely important. We're going to discuss the basics of estate planning in some detail. But having a will, or even a trust, doesn't address every aspect of your legacy.

Do you own a home or other real estate? Do you have retirement accounts or life insurance? Do you (or does a family member) run a business? These are also big parts of your legacy, yet a will or a trust might not have any impact on how these things pass to your beneficiaries.

Legacy planning means understanding how everything works together.

What is legacy planning?

## Legacy planning and taxes

### Federal estate taxes aren't a problem for most.

- ▶ However, your state may have an estate tax
- ▶ 2026 federal estate tax exemption: \$15.00 million per individual (\$30.00 million for married couples, assuming both exemptions are used)
- ▶ **Income taxes are a bigger issue.**
- ▶ Your beneficiaries will have to pay income taxes on inherited tax-deferred retirement accounts

#### Some assets will get a "step up" in cost basis.

- ▶ Real estate
- ▶ Nonqualified brokerage accounts

<https://www.irs.gov/businesses/small-businesses-self-employed/estate-tax>

<https://www.irs.gov/businesses/small-businesses-self-employed/whats-new-estate-and-gift-tax>

<https://www.irs.gov/newsroom/irs-releases-tax-inflation-adjustments-for-tax-year-2026-including-amendments-from-the-one-big-beautiful-bill>

When people think about estate planning, many will automatically think about estate taxes. We've all heard of estate taxes, and they will very likely be in the news over the next year or two. The good news is that currently, federal estate taxes are something that most people don't have to worry about. If you're married, you and your spouse would have to have a net worth of more than \$25 million in order to have an estate tax liability. That's a good problem to have, I guess.

But this could change. There is talk in Washington of changing federal estate tax rules so that more families will owe estate taxes when someone dies. Also, many states impose estate taxes. It's important to be aware of estate taxes and talk to an attorney in your state if you have questions.

There is another kind of tax, however, that almost all of us need to consider in our legacy plans: income taxes. Most of us have used tax-deferred retirement accounts to save for retirement. That means that we haven't yet paid income taxes on those savings. We will pay taxes on them as we withdraw them in retirement. But what if we pass away with money in tax-deferred retirement accounts? In that case, our beneficiaries — the people who inherit those accounts — will have to pay the taxes due. Good planning can minimize the amount of taxes paid on your assets, so it's worth thinking this through. After all, you worked all your life for that money, and you don't want your estate to be depleted by taxes.

You'll see as we go on that minimizing taxes is an important part of legacy planning. And we also must make sure that your beneficiaries understand the tax rules that will apply to inherited assets.

Meanwhile, there are assets we may own that will get a tax break when we die. If I own a home or investments outside of a retirement account, those assets may receive a "step up" in cost basis that can reduce capital gains taxes when those assets are eventually sold.



What is legacy planning?

## Getting started

**Understand what you have.**

**Know your beneficiaries.**

**Understand the process.**

- ▶ Wills and trusts
- ▶ Beneficiary designations
- ▶ Titling

So how do we go about putting a legacy plan in place?

The first step is knowing what you have. Take an inventory. List everything you own: your home and any other real estate, your retirement accounts (traditional and Roth), your investments outside of your retirement accounts, savings, life insurance and annuities, personal property, and your business. We have tools and forms that will help you with this. When you know what all these assets are worth, you'll have a good sense of your net worth and whether you need to worry about estate taxes.

Once you have this done, consider which assets carry an income tax liability with them. Tax-deferred retirement accounts and annuities generally will. Roth accounts, nonqualified investment accounts, savings accounts, and life insurance generally won't. It's important to know this because it might help you decide which assets to leave to which beneficiaries. Again, this is about minimizing taxes, so we'll talk more about this later.

Next, think about your beneficiaries. Who do you want to take care of when you die? Spouses and children are obvious choices, but what about grandchildren? Some people may want to include siblings or close friends. It's never too soon to start thinking about it.

Finally, we need to understand the process. Wills and trusts will play a role. In some cases, however, more of your wealth will pass pursuant to the beneficiary designations on your retirement accounts. Some assets, such as your home or nonretirement accounts, will pass to surviving owners. If you have a business, careful planning is needed to make sure that it goes to the right people.

What is legacy planning?

## Understand what you have



### Do you own a home?

- ▶ Other real estate



### Do you have financial accounts?

- ▶ Bank accounts
- ▶ Retirement accounts
- ▶ Other investment accounts
- ▶ Life insurance



### Other personal property?

- ▶ Cars
- ▶ Jewelry/art/heirlooms
- ▶ Sentimental items
  - Family photos, keepsakes, etc.



### Do you own a business?

- ▶ Do you need a succession plan?

