



# Live beyond yourself

**Foundational strategies for building,  
protecting, and transferring a legacy**



## Estate strategies — not just for the wealthy

Creating an estate plan is a natural outcome of your lifetime accomplishments. You've worked hard and have acquired considerable assets over the years, such as your home, retirement benefits, savings, life insurance, and perhaps shares in a business — along with all of your prized possessions.

Without a strategy in place to protect, preserve, and transfer these assets to those close to you, things may not go as you had wished or expected, and the value of your estate could be significantly diminished due to estate settlement costs and taxes.<sup>1</sup>

This guide provides an overview of estate planning — from the basics to more sophisticated strategies. As you'll see, estate planning is not just for the very wealthy.

Please take a moment to review these concepts. Then start a conversation with your Guardian Financial Professional and your other tax and legal advisors. Together, they can help you design and implement a strategy that fits your needs and situation so you can preserve and pass on the work of a lifetime.

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## Why you should have an estate plan

It makes sense to create an estate plan now to set in motion the smooth transition of your assets should you die or become incapacitated. Creating an estate plan can help you to:

- Preserve your assets and distribute them in the way you choose
- Protect your minor children
- Ensure the continuity of care provided to your child or sibling with special needs, or to your elderly parents or other loved ones
- Protect your spouse or partner from financial hardship
- Give your children and/or grandchildren a financial foundation on which to build
- Ensure protection for yourself and your family in times of sickness or medical incapacity
- Leave a social legacy to your community through a charitable bequest

## Estate settlement expenses can seriously deplete your assets

Upon your death, there are numerous debts to settle before your remaining assets can be transferred to your heirs, including:

- Funeral expenses
- Final medical expenses and other bills
- Probate costs
- Executor's and attorneys' fees
- Outstanding debts to creditors
- Income taxes on annuities and/or retirement assets
- Applicable income, gift, estate, or inheritance taxes

All of these final expenses can significantly diminish your estate, forcing your heirs to possibly liquidate assets, such as cherished heirlooms, to cover the amount due.

## What assets are included in your estate

An individual's estate is everything owned at death — from a family home to a record collection. If you haven't had your estate reviewed and assessed for a number of years, you may be surprised at its value.

Determining how you want your assets distributed — to whom and over what period of time — is your decision. Once you've made your choices, your Guardian Financial Professional can help you identify various ways to conserve and protect your assets during wealth transfer.

### Assets includable in an estate

Annuities	Life insurance
Bank accounts	Mutual funds
Bonds	Notes receivable
Business interests	Personal property
Cash	Real estate
CDs	Retirement plan assets
Inherited valuables	Stocks

## The unpredictability of tax rates

Sweeping changes in estate tax legislation over the years have created a lot of confusion. That's why it's impossible to predict if — and how much — your estate could be assessed in the future. The *Economic Growth and Tax Relief Reconciliation Act* (EGTRRA), enacted in 2001, eased estate taxes gradually through 2009 and repealed them in 2010. The *Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act* (Tax Relief Act of 2010) further changed the law regarding federal estate and gift tax exemption amounts and tax rates, affecting the very wealthy for the most part. The *American Taxpayer Relief Act of 2012* (ATRA) made further changes in the exemption amounts and tax rates. Finally, both the American Taxpayer Relief Act of 2012 and the *Tax Cuts and Jobs Act* (TCJA) of December 2017 made even more changes in the exemption amounts and rates.

ATRA made permanent the estate and gift tax exemption amounts at \$5 million (indexed annually for inflation) and raised the maximum tax rate to 40%. It also made permanent the concept of "portability," which allows a surviving spouse to "port over" a deceased spouse's unused estate tax exemption amount. The TCJA increased the estate and gift tax exemption amounts to over \$11 million per person (also indexed for inflation). However, this amount is set to sunset at the end of 2025, reverting to the \$5 million level. Where will it go then? That is anyone's guess. Most likely, we won't know for sure until then, so flexibility is key.

It is important to recognize that estate planning and estate tax planning are dynamic processes requiring a solid strategy and review on a regular basis. If your family's estate is not currently subject to federal estate and gift taxes, *it may be in the future*.

And don't forget about state taxes. Many states and the District of Columbia impose estate and/or inheritance taxes with lower threshold levels than the federal government imposes.

# Estate planning basics

Five basic planning tools can help direct the disposition of assets and defray the impact of your estate's settlement costs. These should be considered as the first steps in a complete estate planning strategy.

## 1. Your Will

This is a legal document where you provide directions on who will receive the assets that you own individually. It also specifies who you want as an estate executor, and whom you appoint as guardian to your minor children and any disabled adult children.

## 2. Living Will and Health Care Proxy

This is a legal document that must be prepared when you are considered competent to make your own decisions. It will specify to your family members and doctors what type of care you want — or *don't* want — should you become terminally ill or permanently unconscious. You may even use this document to appoint someone to make medical decisions on your behalf.

