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CIBC PRIVATE WEALTH

Estate planning fundamentals

Achieve your vision for wealth and legacy

What's your vision for success? We've learned that success often means achieving a sense of satisfaction and joy about the use of your wealth for yourself, your family and causes you hold dear.

It also means having peace of mind about your financial affairs, trusting that your wealth advisor is managing the complexities of wealth ownership. Additionally, for some, it means that plans are in place to realize your vision for broader community impact and a lasting family legacy.

CIBC Private Wealth can be your partner for all of your investment, wealth planning and private banking needs. Our professionals are dedicated to delivering exceptional performance and service with an unwavering focus on you and your best interests.

We hope the information on the following pages will inspire you to articulate your own vision for your wealth. It would be our privilege to help you bring your ambitions to life.

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Estate planning fundamentals

Introduction

Estate Planning Fundamentals

At the heart of every estate plan is providing for those you love. That means thoughtfully distributing the assets accumulated during your lifetime in a way that makes sense for you and your family.

Estate planning—Why you need it

- Plan for your own needs
- Dispose of your wealth in the manner you wish
- Minimize transfer taxes
- Incorporate philanthropic planning
- Protect family wealth
- Prepare future generations for the wealth they will receive

Plan for your own needs

The first step in any estate plan is to make sure your planning considers, and adequately addresses, your needs.

Your cash flow and lifestyle needs

- Income and expense considerations
- Just because you can give money away, does not necessarily mean you should

If you become incapacitated (or take a trip around the world)

- **Revocable trust:** Provides management of your assets for your benefit while you are alive and can state who will receive the property when you die
- **Durable power of attorney:** Appoints a trusted individual as an agent to act on your behalf for financial and legal matters

If you are unable to make medical decisions for yourself

- **Healthcare proxy (Healthcare Agent or Healthcare Power of Attorney):** Authorizes someone to make medical decisions if you are unable to do so
- **HIPAA release:** Allows doctors and hospitals to share medical records with people in addition to your healthcare agent
- **Living will:** Describes your own preferences about end-of-life care

Dispose of your wealth in the manner you wish

When creating your overall estate plan, you will want to consider both the assets that pass under your estate planning documents as well as those that pass pursuant to a beneficiary designation. Working with your attorney to make sure all of your assets are considered in a consistent and thoughtful manner is very important.

These estate planning documents direct who receives your wealth:

- **Will:** The basic document of most estate plans, a will names an executor or personal representative responsible for the administration of your estate after you die and distributes property as you direct. You may also appoint guardians of minor children in your will to oversee their care until they become adults.
- **Revocable trust:** Similar to a will but also providing for lifetime management, a revocable trust offers more privacy than a will since it is not a public record. However, it is not a complete will substitute, since some matters, including your funeral wishes and guardian appointments, can only be covered in a will.
- **Personal property memorandum:** This document provides guidance or direction (depending on the state) to your executor regarding those you want to receive specific items of personal property, such as jewelry or artwork, that are not covered in the will. These do not need to be signed with the formalities of a will, and can be changed whenever you want.

Note: For any document that is revocable, the law may assume that any changes in the law on a "go forward" basis may apply to that revocable document. It is important to discuss this issue with your attorney.

Assets that pass by beneficiary designation

Certain assets pass according to beneficiary designation forms rather than by direction in your will or trust. Coordinating the disposition of these assets is an important, and often overlooked, step in estate planning.

- **Life Insurance:** It may be advisable for the policy owner and beneficiary to be an irrevocable life insurance trust (ILIT) that manages and distributes the proceeds for whomever you've named as the trust beneficiaries.
- **Retirement Accounts:** The recipient of these benefits should be considered in light of changes to tax laws. You should have an advisor who is knowledgeable about the income tax rules that apply to retirement assets to review the designation and coordinate with your overall estate plan and family situation.
- **Annuities:** Annuities can provide ongoing income benefits to beneficiaries. Review the distribution and beneficiary elections with your advisor.

Minimize transfer taxes

Whether or not transfer taxes are a driving force in your estate plan, considering the transfer tax rules and your tax planning options will enhance your estate plan.

	Estate, gift & GST tax	Notes
2026	The estate, gift and generation-skipping tax exemptions are $15 million per person ($30 million for a married couple) for 2026.	Portability of deceased spouse's unused estate tax exemption
	Gift tax annual exclusion	**Notes**
2026	$19,000 per recipient $38,000 (married couples)	No limit on direct payments of qualified medical and educational expenses

Annual exclusion gifts

- Individuals may give $19,000 per year per donee ($38,000 for a married couple).
- All appreciation will occur in the hands of your donees.

Optimize the estate and gift tax exemption

- Gifts up to the gift tax exemption amount remove assets and appreciation from the estate.
- Prior to 2012, titling of assets had a critical impact on the availability of the estate tax exemption at the first death.
- Portability (transferability) of the exemption has largely eliminated that concern.
- However, it may still be beneficial to review titling of assets to ensure the availability of the exemption at the first death to freeze the value of assets and, where applicable, to take advantage of a state estate tax exemption.

Consider the impact of income taxes on your beneficiaries

- Consider the state and federal income tax consequences on transfers to beneficiaries.
- Step-up in basis at death for certain assets can mitigate the income tax impact.

Engage in generation-skipping planning

- Use of the GST exemption can avoid imposition of transfer taxes on each generation.
- Long-term trust planning may have asset protection and management benefits.

Incorporate philanthropic planning

Philanthropy can be an important component of wealth planning, whether from a legacy, personal fulfillment, generational connection or tax-planning perspective.

Choose a charitable cause that is important to YOU

- Place of worship or other faith-based organizations
- Educational institution or cause or alma mater
- Environmental causes
- Healthcare/disease prevention
- The arts

Select the assets to give

- Cash
- Appreciated securities
- Retirement assets/IRAs
- Other

How to make the gift

- Direct gift
- Planned gift in will or trust
- Charitable trust
- Donor advised fund/community foundation/family foundation
- Other

Protect family wealth

Many wealth transfer concepts also have wealth protection benefits.

Asset ownership

- Assets owned as tenants-by-the-entirety with a spouse may be protected from creditors.
- Assets owned in qualified retirement plans and IRAs (in some states) may also be protected.

Insurance

- Life insurance can be a wealth replacement asset for value lost to taxes.
- Other forms of insurance, such as property, casualty and liability offer protection benefits.

Limited liability entities

- Assets owned within the entity may be protected from creditors.
- Liability for activity within the entity is generally limited to the assets of the entity.

Irrevocable trusts

- Assets in a discretionary trust may be protected from creditor claims.
- Assets distributed to beneficiaries will be subject to claims.

Asset protection trusts

- Assets in a self-settled trust may be protected from claims of the donor's creditors.
- Any assets withdrawn or distributed to the donor will be subject to claims.