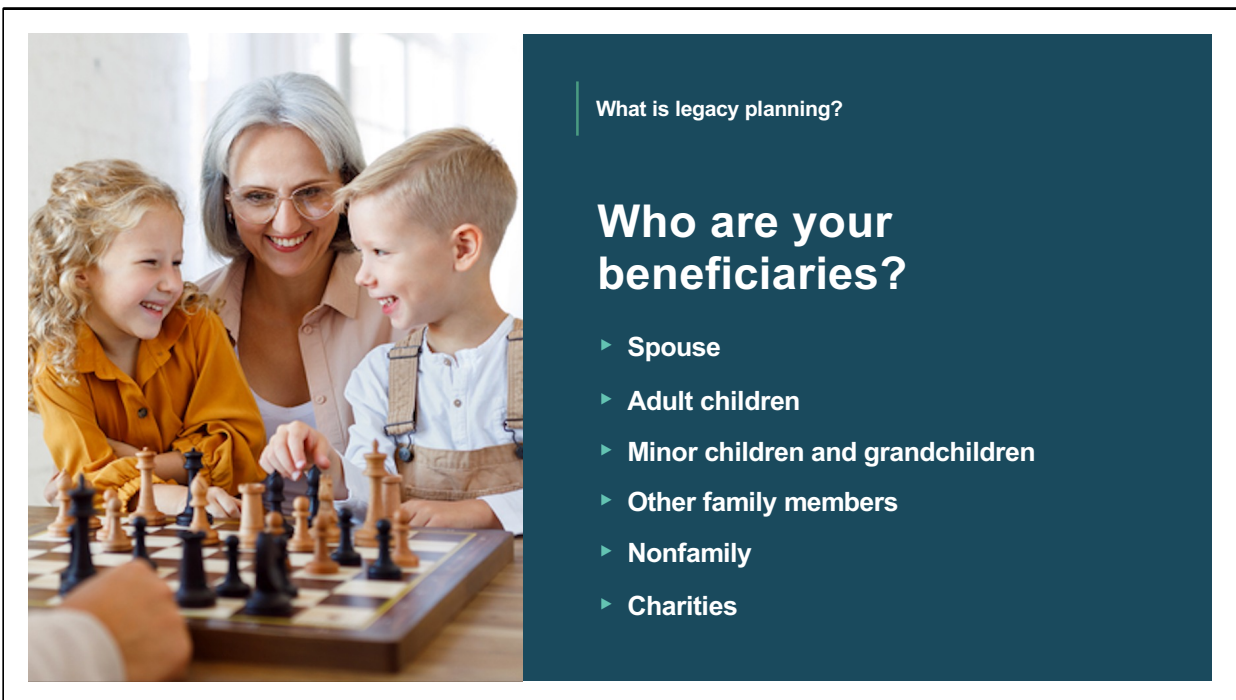
Here's a quick look at some things to include in your inventory.

For each asset, you should know how it is owned. For example, most married couples own their home jointly. That typically means that when one spouse dies, the other becomes the sole owner by operation of law. A jointly owned bank account will pass the same way.

As we will see, many assets will pass by beneficiary designations. Are those up to date and current? Are you sure? Mistakes with beneficiary designations can derail your legacy plan and cause big headaches for your family members.

What about personal property? That can be anything from cars to collectibles to family photos. You'll want to include those in your legacy plan as well.

Finally, what about a business? Full business succession planning will usually require professional assistance that is a little beyond the scope of our presentation today. But ask yourself who you want to take over your business, and how can you make sure that happens?



What is legacy planning?

## Who are your beneficiaries?

- ▶ Spouse
- ▶ Adult children
- ▶ Minor children and grandchildren
- ▶ Other family members
- ▶ Nonfamily
- ▶ Charities

When we think about our beneficiaries, it can be helpful to take a step-by-step approach.

Most people will want to start with their spouse. We want to make sure that our surviving spouse has the income and assets they need to maintain a comfortable lifestyle. We also want to take full advantage of the flexibility that spouses have when they inherit retirement assets. If someone leaves a retirement account to their spouse, they can put that account in their own name and treat it as their own. That might allow them to maximize the benefits of tax deferral. No other beneficiary will get to do that. Accordingly, leaving retirement accounts to a spouse can sometimes make a lot of sense.

If a home is owned jointly by a married couple and one spouse passes away, the surviving spouse will become the owner of the house. They will also be entitled to a step up in cost basis for some or all of the home's value. This can help minimize potential capital gains exposure if they need to sell the home. The same rules will apply to any nonretirement financial accounts that we own jointly.

Next, many people will want to consider their adult children. One thing that people sometimes forget to consider, however, is the financial situation of those children, good or bad. What if we're not confident in the ability of our kids to manage an inheritance? What if we have an adult child with special needs?

Let's start with a happy scenario first. Let's say my daughter is extremely successful. In fact, her annual income is significantly higher than mine. Remember that if I leave her a tax-deferred retirement account, she'll have to pay the taxes on that money as she withdraws it. Not only that, due to new rules for inherited retirement accounts, she'll have to withdraw all of those assets within 10 years. In that case, it might make sense to leave to her assets that don't result in income tax liability, such as a Roth account.

Let's consider another scenario. What if I'm concerned about my son inheriting a lot of money all at once? There are a million possible reasons why I might have worries — from him being too young to handle it maturely to him having a gambling habit, or whatever. There are strategies I can use to leave him money but restrict his access to it.

What if my kids are still minors? In that case, my first concern should be who will raise them if my spouse and I are no longer here. Legacy planning can address that. And what if I want to leave assets to grandchildren? There's a right way and a wrong way to do that, too.

There are other potential beneficiaries as well. I may want to leave something for siblings or close friends. I may have charities that are important to me. Legacy planning considers all of these things.