## 3. Durable Power of Attorney

If you are disabled, incapacitated, or in some cases, simply unavailable to make financial decisions, this document authorizes one or more individuals to act on your behalf in these matters.

## 4. Unlimited Marital Deduction

You can transfer all that you own to your spouse without any federal estate or gift tax penalty.<sup>2</sup> Assets may be transferred through an outright gift or via a Marital Trust. The latter is useful for professional management of funds, or to help provide for a second spouse's livelihood while ensuring that children from your first marriage ultimately inherit.

## 5. Credit Shelter Trust

This strategy was traditionally used to help preserve the federal estate tax exemption amount of the first spouse to die by using it to fund a trust for the benefit of the surviving spouse and children. The federal estate tax exemption was a "use it or lose it" proposition. The Tax Relief Act of 2010, however, introduced the concept of "portability," which allowed a surviving spouse to use his or her deceased spouse's unused exemption amount. ATRA made portability permanent. As a result, the traditional use of a Credit Shelter Trust may no longer be necessary for federal estate taxes. A Credit Shelter Trust, however, is still useful for many other reasons, including: (1) preservation of the state estate tax exemption amount; (2) asset protection; (3) professional management of assets; (4) freezing asset values and excluding asset growth from the taxable estate; (5) spendthrift protection; (6) protecting inheritances of children from a prior marriage; and more.

**A Will does not specify the transfer of assets that are held jointly or those that have beneficiary designations, such as life insurance or retirement benefits.**

## Other efficient strategies to protect and distribute assets

There are numerous ways to pass on your assets to loved ones, and one of the simplest ways is through gifting. Regular gifting enables you to efficiently distribute assets by leveraging the annual gift tax exclusion, which allows you to transfer a substantial amount of money to others tax free. This allows you to be in control of the disposition of certain amounts of money during your lifetime. It also removes the asset and its potential future appreciation from your estate, including possibly shifting the asset to someone in a lower income tax bracket.

In 2022, individuals can transfer up to \$16,000 in cash or other assets to any number of others without paying any federal gift taxes.

**Giftng offers a great opportunity to provide a solid financial foundation for children or grandchildren.**

### Establishing trusts

Trusts are legal instruments that can:

- Provide management of assets during and after your lifetime
- Provide financial protection for your family
- Avoid the delays of probate
- Control how and when your assets are distributed
- Protect assets from creditors
- Reduce potential estate taxes
- Keep assets out of the transfer tax system

There is a broad range of trusts used in estate tax planning strategies. Each kind is specific to a variety of individual or business goals and the relative worth of an estate. Some examples include:

- **Charitable Lead and Charitable Remainder Trusts** — provide a benefit for you, your family, and the charity of your choice.
- **Grantor Retained Annuity Trust** — allows you to transfer wealth and still benefit yourself through annuity payments received for a specified period, with the remainder going to your beneficiaries.
- **Intentionally Defective Grantor Trust** — allows you to transfer wealth to your beneficiaries, while maintaining a stream of income, by selling assets to a trust on an installment note basis.
- **Dynasty Trust** — allows you to create a financial legacy for future generations.
- **Irrevocable Life Insurance Trust** — provides your estate with a mechanism to help pay estate tax costs, equalize bequests among heirs, replace wealth lost to taxes — or to simply create wealth for family members.

### Using life insurance in estate planning

Protecting and leveraging assets by purchasing life insurance can be an easy, time-tested estate planning strategy. Life insurance can provide tax-advantaged growth insulated from market volatility, and a stable vehicle to protect value. In a properly drafted and administered Irrevocable Life Insurance Trust, life insurance proceeds received at the death of the insured should not be subject to income or estate taxes.

## A word about the company you choose

Your estate plan and the life insurance you've purchased to complement your estate plan both should be reviewed regularly to help ensure that they continue to fulfill your needs. When selecting a company for the purchase of your life insurance, look for one that will be there when needed — a company like Guardian:<sup>3</sup>

- A mutual life insurance company founded in 1860
- Broad portfolio with products designed to help fulfill estate planning strategies
- Access to knowledgeable representatives and professionals

## Take control. Call your Guardian Financial Professional today to get started.

<sup>1</sup> Guardian, its subsidiaries, agents, and employees do not provide tax, legal, or accounting advice. Consult your tax, legal, or accounting professional regarding your individual situation.

<sup>2</sup> If a spouse is not a U.S. citizen, other restrictions apply.

<sup>3</sup> Financial information concerning Guardian as of December 31, 2021, on a statutory basis: Admitted Assets = \$72.1 Billion; Liabilities = \$63.5 Billion (including \$51.8 Billion of Reserves); and Surplus = \$8.6 Billion.

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