Prepare future generations to receive the wealth

In working with our clients, we have learned that clients who are successful at transitioning wealth from generation to generation adhere to three core principals. Those three principles and the best practices to achieve each principles are:

Integrate planning for family wealth

- Engage in strategic planning
- Revisit planning regularly
- Involve collaborative advisors

Develop the rising generations

- Provide age-appropriate transparency
- Create a learning environment
- Encourage opportunities for involvement

Evolve healthy family wealth culture

- Preserve family stories and history
- Articulate a common purpose
- Foster communication

Wealth distribution considerations for basic estate planning

After discussing how to maximize the value of the wealth passing to your family, and minimize the impact of estate or inheritance taxes through the use of trust planning, the conversation often turns to more specific considerations of what those trusts should provide, and what that means for your family.

The best place to start is often to answer some basic questions about how you would like your wealth plan to look upon the occurrence of certain events and at various stages of your family's lives. Once the basic picture is established, the actual language to make that picture come to life can be discussed, followed by consideration of who you wish to carry out the completed plan.

Considerations for wealth distribution

- **How do you wish your wealth to be distributed if one of you died today?**
  - Do you want all of the estate to be available for the needs of the surviving spouse, with the remaining assets passing to your children only at the second death?
  - How much access to the wealth do you wish the surviving spouse to have?
  - Do you want your children to have any access to any of the wealth immediately?
- **How do you wish your wealth to be distributed if something were to happen to both of you today, or at the death of the survivor, while your children are still in school?**
  - Who do you want to take care of your minor children while they are in school?
  - Would you want the guardian to be compensated from the trust assets used to provide for your children?
  - Beyond support needs, what would you like their trusts to provide (i.e. private school, international travel)?
  - Do you want trust assets to pay for all of college and graduate school expenses, or do you want your children to have some responsibility?
- **How would you wish wealth to be managed and/or distributed to your children after they finish school?**
  - Do you want the wealth to be managed for their benefit or distributed to them? At what ages?
  - What do you want their trust assets to be used for?
  - How broad or controlled would you like the trustee's discretion to be?
  - What type of other sources of wealth would your children have an interest in?
  - Do you believe there are any ancestors that will leave you or your children an inheritance? If so, does that change anything?
  - Do you want to restrict access to money if your children develop a substance abuse problem? If so, what would be the trigger point?
- **What type of conditions do you want to place on the assets you transfer to your children?**
  - Do you wish to provide for protection from creditors?
  - Do you wish to protect your children from their own mistakes?
  - If so, how much do you want to protect?
- **How would you like your family's wealth to be used for your grandchildren?**
- **Would you like to include charity, other family members, or other individuals in your wealth distribution plan?**

Some examples of distribution methods

- **Distribution of tangible and real property**
  - All to spouse, and then at spouse's death, divided among children or other beneficiaries
  - Listing of specific items, followed by general distribution as above
  - Specific monetary devises to particular individuals
  - Real property not owned jointly to surviving spouse, then to children or other beneficiaries

- **Distribution of trust income**
  - All net income periodically
  - Distribution of income in the trustee's discretion for health, education, maintenance and support
  - Distribution of income in the trustee's discretion for other purposes
  - Distribution of income in the trustee's absolute discretion
  - Consideration of other sources of income
- **Distribution of trust principal**
  - Distribution of principal in the trustee's discretion for health, education, maintenance and support
  - Distribution of principal in the trustee's discretion for other purposes
  - Distribution of principal in the trustee's absolute discretion
  - Right of withdrawal of $5,000 or 5% of trust, annually
  - Limited power to direct distribution among a specified group of people or organizations during life or at death (limited power of appointment)
  - General power to direct distribution to anyone, including the power holder during life or at death (general power of appointment)
  - Consideration of other sources of income
- **Termination provisions**
  - At a stated age
  - Staggered distribution at stated ages
  - At the occurrence of an event
  - No termination—continues for lifetime and passes to the next generation

Choosing words carefully

Providing your trustee with proper guidance regarding how you want trust property to be distributed to your beneficiaries is one of the most important elements of good plan design. Some words used in trust agreements can have a very specific legal meaning, while others can be a personal expression of your intent. As you work with your legal advisers, it may be helpful to understand the meaning of certain terms.

Health, education, maintenance and support: The ascertainable standard

These words are among the most common used to guide a trustee in making income or principal distributions. Because they can provide a favorable estate tax result when applied to a beneficiary-trustee, they have been reviewed often by case law. While specifics can vary from state to state, the following examples provide general guidance of what each of those words may include:

- **Health:** Routine health care examinations; necessary surgeries; dental care; eye care; emergency medical treatment; psychiatric and psychological treatment; health care insurance
- **Education:** Elementary, secondary and college education; graduate, post graduate and professional education; technical or vocational education; support of the beneficiary while in school; career training; study abroad programs
- **Maintenance and support:** Mortgage or rent payments; utilities; property taxes; food; accustomed patterns of vacation; continuation of family and charitable giving; home maintenance; existing programs of life and property insurance

Other commonly used terms:

- **Comfort:** The trustee will generally give weight to the desires and habits of the beneficiary within the context of the beneficiary's standard of living at the time the trust was created.
- **Benefit:** This term is often interpreted similarly to the term "health", and considered in the context of the beneficiary's and trust's circumstances as a whole.
- **Best interests, welfare and happiness:** A standard giving the trustee broad powers, but also implying a responsibility to understand the beneficiary's needs and lifestyle.
- **Complete discretion of the trustee:** The broadest standard, under which the trustee should be mindful of applying consistent policies of distribution to all beneficiaries.

It is important to note that these are guidelines that may vary from state to state. If there is a wish to restrict or expand on these general definitions, the trust may define the term as desired, keeping in mind the tax implications.

Under all of the distribution standards, the trust creator has the ability to craft specific uses for trust property. Similarly, grantors of trusts can limit the use of trust property to emergencies or other contingencies, such as circumstances where the beneficiary leads a productive life, as defined by the grantor. Since the meaning of these terms can sometimes be unclear, detailed descriptions guiding the trustee can be useful. However, it is important to understand that whatever is written in the trust agreement is binding upon the trustee. The proper balance between express direction and flexibility is the ultimate goal, and should be discussed with your legal adviser.

Types of fiduciaries to carry out your plan

The people or institution you choose to carry out your plan will, in large part, determine its success. Understanding the responsibility and authority of these roles will help you select the right fiduciaries.