## Understanding the process

The next thing you need to do is acquaint yourself with the process of enacting your legacy plan. It may seem daunting at first, but it can be tackled one step at a time. Let's dive in.

## Begin with a will

### Your will:

- ▶ States your wishes as to who gets what
- ▶ Names an executor or a personal representative
- ▶ Names guardian(s) for minor children

**A will avoids intestacy but not probate.**

A will is the most basic of estate planning tools. It's a simple document that accomplishes several important things. It states your wishes as to who will inherit your property. It names an executor or personal representative — the person who will be in charge of making sure your wishes are realized. It can also name a guardian for minor children in the event you and your spouse are no longer around.

To understand the importance of a will, it helps to consider what happens if you don't have one. In that case, much of your property will be distributed by your state's intestacy statute. Intestacy statutes typically follow a rigid, formulaic approach, such as 50% to a surviving spouse and 50% to children. Simply having a will takes intestacy off the table.

It is important to be aware, however, that a will does not avoid the probate process. Probate is the legal process of distributing an estate. Having a will provides the probate court with a road map for that distribution, which is helpful. But probate is a public process that can sometimes be quite slow, taking many months to complete.

## Know what's what



### What does a will cover?

- ▶ Property that doesn't pass by other means
- ▶ Personal property
- ▶ Consider a letter of instruction for specific items



### What doesn't a will cover?

- ▶ Jointly owned real estate
- ▶ Accounts with beneficiary designations

One thing that is very important to understand is that a will does not cover all of your assets. It covers only property that does not pass by other means. That would include personal property such as the contents of your home; bank and financial accounts that are in your name only and don't have a beneficiary designation; cars; and similar items.

One category of items that can merit specific attention is things with sentimental or emotional value. Earlier, I mentioned things such as family photos, jewelry and other heirlooms. A letter of instruction clearly stating who you want to get these items can go a long way in avoiding conflict among potential beneficiaries.

Let's think of all your assets collectively as your wealth. Not all of your wealth will pass pursuant to your will. For example, if you own property jointly with another person, such as your spouse, that property will often pass to the surviving owner by "operation of law." If you own property as tenant-in-common (which is more common among nonspouses), your share **might** actually pass pursuant to your will. If you own property with another person or people, it is extremely important to know how that property is titled and what happens to your share when you die.

Also, any financial accounts that have a beneficiary designation generally don't pass pursuant to your will. The beneficiary designation will control and take priority over your will. This is why it is critically important that you keep the beneficiary designations on your financial accounts up to date. One of the biggest mistakes we see in our business is when assets pass pursuant to an old, out-of-date beneficiary designation that no longer reflects the owner's wishes. That can be a disaster. We'll come back to beneficiary designations a little later in the presentation.

## What is a trust?

**A trust** is a legal entity in which a trustee manages assets for the benefit of trust beneficiaries.

Trusts are often used to control how assets pass to beneficiaries.

Trusts can be revocable or irrevocable.

Another important tool in the legacy planning toolbox is a trust. A trust is a legal entity in which a trustee (selected by you) manages assets for the benefit of trust beneficiaries. Trusts are often used to control how assets pass to beneficiaries. For example, if I don't want a beneficiary to inherit too much money at once, I can use a trust to spread the distribution out over time.

Trust planning can be tricky. A trust can be revocable, which means you can move property in and out of it or even terminate it whenever you want. A trust can also be irrevocable, which means that once you put property into it you may not be able to get it back. Most revocable trusts become irrevocable when you die. For this reason, it's always a good idea to work with an attorney if you would like to use a trust as part of your legacy plan.



#### Understanding the process

## Why you might want a trust

### To avoid probate

- ▶ Applies only to assets that are in trust's name
- ▶ A will can leave assets to a trust

Can be a good way to transfer accounts that don't have a beneficiary designation

Can name a successor trustee (protection against incapacity)

Can be used to minimize estate taxes

So why would you want to use a trust? There are many reasons. Here are a few.

For one thing, unlike a will, a trust can help you avoid or minimize the probate process. Assets that are owned or held by the trust will pass pursuant to the terms of the trust. A trust can also be named as the beneficiary under a will. This means that the trustee will control the distribution of assets, not the probate court.

A revocable trust can be a good way to transfer an account that doesn't have a beneficiary designation. Let's say I'm a widow with a nonqualified brokerage account. These accounts generally don't have beneficiary designations. What if I wanted to leave the account to my three kids? I could set up a revocable trust for the benefit of my kids and put the account in the name of the trust. When I die, the trustee can distribute the assets to the trust beneficiaries pursuant to the terms of the trust.

A trust can also be used to provide protection in the event I become incapacitated. That's because a trust can provide for a successor trustee to take over if I become unable to act as trustee. Remember, however, that the successor trustee can control only assets that are held by the trust.

Finally, trusts can be used to minimize estate taxes. As we've mentioned, current estate tax rules mean that most people are unlikely to have estate tax exposure if they were to die right now. It's important to pay attention to potential changes in those rules. If the estate tax exemption is reduced, more people may have to engage in trust planning in order to avoid estate taxes in the future.

## A trust controls the distribution of assets

### It can help in regard to:

- ▶ Second marriages
- ▶ Beneficiaries who lack money management skills
- ▶ Minors
- ▶ Beneficiaries with special needs
- ▶ Real estate
  - Rental properties
  - Vacation homes

For most people, the primary reason they might want to put a trust in place is to control the distribution of assets after they die.