Executor of will or personal representative of estate

- Person or organization that will carry out the terms of your will and distribute assets owned in your sole name passing under your will.
- Responsible for accountings and other submissions to the probate court
- Prepares federal and state tax returns (for transfer and income taxes)
- Can be one or more people, a professional, an organization or a combination

Trustee of trusts

- Person or organization who carries out the terms of trusts created under your estate plan
- Invests and manages trust property
- Makes distributions of trust income and principal to beneficiaries
- Prepares trust income tax returns and reports income to beneficiaries
- Can be one or more people, a professional, an organization or a combination
- Spouse and other beneficiaries may be trustees or co-trustees of their own trusts

Guardian of minor children

- Person who takes care of children during minority if both parents are deceased

Attorney-in-fact for financial matters (Power of attorney)

- Person who manages financial matters if you are unable to do so for yourself

Attorney-in-fact for healthcare matters (Healthcare power of attorney)

- Person designated to make healthcare decisions for you if you are unable to do so for yourself
- Should include HIPAA release to obtain medical information
- May also include advance medical directives describing your wishes regarding use of life-sustaining treatments if you become permanently unconscious

Planning for distribution of your wealth can be a daunting task. If you begin by asking how you wish the ultimate picture to look, you can much more successfully structure the right way to get there.

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Life insurance planning

Life insurance planning

A well-constructed and comprehensive wealth management plan involves the periodic evaluation of your goals and objectives. Such evaluations can often lead to the conclusion that a life insurance program, when structured and monitored properly, can play an integral part in your overall wealth management plan.

Purchasing life insurance can be an important strategic step in caring for your loved ones, especially those who depend on you for their financial support. It can help to protect and transfer the wealth that you have earned or accumulated over your lifetime, as well as assets gained from investment activities. Life insurance can also be an effective tool to provide liquidity to cover estate taxes, replace lost income, eliminate debt or provide for specific needs.

You must consider numerous factors before you purchase a life insurance policy, including the purpose, the type of policy, how much coverage is needed, as well as how to manage the policy while it is in force.

Purposes of life insurance

Before you buy life insurance, you should first identify exactly what you would like to accomplish with it. (While insurance is sometimes considered for investment purposes, this paper will focus on planning.) An evaluation of your goals and objectives will assist you and your advisor in determining the appropriate amount of coverage and type of insurance. It is important to note that the need for insurance may change over the course of your life and in response to changes in your family and your wealth picture.

For young families:

- To replace lost income resulting from an untimely death of one of the providers
- To create an estate for payment of expenses of raising a family (maintenance, support, education, etc.)

For blended families:

- To provide for a new spouse, allowing children to inherit other assets
- To provide fairly for children of separate marriages
- To provide for wealth transfer equalization among different family members

For families with estate tax liabilities (state or federal):

- To replace wealth lost to estate taxes
- To create a pool of liquidity for payment of expenses and taxes
- To establish a base amount of inheritance

For business owners:

- To fund buy/sell arrangements
- To replace income needed due to an untimely death of one of the chief revenue earners (key person insurance)
- To attract and retain key employees
- To provide an inheritance for heirs not receiving the family business

Types of life insurance

Once an assessment has been performed and your goals articulated, you should consider many factors when evaluating insurance options. Much like investments, there are many types of insurance products from which you can choose to best match your needs.

Term insurance: Temporary insurance that provides a death benefit of a stated amount for a stated duration or term. At the end of the term, the coverage expires or becomes cost-prohibitive. Because of the temporary nature of term insurance, it is typically the cheapest short-term insurance option. Term insurance products generally have a "conversion" feature whereby the policy owner can "convert" the term insurance product to a permanent product with the same insurer without re-certifying insurability.

Permanent insurance: In contrast to term insurance, permanent insurance is designed to pay a death benefit at the insured's death, whenever that occurs. Permanent insurance requires higher initial premiums than term insurance; however, permanent insurance products can offer several advantages in addition to the death benefit receipt, such as premium flexibility, cash values and tax-deferred investing. Clients can select from several different types of permanent insurance products:

1. **Universal Life (UL)** UL policies are designed for maximum flexibility. Policy owners can vary the amount of premium paid as well as reduce the death benefit. UL policies also offer cash value that is credited at a rate set by the insurer based on the yield of its general account, which is typically invested primarily in highly rated corporate bonds. Premiums and interest are credited to the policy cash value while the cost of insurance and mortality and expense charges are deducted. Fluctuating credit rates can negatively or positively impact policy performance.
2. **No-Lapse Guaranteed Universal Life (GUL)** The death benefit is guaranteed provided premiums are paid on time, and there is flexibility in premium payment plans.
3. **Indexed Universal Life (IUL)** IUL policies function identically to UL policies except for what drives the credit rate. While UL policy credit rates are based upon an account invested primarily in highly rated corporate bonds, IUL policies are credited interest based on a broad market index, such as the Standard & Poor's 500 index without dividends, subject to a minimum and maximum credited rate. Because of the possibility for enhanced credit rates in comparison to UL products, IUL products can have lower premiums for the same death benefit. However, the client takes on substantially higher performance risk with an IUL product than with a UL product. The insurer can also unilaterally adjust the minimum and maximum crediting rates to the detriment of the policyholder.
4. **Variable Universal Life (VUL)** VUL policies function identically to UL and IUL policies except the policy cash value is invested directly into investments similar to mutual funds set by the policy owner rather than being credited a rate. Of the five types of permanent products named here, VUL policies subject the client to the most performance risk, but with the most upside potential with respect to cash values.
5. **Whole Life (WL)** WL policies have guaranteed premiums and a guaranteed level of cash value whereby, if paid every year, the cash value will eventually equal the policy's death benefit at policy maturity. The performance of a WL product is enhanced by the insurance carrier's dividend scale, which is adjusted based on the insurer's general account investment returns, expense management and mortality results. Dividends can be used to reduce premium outlay, enhance the policy cash value and death benefit, or be paid out as cash. Because policy dividends are non-guaranteed, clients must monitor their policy's performance as they would a UL policy.

Determining how much life insurance to carry

Determining how much coverage to purchase is an important question to review with your advisor and depends on the needs you are seeking to address. If you are seeking to provide for a young family in the event of the untimely death of a breadwinner, it will be important to evaluate what the family's income and expense needs are projected to be over time. If an estate may be subject to federal or state estate tax, an estate tax analysis can help determine whether insurance is

necessary or recommended to replace wealth lost to taxes, or to provide liquidity for taxes and expenses if estate assets are illiquid. One critical component to that analysis will often be the cost of the premium. You and your advisor will want to address the following questions about premiums:

- Is there a maximum premium you are willing to pay for the coverage?
- Is there a particular period over which you wish to pay the premium?

The flexibility to skip or change premiums may be beneficial for some individuals. For example, if you have varying demands on cash flow or your income is cyclical, the ability to skip or reduce the premium for a year or two may be important. In addition, you may want to be able to reduce the death benefit from time to time. The flexibility to reduce the death benefit enables you to modify the policy as your need for insurance decreases. It also enables you to maximize the cash value or reduce the premium commitment in the later years.

Insurance on the lives of two individuals, often referred to as "survivorship" or "second-to-die" policies, is generally less expensive than single-life policies. However, the premiums will usually be due over a longer time (until the death of the second insured) and can present planning complications in the event of a couple's divorce. In addition, it may make sense to consider more than one policy, or more than one kind of policy or carrier, for meeting different needs or to diversify the insurance program as you would your investment portfolio.

Tax considerations typically play a significant role when building the appropriate life insurance strategy. The level of premium and duration of the premium payments may need to be coordinated with income, gift or generation-skipping transfer tax considerations.

Administering a policy

A successful insurance program does not end with the purchase of the policy. A number of activities should be carried out over the life of the policy, beginning with the decision of who should be the owner, how to fund premiums and the ongoing monitoring of the policy to ensure that it continues to meet its intended purpose and is performing as expected.

The following are various ownership options available:

Ownership retained by insured:

- This is the most flexible for making changes, including beneficiary changes and termination.
- The policy proceeds are included in the insured's estate for tax purposes.

Ownership by spouse or other family member:

- Control is no longer in the hands of the insured.
- The death benefit is excluded from the insured's estate, but proceeds are an asset of the estate of the owner.
- The value of the policy is included in the estate of the owner if he or she predeceases the insured.
- Gifts may need to be made to fund premiums.
- This ownership can create complexity in the event of a divorce.

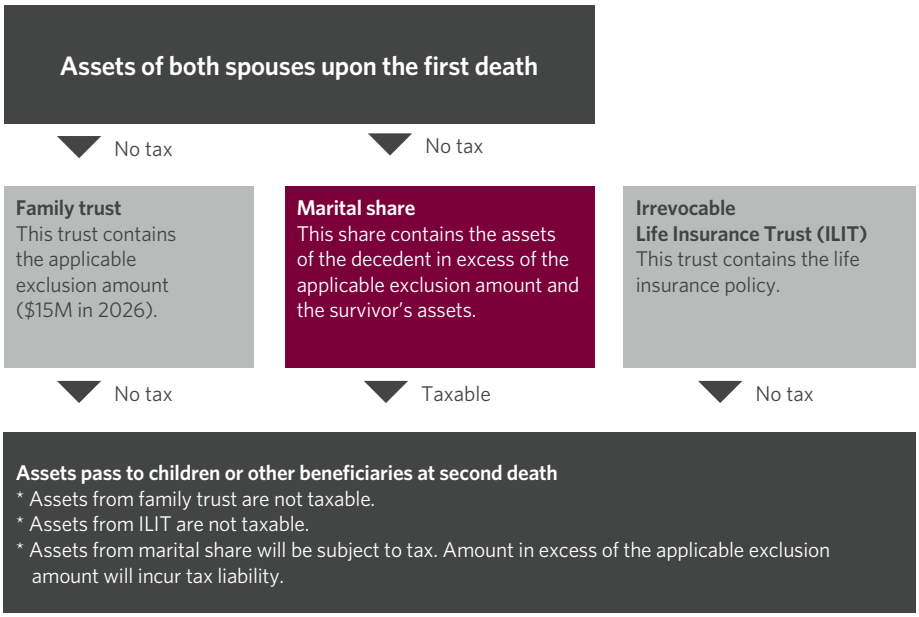
Ownership by an irrevocable trust:

- Control of the policy is in the hands of the trustee.
- Proceeds are excluded from the estates of the insured and the beneficiaries.
- Proceeds are managed for beneficiaries and may have tax and asset protection benefits.
- Gifts may need to be made to fund premiums.

Since estate taxes are imposed on all of the assets in the estate, many people choose to rearrange the ownership of assets to most efficiently transfer property and meet tax liability. Because life insurance is an asset that generally has little value to an individual while alive, one method of reducing estate taxes and maximizing the utility of life insurance is to arrange for ownership of the policy outside of your estate through an irrevocable life insurance trust (ILIT).

Generally, an ILIT can own a life insurance policy and remove the proceeds from the estate of the insured and the insured's beneficiaries, while still preserving the benefit of the proceeds for the family and providing needed estate liquidity. Under such an arrangement, the policy will be purchased by the ILIT, and the grantor/insured will pay the premiums on the policy through transfers that can qualify for the annual exclusion or lifetime exemption. Because neither the insured/grantor nor spouse retains any ownership rights over the policy, the proceeds may escape taxation in both estates. However, the terms of the ILIT can make the proceeds available to assist with estate liquidity needs and provide for the needs of the family.

Note: Because the trust is irrevocable, the grantor generally cannot get anything out of the trust once the trust is funded.



Funding of insurance premiums

The next administrative task is determining which of the several methods available for funding insurance premiums will be used. It is not uncommon for a combination of strategies to be employed over time. Techniques may include:

- Outright—annual exclusion gifts or lifetime exemption
- Loans to owner or to trust
- Existing trust assets
- Appreciation from a terminating grantor retained annuity trust (GRAT)
- Private split dollar
- Other sophisticated planning strategies

Finally, a few additional administrative matters will need to be handled over time:

- Timely payment of premiums
- Periodic review of policy for suitability and viability of carrier
- Crummey notices for trust-owned policies

Evaluating a policy over time

If you have a life insurance portfolio currently in place, review your policies periodically, especially if you experience triggering events such as marriage, divorce or additions to your family. After re-evaluating your goals, you should start by pulling together certain key pieces of information and examining them for basic requirements. Because policy evaluations can be difficult and confusing, you may wish to consult with an insurance professional to review insurance goals and the efficacy of the program you have in place.

A current policy statement from the carrier should tell you the type of policy, the premium, the guaranteed and total cash value, the death benefit, the dividend amount and application, the credited interest rate, any loan balance, the surrender value, interest rate and much more. If not already shown on the policy, be sure to confirm policy ownership and beneficiary designation. The original sales ledger illustration shows what you thought you were buying and what you likely expected from the policy. A current in-force ledger illustration shows where the policy stands today and how the insurer projects it will perform in the future based on the current expenses and crediting rate or an assumed rate of return. Finally, the current ratings from the major insurance rating services can tell you about the claims-paying ability of the carrier and other important information.

Once you have all the relevant information, review the following points:

- If the policy is whole life, check how the dividends are being applied. Is the application appropriate? Will premiums support the policy as anticipated?
- If the policy is universal life, check to see if the current premium is adequate to support the death benefit for the expected period of coverage. If not, be prepared to explore the options, which might include reducing the death benefit, increasing premiums or just being content to support the death benefit to several years beyond life expectancy.
- If the policy is variable life, look at how the cash value is being invested. Is the current premium adequate to support the death benefit for the expected period of coverage? Also, what options are available to bridge any gaps?
- Stress-test the illustration at different rates of return.

Whether the policy is new or existing, there are several additional points to consider once you have evaluated or amended the suitability of various features. You and your advisor should feel confident that the insurance carrier is strong. Clearly, you will not want to do business with a carrier that you might outlive. Thus, the financial strength of any carrier suggested by an insurance agent must be verified by the major rating services. Ratings themselves are primarily indicative of the ability of the carrier to meet its obligations (i.e., to pay the claim). You and your advisor must be assured that along with high ratings, the carrier is in a position to achieve the projections made in the policy illustration, that it has treated policyholders well in the past, that the products are competitive and well designed and, most importantly, that the policy is appropriate for your needs.