Trusts can be very helpful in the event of a second marriage, especially when one or both spouses have children from a prior marriage. For example, if I want to provide for my spouse at my death but ultimately want my assets to go to my kids when my spouse passes, a trust can help me accomplish that goal.

And what if I've named beneficiaries who simply shouldn't inherit a big chunk of money all at once? Or what if I don't want my daughter's husband to get my assets if she should pass away? A trust can spread distributions out over time and even dictate what happens to assets if a beneficiary dies during the trust term.

Trusts can also be appropriate when the beneficiaries are minors. If I want to leave assets to grandchildren, for example, a trust can be more effective than simply leveraging a Uniform Transfers to Minors Act (UTMA) strategy. Under UTMA, I can name a custodian to manage assets for a minor. Once that minor attains the age of majority, however, they will gain full control over the assets. If I want to maintain control until the minor becomes a little older, a trust can allow me to do that.

Many people have beneficiaries with special needs, such as developmental or other disabilities. In many cases, these beneficiaries receive important governmental benefits, such as Supplemental Security Income (SSI), that are "means tested." If such a beneficiary acquires too much income or too many assets, they can lose their benefits. A special needs trust holds or receives assets that can be used for the benefit of the special needs individual while maintaining their eligibility for benefits.

Finally, a trust can be used to manage certain assets after an owner has died. For example, rental properties or even a vacation home can be placed in a trust to make sure that costs, access or income are shared equally among beneficiaries.

Understanding the process

## Trusts can cause income tax concerns

**Trusts pay higher tax rates than people do.**

Be careful leaving assets with income tax liability (e.g., retirement accounts) to a trust.

One thing that everyone should be aware of is that the use of irrevocable trusts can create income tax issues.

Just like people, irrevocable trusts have to pay taxes on the income they receive each year. Trusts, however, pay much higher income tax rates than people do. We're not going to get into a detailed discussion of trust taxation in this presentation, but we do want to make you aware that you should be careful about leaving assets with an income tax liability (such as retirement accounts) to a trust. If you are thinking about leaving retirement accounts to a trust, you should seek the guidance of a financial or tax professional.

## Accounts with beneficiary designations



Qualified retirement plans



IRAs and Roth IRAs



Annuities



Health savings accounts (HSAs)



Life insurance

The accounts we see on this slide have beneficiary designations. These beneficiary designations will supersede the provisions of your will. Upon your death, the custodian of these accounts will transfer ownership to your beneficiaries on file.

Once a beneficiary becomes the new owner of the account, he or she will have to comply with distribution rules. Those rules will vary based on the status of the beneficiary. For example, there are different rules for spouses and nonspouses. There are also special rules that apply when a trust or estate is the beneficiary of an account.

## How beneficiary designations work

### Primary & Contingent

#### Primary



**Person A**

#### Contingent



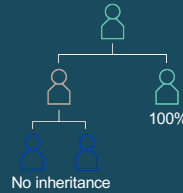
**Person B**  
*(if A passes away)*

### PER CAPITA

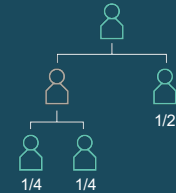
VS

### PER STIRPES

If a beneficiary passes away, their share of the inheritance is split among the remaining, originally named heirs.



If a beneficiary passes away, their share of the inheritance eventually goes to the deceased beneficiary's heirs.



It's important to understand how beneficiary designations work, especially in the unlikely event that one of your beneficiaries dies before you.

Let's start with primary and contingent beneficiaries. It's always important to name both as you fill out your beneficiary designations. When you die, the account administrator will transfer the account to the primary beneficiary or beneficiaries on file. If there are no primary beneficiaries living, then the account will transfer to the contingent beneficiary or beneficiaries on file. If there are no living beneficiaries, the account will usually become payable to your estate by default. This will usually result in the accounts being paid out in 5 years or less. All taxes due will have to be paid as assets are distributed.

The above scenario is based on what is referred to as a "per capita" beneficiary designation. Under a per capita designation, if I name my son and daughter as 50/50 primary beneficiaries, but my son dies before me, my daughter will inherit 100% of the account as the sole surviving primary beneficiary. This is the default arrangement at many financial services companies, largely because it's very simple. The problem is that it might not be consistent with my wishes.

For example, what if my son and daughter both have children — my grandchildren. In that scenario, what do you think I would want to see happen to my son's share if he died before me? I'd probably want his share to go to his kids, right? That is known as a "per stirpes" distribution. "Per stirpes" is a Latin term that means "by roots." Most financial services companies will accept a per stirpes designation, but you have to specify that's what you want. You can usually do this by writing "per stirpes" on the beneficiary designation line. It's also a good idea to make sure that the company will accept this distribution request. If it does, the company will transfer the assets to that beneficiary's "heirs at law" upon receipt of confirming documentation.

Of course, the best practice in this scenario would be to promptly update beneficiary

designations when a current beneficiary passes away.