While evaluating the suitability of an existing portfolio of insurance, you may determine that certain policies no longer meet your needs, or sometimes the need for which you originally purchased the policy has changed or no longer exists. You will want to consider and discuss options such as these with your advisor and insurance professional.

Below you will find suggestions on how to evaluate your policy over time.

- **Reduction in death benefit:** If the full death benefit on a policy is no longer needed, you may reduce the death benefit and also the amount of premium outlay.
- **Internal policy exchange:** In some cases, it may be appropriate to evaluate a life insurance policy exchange. Ask if the carrier offers an internal exchange program that allows you to exchange your existing policy for a new one with different features. You might find that the exchange can be done without full medical underwriting or that the commission on the new product, the sales loads or other policy costs (i.e., surrender charges), may be reduced or eliminated.

- **External policy exchange:** In addition to an internal exchange, you may be able to exchange an existing policy from one carrier to a new policy administered by a different carrier through a Section 1035 exchange. The process involves the policyholder exchanging his or her existing policy for an equivalent new policy. The primary requirement is that the policy owner and the insured must remain the same. If done correctly, the exchange can happen without incurring any taxes.
- **Surrender of policy for cash value:** One of the main benefits of cash value is that it provides for "walk-away" value if you decide that the death benefit is no longer needed. The surrender value may not be the same as the account value and it is important to obtain clear information. In addition, there may be income tax consequences to surrender, particularly if surrender value exceeds premiums and/or if there are loans outstanding against the policy.
- **Intentional policy lapse:** If you no longer need the death benefit at all and do not wish to pay further premiums, you may decide to let the policy lapse. Note that there may be negative income tax consequences if you allow a policy to lapse if there are outstanding policy loans.
- **Transfer of a policy to a family member:** In some cases, although you may no longer wish to maintain a policy, members of your family may wish to continue the coverage on your life and be willing and able to make future premium payments themselves. There may be gift and/or income tax consequences depending on the type and value of the policy.
- **Sale of the policy to a third party:** You may sell your policy to an individual or a life settlement company in exchange for cash. The new owner will keep the policy in force and receive the death benefit when you die. The sale will produce taxable income and may include both ordinary and capital gain components.
- **Gift of the policy to charity:** You may be eligible for an income tax deduction for the value of the policy at the time of the gift to a qualified charitable organization. The charity will then be able to exercise all of the rights and powers of a policy owner, including monetizing the policy pursuant to the policy options. Special considerations will apply if there is an outstanding policy loan.

In evaluating various strategies, it is important to consult with your financial advisor regarding the impact on your estate plan, as well as your tax advisor and insurance professional to be sure you understand the gift, income tax and long-term implications of various strategies.

Evaluating your insurance program

Insurance policy evaluations can be difficult and confusing; you may wish to consult with an insurance professional and your financial advisor to review insurance goals and the efficacy of the program you have in place. The illustrations below demonstrate the benefits of reviewing your coverage as your needs change.

A change in circumstances

The clients are business owners with a taxable estate. They had purchased a $3,000,000 second-to-die life insurance policy almost 20 years ago. The original purpose was to provide liquidity for estate taxes, as the vast majority of their estate is illiquid.

Under the original anticipated rates of return, premiums were paid for a period of years and then stopped; no premiums have been paid in recent years. Current illustrations reveal that the policy will only last a couple more years if no additional premium is paid. Moreover, the policy will require approximately $63,000 annually to have benefits last until the clients reach 100 years of age.

Surprised that their policy will expire before they die, the clients underwent new underwriting and found that a new life insurance policy will only require $43,000 annually to have the benefits last until the clients reach 100 years of age. After exploring options for improving the old policy, it was determined that transferring the cash value to a new policy via a 1035 tax-free exchange was the best direction for the client. The result of the evaluation was a 33% ($20,000) annual premium savings, with longer lasting coverage.

A change in objectives

A client couple purchased several permanent life insurance policies on their individual lives to provide income for their family in the event of their deaths. The policies accumulated over time to a total of $1,300,000 of death benefit. The clients are now in their early 60s and do not need the insurance for the original purpose, as their net worth has significantly increased.

Their new objective is to provide liquidity for estate taxes and maximize their children's inheritance by replacing the wealth lost to taxes. After a review of their policies and objectives, a second-to-die policy was recommended that would have a death benefit at the second death equal to the anticipated estate tax liability. By surrendering the current coverage, which created only minimal tax obligations, and redeploying the surrendered funds to a new policy, the clients were able to purchase a $3,200,000 second-to-die policy for the same premium outlay.

Experiences of clients with life insurance products will depend on their unique facts and circumstances and the same results cannot be guaranteed for all clients. This material is intended for informational purposes only and should not be construed as legal or tax advice and is not intended to replace the advice of a qualified attorney, tax advisor or plan provider.

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Estate planning fundamentals

Planning considerations for modern families

Beyond Ozzie and Harriet—special planning issues for modern families

"Family" is a powerful word, loaded with meanings and emotions. And today, family structures go far beyond historical legal and cultural definitions, bringing new perspectives and new considerations to estate planning.

When the term "nuclear family" was coined in the mid-20th century, it quickly became closely identified with an "Ozzie and Harriet"-type family: a married father and mother and their children all in one household. In 1970, 67% of Americans ages 25 to 49 were living with their spouse and one or more children younger than 18. Over the past five decades, that share has dropped to 37%.[1] Today, a family can be an opposite-sex married couple and their children; single parents with children from one or more partners (single parents now make up approximately 25% of households, according to the U.S. Census Bureau); unmarried couples (both same-sex and opposite-sex) with children; households headed by grandparents; families of all configurations who have used assisted reproductive technology (ART); and "blended family" households. The modern family also includes single people with close relationships to siblings, nieces and nephews, or small circles of friends considered family.

The number of adults living with a partner to whom they are not married has more than tripled in two decades, now reaching 26 million people. Significantly, cohabiting adults above age 35 now comprise 45% of all cohabiting households.[2] This age group is more likely to have accumulated assets, prompting the need for expert planning (and perhaps explaining their reluctance to marry). Although marriage overall is on the decline, it still conveys extraordinary legal benefits to couples. In fact, in its landmark 2015 decision on same-sex marriage, the U.S. Supreme Court cited 14 benefits of marriage.[3] Many of these legal benefits relate directly to family estate planning, among them: the marital tax deduction; Social Security benefits; individual retirement account (IRA) rollovers and spousal IRAs; legal decision-making, such as suing for wrongful death of a spouse or making decisions on burial or other final arrangements; and employment benefits, such as the insurance and retirement plan benefits of a deceased spouse.

Countering the fact that marriage in the U.S. is declining in overall numbers, remarriage has been on the rise for decades: About two-thirds of Americans who have divorced have gone on to remarry.[4] Often, these remarriages come with additional family members. According to data from the National Center for Health Statistics, 63% of women in remarriages are in blended families, and about half of these remarriages involve stepchildren who live with the remarried couple.[5]

We now see a much greater variety of family types than in the past: everything from people waiting much longer to get married and accumulating sizable assets during that period, to people on their second or third marriages with a mix of children between them.

These variations on a theme are made up of three predominant categories: As of 2017, 31% of American households are without children, 35% are heterosexual married couples with children, and 34% are defined as "modern households," comprised of blended, multigenerational, same-sex and single-parent families.

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1 The Modern American Family: Key trends in marriage and family life, pewresearch.org, 9.14.2023.
2 Cohabiting Partners Older, More Racially Diverse, More Educated, Higher Earners, census.gov, 09.23.2019.
3 Obergefell et al. v. Hodges, supremecourt.gov/opinions, October Term 2014 .
4 8 facts about divorce in the United States, pewresearch.org, 10.16.2025..
5 The American family today, Pew Research Center, pewresearch.org, 12.17.2015.

Special planning issues for today's families

For any of today's types of families, the essential estate planning questions of yesterday still apply: To whom—or to what—do I want my wealth to go? How much of it? And how do we define "enough" or "too much"? When should money be given? In what form should money be given—outright gifting or long-term trusts? Who will speak for us when we can't communicate our wishes?

These are not easy questions and they can get much more complicated when the family model differs from those in the past. For all families doing estate planning today, it's helpful to be mindful of changing family structures. For example, aging grandparents with 50 years of marriage behind them may not consider that their children and grandchildren may form families with configurations very different from their own.

One of their unmarried children may eventually have a same-sex partner. It's not that the parents would necessarily reject that, it's that they're just not *thinking* about it. People also need to consider the issue of gender identity. Think of a person who uses the word 'sons' in a will. What happens if one of those sons goes through a gender identity change? This is where we encourage clients to build in as much flexibility as possible into their documents, especially when they're planning for a third or fourth generation. Often, the best approach is to plan for all the generations that follow but build in enough flexibility to allow the generation that immediately follows the grantor to adjust that planning for the next generation. This allows each generation to plan for the next generation and to make sure that planning reflects the reality of that next generation.

In general, the special planning concerns for families that differ from "traditional" families of the past fall into three main categories: **Essential planning documents, taxes and finances under one roof**, and **relationships: legalities and realities.**

1. Essential planning documents

Certain planning documents are essential for all types of families, but there is an increased need for them in some types of "nontraditional" families.

Ironically, the families most in need of mindful planning may be the families most tempted to ignore it. People with no children often fail to prioritize estate planning because of apathy: If they are gone and not survived by people who depend on them, does it really matter where the money goes? But, in many ways, planning for single nonparents is even more essential than it is for married (or unmarried) couples with children. We tend to assume that people with children will pass their estates to their children, and most states do follow that course absent a will. But people without children need to think in terms of whether their assets will go to nieces, nephews, siblings or a charity. When no plan is in place, most states distribute the property belonging to people who pass away without children to the decedent's parents, siblings, or even grandparents or cousins, depending on the family tree. This can yield undesirable results both in terms of tax planning and the needs of the beneficiaries.

Anyone without a will is subject to his or her state's laws on disposition of assets—if you don't provide otherwise, the law is going to presume, and dictate, what you wanted. In many states, the default disposition for an unmarried person without children is that one-half goes to parents, and the other half goes to siblings. But let's say you're an only child, and your parents are deceased. In that case, your estate might be split 50/50 to "mom's side of the family" and "dad's side of the family." Suddenly, your assets are going to extended family that you weren't close to, rather than to your favorite local charity or close friends.

In addition to missing the opportunity to meaningfully direct their assets upon their deaths, people who ignore their estate planning may also inadvertently ignore the need for an advance directive. Without a natural "next of kin" to speak up on their behalf in the event of incapacity, those without a spouse or child can face a greater need to formally appoint an agent. Who should communicate your health care wishes for you if you can't do so yourself? Without an appointee, if you're incapacitated, you may find yourself subject to a guardianship proceeding brought by well-meaning people; a

nonprofit organization staffed by people you've never met could be awarded guardianship over you, with the right to make your health care decisions and move and control your investment accounts.

An "advance directive" is a general term for any written healthcare instruction specifying your wishes or naming an agent, or "proxy."[6] All 50 states permit competent adults to express their wishes as to medical treatment in the event of terminal illness or injury and to appoint someone to speak on behalf of a patient who is unable to communicate. Depending on the state, these documents may be known as living wills, medical directives, healthcare proxies, healthcare powers of attorney or advance health care directives. In many states, each of these names refers to a distinct document: For example, in New York, a living will is separate from a health care proxy. Some states have a standardized or statutory form, while other states allow residents or their attorneys to draft a custom document.

If you're married and haven't designated a healthcare agent, the concept of "the sanctity of marriage" will generally apply—most societies recognize that a spouse should make consequential decisions about medical care, including those that may end life. If you are in the midst of a divorce but are still legally married, it's important to consider whether you still want your soon-to-be-ex-spouse making such decisions for you.

For unmarried couples or single people without a legal document naming an agent, questions abound: If you don't have a living will, is it presumed that you want to be kept alive? Can another family member's recounting of what they once heard you say be used as definitive guidance? Do you and your children or other family members agree on the definition of a "terminal" condition? Did you discuss it with your partner? How do you define "life-sustaining treatment"? It's important to discuss each of these questions with your attorney, as the answers can vary by state and by situation.

[6] The Conversation Project, Who Will Speak for You? conversationproject.org.

Case study: Who can speak for you?

Your partner with whom you live is unexpectedly in the hospital and unconscious. Also unexpectedly, you find in a moment of great stress that her children from a prior relationship have barred you from visiting, discussing her condition with doctors or making any decision on her course of treatment. Says who? Absent a power of attorney for healthcare, or a healthcare proxy, the hospital may decide that under the law you are not her next of kin, and that her children are the only ones who can speak for her. The family may say, 'You're the partner; you're not family.' The hospital may agree. In addition, the Health Insurance Portability and Accountability Act (HIPAA) requires healthcare providers and organizations to follow procedures that ensure the confidentiality and security of protected health information; adherence to HIPAA may mean that doctors are unable to include you in these decisions even if they are sympathetic to your plight.

2. Taxes and finances under one roof

From property tax to income tax to estate tax, the Internal Revenue Service (IRS) applies different rules for different folks. Married? You go in one category. Single? There's a set of rules for you. Single with kids? Yet another category. In love but not married? You're probably "single" in the eyes of the IRS.

Unintended "Gifts" and Potential Taxes

While a couple may define themselves as being "in a relationship," the consequences of not having concrete legal underpinnings on that relationship can be significant. Consider an unmarried couple who decide to buy or build a house together. This is potentially a wealth transfer between two people not in a legal relationship. One may provide the funds for the down payment, while the other's name is on the mortgage and makes the monthly payments of interest and principal. Either or both names may be on the deed, and the variety of joint-titling options can further muddy the waters. We must be very cognizant of situations in which one person receives a financial benefit from another. It feels like what two people in a marriage would do, but they're not married. Couples may do this with the attitude that what's mine is yours and vice versa, but because they're not married, the transaction may be characterized as a gift from one to the other. This decision can certainly have tax consequences.