Understanding the process

## Will beneficiaries have to pay income taxes?

**USUALLY YES**

- ▶ Tax-deferred accounts
- ▶ Annuities
- ▶ HSAs

**USUALLY NO**

- ▶ Roth accounts
- ▶ Life insurance
- ▶ Assets that “step up”

All retirement accounts will pass by beneficiary designations. These include workplace retirement plans such as 401(k)s, 403(b)s and 457(b)s as well as individual retirement accounts and Roth IRAs. Annuities, HSAs and life insurance also pass by beneficiary designation.

One thing to always be aware of is the income tax treatment of the account you are considering. Traditional tax-deferred retirement accounts, annuities and even HSAs generally contain taxable income. This means that your beneficiaries will have to pay taxes on that income as they withdraw money from those inherited accounts. Roth accounts and life insurance, on the other hand, are generally income tax free to beneficiaries.

With this in mind, it can make sense to consider income tax issues when leaving assets to beneficiaries. Here’s a really simplified example: Let’s say I have two potential beneficiaries, a son and a daughter. My son is an aspiring musician with very little annual income. My daughter is a heart surgeon in a very high income tax bracket. If I have two retirement accounts — a traditional IRA and a Roth IRA — it might make sense for me to leave the traditional IRA to my son, who will have a very low income tax rate, while leaving the tax-free Roth account to my daughter. Or I might want to leave tax-deferred retirement accounts to my son and a tax-free life insurance death benefit to my daughter. I may also want to leave my daughter assets that will step up in cost basis, such as a brokerage account or real estate.

Now, my son might protest that he’s the one who got stuck with the taxes! But I’m trying to minimize taxes on the entire estate. If my daughter pays the taxes, at her higher tax rate, more of my estate is lost to taxes. That’s money I worked for! So I could take the further step of making sure my son’s inheritance **after taxes** is equivalent to my daughter’s tax-free inheritance.

And remember, most nonspouse beneficiaries of traditional tax-deferred retirement accounts will have to fully withdraw those assets within 10 years of inheriting the account.

## Inherited account distribution rules

### Different rules for different beneficiaries (retirement accounts)

#### Spouses

- ▶ Can treat inherited retirement accounts as their own or leave them as inherited accounts

#### Estates and trusts

- ▶ An estate might face a 5-year payout
- ▶ A trust might face a 10-year payout

#### Non-spouses

- ▶ Must generally withdraw the funds (and pay the taxes) within 10 years

As we've alluded to, there are different distribution rules for different beneficiaries. These are particularly important for tax-deferred retirement accounts. While the rules also apply to Roth accounts, the ramifications are less severe because Roth accounts are generally income tax free. These rules do not apply to life insurance policies, which are also income tax free.

First, let's consider spouses. Spouses have more flexibility than anyone else when it comes to inheriting retirement accounts. When you inherit a retirement account from your spouse, you can put it into your own name and treat it as your own retirement account. Or you can leave it as an inherited account. This "inherited" status can be helpful for spouses who are not yet 59½ years old but need to access money right away.

In a recent change to tax law, nonspouse beneficiaries will generally have to liquidate an inherited IRA and pay all taxes due by the end of the 10<sup>th</sup> year following the owner's death. Exceptions apply for minor children of the deceased, beneficiaries with disabilities, and beneficiaries who are less than 10 years younger than the deceased. Nonspouse beneficiaries who inherited retirement accounts before December 31, 2019, can continue to take advantage of distributions based on life expectancy.

Estates and trusts face different rules. For example, a retirement account left to an estate must generally be liquidated by the end of the 5<sup>th</sup> full year following the owner's death. Trusts might be able to extend distributions over 10 years. Remember that any distributions to a trust that are not distributed to trust beneficiaries will be taxed at the higher trust tax

rates.

## Common mistakes on beneficiary designations

- ▶ Blank or incomplete designations
- ▶ Old designations (ex-spouses, etc.)
- ▶ Naming minors directly
- ▶ Not using the “per stirpes” option
- ▶ Not updating designations after major life events
- ▶ Naming your estate as beneficiary
- ▶ Turning a trust into a “tax trap”

While well-planned beneficiary designations can help you implement a tax-efficient distribution plan for your beneficiaries, mistakes can lead to problems. Let’s take a look at some of the more common mistakes we see with beneficiary designations.

While it may seem hard to believe, blank or incomplete designations are more common than you might think. Sometimes people might miss this in the account paperwork. Sometimes they might want to think about it but then they forget to come back and fill them out. Some people will name primary beneficiaries but forget to add contingent beneficiaries. Whatever the reason, most companies will default to paying the estate if the owner has failed to properly name beneficiaries. We’ll talk about the impact of that in just a minute.

Another potential issue is old designations. Most of us in the financial services industry have seen instances of ex-spouses receiving unintended inheritances or people failing to name their new spouse as primary beneficiary of their retirement assets. Remember that in most cases, such mistakes can’t be fixed. This is why reviewing your beneficiary designations regularly, and especially after big life events, is so important.

Many people want to include their kids or grandkids in their beneficiary designations. If I name a minor as a beneficiary directly, however, it can lead to headaches. Minors don’t have the legal capacity to receive funds directly. Mom or dad might even have to go to court and be appointed as a legal guardian in order to receive funds on the minor’s behalf. One way around this is to name a custodian under a state Uniform Transfers to Minors Act (UTMA) account. If I name “mom as custodian for Billy under state UTMA” as my beneficiary, mom will be able to manage funds for Billy without a court order. But, as I mentioned earlier, a big drawback to an UTMA account is that once Billy hits the age of majority (18 in most states), he will gain full access to the account. If I want to restrict Billy’s access to the account beyond the age of majority, I can set up a trust.