Estate Taxes

Avoiding estate taxes is no longer a primary concern for many families because the One Big Beautiful Bill Act of 2025 increased the federal estate tax exemption. As of 2026 that exemption is $15 million per individual. Under the current federal estate tax law, spouses enjoy the benefits of the marital deduction and they can effectively share their estate tax exemptions under a concept known as portability. With portability, a surviving spouse can use the deceased spouse's unused exemption and their own during life or at death (for a total of $30 million for a married couple in 2026). But the estate tax law treats partners in an unmarried relationship as virtual strangers. There is no marital deduction or portability for unmarried couples: If the deceased partner did not use all of his or her exemption, that exemption cannot be used by the surviving partner. While the IRS does not apply a gift or estate tax to most transfers from one spouse to another (whether during life or at death), a bequest from an individual to his or her nonspouse partner is treated the same as a bequest to any other person: Any amount in excess of the deceased partner's exemption will be taxed at 40%. Several states impose an estate tax, too, and their local exemption amounts may be much lower than the federal exemption. In general, states will not recognize unmarried partnerships for purposes of estate taxes.

Retirement Account Inheritance

The Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE), passed by Congress in late December 2019, eliminated for most beneficiaries a benefit known as the "stretch IRA." This benefit allowed individuals and certain trusts inheriting retirement accounts to stretch out required minimum distributions over their lifetimes. Under the SECURE Act, most beneficiaries of inherited IRAs will have to withdraw inherited IRA assets from the account within 10 years following the death of the account owner, if that account owner died after December 31, 2019. This new 10-year rule means most beneficiaries will no longer be able to "stretch" distributions (and their income tax impact) over their individual life expectancies, which could result in significant income tax consequences for the IRA inheritor who is not a legal spouse. However, the SECURE Act includes a provision that may benefit unmarried partners: While surviving spouses are still the only beneficiaries who can directly roll an inherited IRA into their own IRA, any beneficiary who is not more than 10 years younger than the decedent is entitled to stretch IRA treatment.

Social Security benefits are very important for many people in retirement. It's worth noting that spousal benefits under Social Security extend only to married couples (and divorced, long-married couples), not to never-married partners.

Property Titling and Taxes

An unmarried couple purchasing a home together must decide how to title it. In addition to the gifting tripwires discussed above, property titling can affect income taxes and the eventual flow of assets upon the death of the owner or owners. There are two broad categories to consider: Either just one person takes title to the home or both take title in one of the several forms of joint ownership available. Either approach may have unintended consequences, and thoughtful planning should be done to avoid those outcomes.

In the first case, buyers can specify in their estate plans that the home should go to the surviving partner upon the first death. However, beware the pitfalls of this strategy when proper planning is not done, especially for couples who came into the relationship with children from prior relationships. For example, John wants his girlfriend, Elizabeth, to live in the house after his death, but he'd like for the house ultimately to pass to his grown daughter rather than to Elizabeth's beneficiaries. In this case, John will retain sole ownership of the property but should set up a trust so that Elizabeth can live in the house until her death, at which point it will pass to his daughter.

If you're in this situation, don't fall prey to thinking, "I'll get around to this soon." Dying without formally assuring that your partner has a right to remain in the house could mean he or she loses the right to live in the house. As with many cases of a lapse in proper planning, it could also mean that your partner and your other heirs wind up in court.

Certain forms of joint ownership may also result in unintended consequences: For example, if one partner has contributed 100% of the purchase price and has granted the other partner an ownership interest, there could be a taxable transfer upon creation, sale or death. In addition, different types of joint ownership have different rules for how property passes at an owner's death, which may or may not be consistent with the owners' intent. For example, when property is held by two partners as joint tenants with rights of survivorship, the surviving owner will receive 100% of the property at the first death. However, if that same property is owned by the partners 50/50 as tenants in common, 50% of the property will be transferred pursuant to each owner's estate plan. Understanding how titling impacts the disposition at death and addressing that disposition may prevent any unintended disposition at death.

Case study: Who gets to deduct mortgage and property tax payments?

Unmarried couple Karen and Ivan buy a home together. Karen has far more taxable income than Ivan; she's in the 32% tax bracket and he is in the 24% bracket. If income taxes are a big concern, Karen and Ivan should carefully consider how titling and certain payments could impact their respective income tax situations. For example, if Karen wants to be able to take the mortgage interest deduction, then she may want to be the one who actually pays the monthly mortgage payments as well as to make sure her name is on the property deed and mortgage-related documents, including the report of mortgage interest filed with the IRS. Beyond mortgage interest deductions, unmarried couples should discuss the deduction of real estate property tax payments. If Karen pays the property tax, she may qualify for the deduction in her higher bracket; however, she will need to consider how the alternative minimum tax (AMT) and the limitations on deductions for state and local taxes may impact her ability to take some or all of the deduction. If Karen's ability to deduct certain costs is limited, but Ivan could take some or all of those deductions, then they may want to reconsider who is paying some or all of those expenses and how the property is held. In situations like this, it is important to consult with a tax professional to determine how each partner's income tax situation may be impacted by paying expenses and the titling of property.

3. Relationships: Legalities and realities

One of the most important estate planning objectives for many of today's families is to gain clarity on legal ramifications if the family has used assisted reproductive technology (ART).

"Have you or any of your children or descendants used ART to create a family? Are you sure you know the answer to that question? And are you aware of their wishes—or any contracts they may have signed—that spell out what happens to genetic material in the event of divorce or death?" Debra Doyle, partner with BDN Associates LLP, includes these relatively new questions on her estate planning questionnaire. "Questions regarding current or future children as a result of ART may feel intrusive, but they're necessary," says Doyle.

Rapid advances in ART have raised significant questions of property, family and personhood. And the law, for the most part, is not always keeping pace with the science. In general, the two most critical aspects of ART and estate planning are *defining parentage and descendants* and *determining control of frozen genetic material.* The very need to define "parents" is a clear example of how the law must evolve to reflect advances in science. A few states and the District of Columbia now recognize a legal duty of more than two people to parent a child. These situations include, for example, a child conceived through ART for a same-sex couple who maintain a relationship with the opposite-sex donor.[7]

Specific legal questions regarding children of ART include: Can frozen embryos be used later by one member of the couple after a breakup, divorce or death? In 2016, this issue made headlines when actress Sofia Vergara fought to enforce a contract purportedly barring such later use by her ex-partner, who sought custody of the former couple's cytogenetically frozen embryos in hopes of transferring them to a gestational surrogate.[8] Can the parents of one member of the couple lay claim to a deceased son or daughter's frozen genetic material? Can you bequeath your own genetic material in a will? And, most fundamentally, if your will or trust refers to "my descendants" or "my issue," how is that interpreted in the case of children of ART—whether in a same-sex or opposite-sex couple—and does it matter if the will or trust was created decades ago, before advances in ART were possible?