As we’ve already discussed, one of the worst things that can happen with a beneficiary designation is unintentionally disinheriting someone. That’s why it’s so important to consider a per stirpes beneficiary designation. A per capita designation can have the effect of disinheriting the children of a deceased beneficiary.

There are many objectives that can only be met by updating a designation. Let’s say that I’ve named my son and daughter as beneficiaries, per stirpes. Sadly, my son dies before me. I am very close with my son’s wife (my daughter-in-law) and would like her to inherit his share. But spouses are not considered in per stirpes designations. Only descendants are. Therefore, to ensure my deceased son’s spouse inherits his share of my estate, I need to update my beneficiary designation and name her as a primary beneficiary.

One thing we see that can be a mistake is naming your estate as a beneficiary. Doing so will generally result in an accelerated tax liability for a couple of reasons. First of all, an estate will generally have to pay all taxes due on the account within 5 years. But it can actually be worse than that. Often, a family will want to get the estate settled quickly. As a result, they may end up paying out retirement assets to estate beneficiaries within a year or two. This can result in a potentially higher tax rate on distributions.

Leaving a retirement account to a trust isn’t always a mistake. Sometimes it can be necessary to meet certain objectives. It’s important to be aware, however, that it can be a tax trap. If I distribute IRA assets to a trust, and the trust is not able to pass those assets along to beneficiaries, the trust will end up paying the taxes on that distribution, with income over \$13,050 being taxed at 37%. One way to get around this problem would be to leave tax-free Roth assets to the trust if possible.

## Hypothetical Case Study



Jim has \$500,000 in a tax-deferred retirement account.

### **Jim leaves the account to his wife, Linda.**

- ▶ Linda can put the account in her own name and would not have to take any distributions until she turns 73 years old
- ▶ If Linda is not 59½ yet, she can avoid the 10% penalty on early distributions by leaving the account as “inherited”

### **Jim leaves the account to his daughter, Diana.**

- ▶ Diana will have 10 years to withdraw assets from the account, with income taxes due as she withdraws them
- ▶ Exceptions apply for minors, disabled beneficiaries and other situations

### **Jim leaves the account to his estate.**

- ▶ The estate might have as few as 5 years to withdraw assets and pay income taxes

Here are some examples: (read slide)

## Titling often dictates what happens at death

### Applies to real estate and taxable (nonretirement) investment accounts

- ▶ Joint ownership
  - Joint tenants/tenants by the entirety
  - Surviving owner takes full ownership
  - Does not pass by will
- ▶ Watch out for tenants-in-common
  - More common among unrelated owners
  - Interest will pass to owner's heirs at law

Assets that are jointly owned generally pass by operation of law. If I own a piece of real estate or a financial account with another person as “joint tenants” and I die, the surviving owner will take full ownership of that account. This is a common form of ownership among spouses (sometimes referred to as tenants by the entirety).

Be careful, however, about property that is owned as “tenants-in-common.” This form of ownership is more common among unrelated people. If I own an interest in property as a tenant in common and I die, my share of ownership will generally pass to my heirs at law — meaning my kids or other close relatives, rather than the other joint owner of the property. In this case, my will could control who receives that interest.

## Understanding the process

### Step up in cost basis

- ▶ Dad bought ABC stock at \$100 per share 5 years ago
- ▶ ABC stock is now worth \$150 per share
- ▶ If dad sells ABC stock at \$150 per share, he will owe long-term capital gains tax on \$50 per share
- ▶ Dad leaves his ABC stock to his daughter
- ▶ ABC was worth \$150 per share when dad passed away
- ▶ The daughter's cost basis "steps up" to \$150 per share
- ▶ If the daughter sells ABC for \$150 per share, she will not owe any capital gains tax

Hypothetical example shown for illustrative purposes only.



- ▶ Step up in cost basis applies to real estate, too
- ▶ Step up in cost basis does not apply to assets held in a retirement account

When someone owns a capital asset that has appreciated in value, and that asset passes to another person at death, the new owner will receive a "step up in cost basis." This rule applies only to assets that would be subject to capital gains taxes. Here's an example of how that works:

[read slide]

The tax treatment of retirement accounts is dictated by the account type. Distributions from tax-deferred retirement accounts are taxed as ordinary income. Distributions from Roth accounts are generally tax free.



So let's review what we've discussed and talk about what you can do next.

Next step

## What legacy planning achieves

- ▶ It helps ensure that your wealth transfer goals are met
- ▶ It helps ensure that your spouse has a comfortable lifestyle
- ▶ It avoids confusion or conflict among your beneficiaries
- ▶ It spares your beneficiaries from unnecessary tax headaches and maximizes the wealth they get to keep

Taking the time to plan your legacy will help make sure that your wealth transfer goals are met.

It can help ensure that your spouse has a comfortable lifestyle.

It can avoid confusion or conflict among your beneficiaries.

It can spare your beneficiaries from unnecessary tax headaches and maximize the wealth they get to keep.

Next step

## Legacy planning checklist

- ▶ Take an inventory of assets
- ▶ Consider all your potential beneficiaries
- ▶ Execute a will and (possibly) a trust
- ▶ Consider potential income tax issues for beneficiaries
- ▶ Consider vulnerable beneficiaries
- ▶ Ensure that beneficiary designations are up to date
- ▶ Ensure that assets are properly titled

[read bullets]

So what are the things you need to do?

Here's a helpful checklist.

Remember that this doesn't have to be done all at once. Your financial professional can help you tackle this list one step at a time.

Next steps

## Take the first step



One way you can take an inventory of your assets is by using our personal info organizer. It prompts you to gather the important information that would be helpful to your family in an emergency. And it's also a place to list all your assets and get your legacy planning off to a strong start.

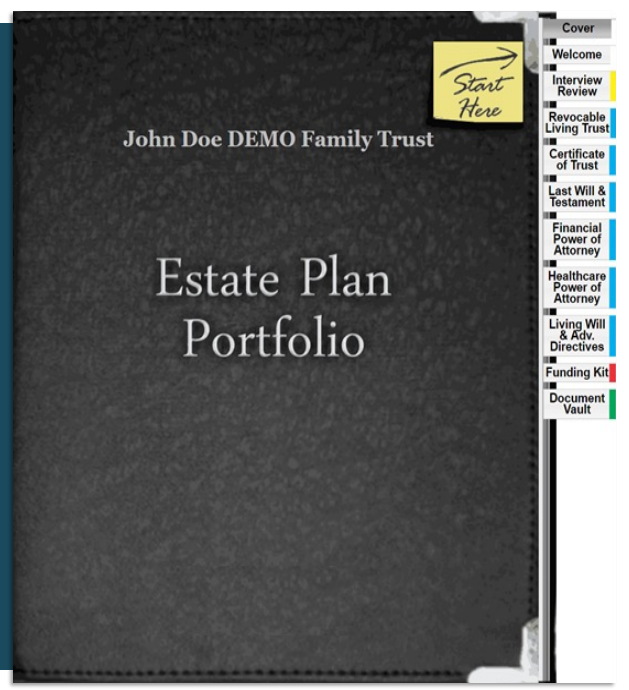
A possible Solution

## **AN INTERNET-BASED, ESTATE PLANNING TECHNOLOGY**

A Simple Process

**SIMPLE:** Online platform walks you through the process

**EDUCATIONAL:** Online videos and printed guides



A Simple Process

## SECURE DOCUMENT VAULT: Storage of and 24/7 access to all your signed documents.

This section contains: A Durable Power of Attorney over Assets

"Durable" means that the appointment of the power will "endure" even after your incapacitation.

The Durable Power of Attorney Over Assets will give your appointed agent the power to make basic financial decisions regarding assets *NOT FUNDED* into your Trust. (For assets already funded into the Trust, the Trustee already has this authority.)

This power is effective either upon the date of execution of the document or upon your incapacitation depending on the selection you make in the document. Please make this selection carefully. Your agent may use this power to buy and sell non-trust assets, write checks from your (non-trust) accounts etc. He or she could even fund assets into your Trust prior to your death to avoid probate.

The Durable Agent Notice serves to notify, in writing "to whom it concern" that your agent has accepted the appointment and will carry out such duties. It should only be executed by your appointed agent when he or she is to begin acting on your behalf as your agent.

[EDIT INTERVIEW](#)

[GENERATE DOCUMENT](#)

[UPLOAD DOCUMENT](#)

**Powers of Attorney Over Assets on file**

- ↑
 Uploaded: Signed Power of Attorney for Jim  
created: Wed, 11/14/2012 4:16pm [Delete](#)
- ↓
 Generated: Durable Power of Attorney Over Assets  
created: Fri, 10/26/2012 11:28pm [Delete](#)
- ↓
 Generated: Durable Power of Attorney Over Assets  
created: Mon, 10/22/2012 8:48am [Delete](#)
- ↓
 Generated: Durable Power of Attorney Over Assets  
created: Mon, 10/22/2012 8:44am [Delete](#)


Each Durable Power of Attorney must be individually signed and Notarized by: NOTARY REQUIRED SIGNATURE REQUIRED  
**Both John Sample & Mary Brown**

- Cover
- Welcome
- Interview
- Revocable Living Trust
- Certificate of Trust
- Last Will & Testament
- Power of Attorney over Assets
- Power of Attorney for Healthcare
- Living Will & Adv. Directives
- Funding Kit
- Schedules & Signing
- Document Vault
- Amending the Trust
- Trustee Guidelines and Forms

Flexible: circumstances change...divorce, beneficiary dies, add beneficiary or other changes in your life

A Simple Process

**FAST:** Create documents in about an hour



## Preparing Your Trust

You will need:

- ~ Names & Contact info for your beneficiaries
- ~ Names & Dates of Birth for any children
- ~ Names & Contact info for your Trustees & Agents
- ~ About an hour to complete the interview
- ~ You may come back at any time to finish!

- Welcome
- Your Information
- Trust Provisions
- Your Children
- Distribution Options
- Roles
- Add People & Orgs.
- Beneficiary Selection
- Disinherit
- Trustee Selection
- Financial Agent
- Healthcare Agent
- Advance Directives
- Advance Directives
- Organ Donation
- Guardian Selection
- Specify Bequests
- Other Options
- Review

Flexible: circumstances change...divorce, beneficiary dies, add beneficiary or other changes in your life

### A Simple Process

## SPECIAL NEEDS PROVISIONS INCLUDED IN ALL TRUSTS.

Click Disabled & the beneficiary will be included in the Special Needs Sub-Trust

The successor trustee will make sure the child is cared for, providing health, maintenance, education, and support. They live off the trust you set up.

Beneficiaries will never receive a lump sum, they'll receive 'income only' from the trust.

So, Government benefits will NOT be jeopardized.

**Add a Person to your network**

Complete as many fields as possible so the person can be properly identified & contacted by your heirs when necessary. **\*Are Required Fields.**  
Do **NOT** list your child's current spouse here. They are already in the system from earlier sections.

\*First Name:  Middle:  Last:

\*Gender:  M  F  \*US Citizen: Yes  No  Disabled: Yes  No  ?

est. Age:  or Date of Birth:

\*Related to:  \*Relationship:  Ph1:

Address:  Ph2:

\*City:  \*State:  Zip:  Country:

Email:

Notes:

**Add a Child to your Estate Plan**

If your child is not living in your home, please include their full address and contact information. **\*Are Required Fields.**

\*child of:  \*Relation:  \*Adult Disabled: Yes  No  ?

\*First Name:  Middle:  Last Name:

\*Date of Birth:  \*Gender:  Male  Female  \*US Citizen: Yes  No

Address:  Ph1:  Ph2:

\*City:  \*State:  Zip:  Country:

Email:

Notes:

Flexible: circumstances change...divorce, beneficiary dies, add beneficiary or other changes in your life

A Simple Process

## ONLINE FUNDING KIT: A system to track assets and funding.



- 1: Instructions
- 2: Guidelines for Funding Your Trust
- 3: Cash Accounts: Checking, Savings, Money Market, CDs & Safe Deposit Boxes
- 4: Vehicles (Cars, Boats, RVs and Other Vehicles)
- 5: Liability and Casualty Insurance
- 6: Life Insurance
- 7: Disability Insurance
- 8: Employer Provided Insurance
- 9: Retirement Plans and IRA Accounts
- 10: Pensions
- 11: Non-Qualified Tax Deferred Annuities

Flexible: circumstances change...divorce, beneficiary dies, add beneficiary or other changes in your life

A Simple Process

## ONLINE FUNDING KIT: A system to track assets and funding.

### 3: Cash Accounts: Checking, Savings, Money Market, CDs & Safe Deposit Boxes

#### 4: Vehicles (Cars, Boats, RVs and Other Vehicles)

Title to vehicles (cars, boats, RVs and other vehicles) can be transferred to your Trust through your state's Department of Motor Vehicles (DMV). A fee may be charged to change title. Remember to add the Trust and Trustee(s) as a named additional insured on the insurance policy covering the vehicle (if you are your own Trustee, the insurance policy will reflect you as Trustee instead of you as an individual).

[Link to All 50 State DMV offices](#)



In some states, vehicles can be transferred without probate. However, there are normally limitations on such transfers (for example, it may apply only a spouse). Also, some states allow you to name your Trust as a beneficiary of your vehicle, although a fee or tax may apply. These exceptions are typically created by state statute and are subject to change.

To transfer a mobile home into your Trust, contact the same state authority that provided you with the registration for your home.

#### List of Vehicles (Cars, Boats, RVs and Other Vehicles)

1. Vehicle Insurance Company  
Asset: 2005 Mercedes SL 65 State Farm  
Owner: John Sample  
VIN #:   
Est. Value: \$75,000.00  
Policy #:   
[Generate Insured Letter](#) [Delete Asset](#) Insured Letter: **NOT** Printed

#### Add Vehicle (Cars, Boats, RVs and Other Vehicles)

Make / Model:	Insurance Company:
VIN #:	Mailing Address:
Est. Value:	
Owned By:	<input type="radio"/> John <input type="radio"/> Mary <input type="radio"/> Both
Policy #:	

Notes:

[BACK](#)

[Save and Add Asset](#)

[NEXT](#)

\*\*Please note, new assets may take a moment to appear in your list.\*\*

Flexible: circumstances change...divorce, beneficiary dies, add beneficiary or other changes in your life

A Simple Process

**PROFESSIONAL &  
COMPLETE  
ESTATE PLAN.**

ESTATE PLAN PORTFOLIO

John Doe DEMO Family Trust  
for  
John Adam Doe & Jane Eve Doe

**REVOCABLE  
LIVING  
TRUST**

Document Generated  
Friday, July 16, 2021, 10:44 pm

Flexible: circumstances change...divorce, beneficiary dies, add beneficiary or other changes in your life

Next steps



## SET UP A COMPLIMENTARY MEETING

name@website.com

Direct 1234567891

Main 1234567891

www.webiste.com

Address 1234567891

Who can give you the personal info organizer? A financial professional. And they can guide you through all the steps of legacy planning, so that you can feel confident that your wishes will be carried out.

Thank you for your time today.