"The legal and estate planning issues related to children of ART can play out over generations," says Doyle. "That's why it's very important that you have a frank discussion with your team of advisors about your intent in trust documents you create today, even though we know it's impossible to predict what further advances science may bring. Nor do we know how state legislation and judicial rulings will change and affect the ART landscape."

Families who have used ART should keep the following in mind as they discuss their plans with their attorneys and advisors, says Doyle.

- In your power of attorney, you should specifically provide for any stored genetic material.
- You should review and understand any contracts or other documents currently in place that govern rights to genetic material in the event of divorce or death.
- Make sure that any consent forms on file with a fertility clinic about the disposition of genetic material match your wishes and your testamentary documents.
- Be sure to include inheritance rights of children conceived through ART in your testamentary documents.
- Update your beneficiary designations to reflect children conceived through ART; in some cases, the custodian's definitions may be different from your intent.
- Make sure you understand your states rules for naming parents on the birth certificate.

[7] Estate Planning for Users of Assisted Reproductive Technology, thinkadvisor.com, 10.04.2017.
[8] Who Gets the Frozen Embryos? forbes.com, 02.04.2020.

It's important to keep in mind that laws on ART are a mixed bag across states. Some states, such as California, have very up-to-date statutes—for example, setting out that if there's notice to the fiduciary on a trust that there is stored genetic material and an intent to use it, the trustee has to hold a piece of the pie, so to speak, open for that potential child for a finite period. For an established irrevocable trust, there may be options under the terms of the document or state law to modify the trusts in a way that better defines the eligible class of beneficiaries.

Grantors and beneficiaries can consider whether their states allow for nonjudicial modification of a trust. The trustee could consider decanting the trust to a new trust, or changing the situs of the trust, if permissible under the terms of the document, to make the documents better reflect the grantor's intent. If the documents are left ambiguous, the trustees will have the greatest challenge when they're called upon to interpret the provisions of the trust, determine the class of potential beneficiaries and implement the terms of the trust.

Even though adoption and blended families have been around much longer than ART, estate planning documents have not always reflected these dynamics. Historically, wills and trusts have referred to "descendants." Without clarifying language, that label can be restricted to the biological definition, ruling out cherished family members because they do not share blood with the testator. Defining descendants in a way that accurately includes the faces around your Thanksgiving table requires a careful review of existing documents.

In a blended family in which one spouse has legally adopted her stepchild, documents and state law need to be consulted to determine whether this child will receive the same amount as the testator's biological children. Many families would agree that adopted children should be treated equally to biological children, but all options should be reviewed, particularly if there is wealth elsewhere in the adoptive child's family of origin for inheritance. If it isn't what this family defines as 'fair,' they may want to change the language. Estate planning documents can include language that defines what 'descendants' means to an individual—in other words, saying, 'Regardless of what the law in our state says, this is what we mean by 'descendants' or 'issue' in this document.' That could include defining that 'descendants' does, or does not, include a 'biological child from a relationship outside the marriage,' 'blood descendants of children I've legally adopted,' or 'children my blood descendants created from genetic material of others.'

"We're always helping clients balance the need for flexibility with the need to define things in concrete terms in estate planning documents," says Doyle. "At the same time, we have to acknowledge that tomorrow's 'modern family' may look quite different, even from today's 'modern family.' We're addressing many decisions and tactics that can result in plans that reflect the potential for changes in tax law and family structure. Discussions with clients now are focused on: What does your family look like today—and what could it look like when you're gone? Much is unknown, but we certainly shouldn't let our desire for a perfect answer prevent us from taking action today. I don't know what a family 30 years from now may look like, but I can guarantee you that 'family' is going to constantly evolve."

Case study: defining a descendant

The case of *Matter of Doe*, from New York in 2005, reflected a willingness to broadly interpret existing trust law to protect children conceived through assisted reproductive technology. This case involved trusts created in 1959 for the benefit of the settlor's "issue" or "descendants," which specifically stated, "adoptions shall not be recognized." The settlor's daughter and her husband entered into a surrogacy arrangement in which the eggs of an anonymous donor were fertilized with the sperm of the settlor's daughter's husband and carried by a gestational surrogate. The twins born as a result of this arrangement were not genetically related to the settlor's daughter. As the surrogacy contract was established in California, the California court system issued a judgment of parental relationship establishing the settlor's daughter and her husband as the sole legal parents of the twins. The New York Surrogate's Court accepted the California judgment as distinct from an adoption and held that the twins were "issue" or "descendants" of the settlor's daughter and, thus, beneficiaries of the subject trusts.[9]

[9] Welcome to the Jungle: Re-Defining Family Amid Advances in Reproductive Science, Johnson, Bass and Koss, no date.

Facts on U.S. families today

- 31% of households do not have children.
- 35% of households are heterosexual married couples with children.
- 34% are "modern households," blended, multigenerational, same-sex and single parent families.
- 35% of all unmarried parents are living with a partner.
- 50% of cohabiters are age 50 and older.
- 63% of women in remarriages are in blended families; about half of these remarriages include stepchildren who live with the remarried couple.
- Among all adults who are married, about 25% have been married before.

Sources: America's Families and Living Arrangements, U.S. Census Bureau, census.gov, 2017; The changing profile of unmarried parents, pewresearch.org, 04.25.2018; 8 facts about love and marriage in America, pewresearch.org, 02.13.2019; National Center for Health Statistics; Trends in remarriage in the U.S., pewresearch.org, 11.14.2014.

Important questions for wealth transfer and legacy

- Do you understand how your assets will pass upon your death?
- When was your estate plan last updated? Changes in estate tax laws at the federal and state level might call for a fresh look at your plan.
- How are your assets (real estate, financial accounts) titled? Does that comport with your estate plan?
- Have you designated a trustworthy fiduciary to carry out your wishes?
- Have you designated anyone to act on your behalf if you become incapacitated?
- How aware are your family members of your wishes and their roles?
- Who depends on you financially? How does your estate plan provide for them?
- In your legal documents, have you clearly defined who is a "descendant"?
- Have you taken into consideration the differing needs of your family members?
- Are you worried about family discord? Have you structured your estate to support family harmony?
- Will your beneficiaries know how to manage the family wealth?
- Would you like your family members to have an outright share of your wealth? When will your beneficiaries be ready to manage it?
- Does your estate plan protect your legacy from creditors, predators or waste?
- How much control would you like to maintain over your wealth during your lifetime and after you're gone?
- Do you anticipate an inheritance outright or in trust? How does this factor into your own planning?
- Would you be willing to transfer some of your wealth during your lifetime?
- What values do you hope to pass on to future generations?
- How do you want to be remembered by your family? By the world?
- Do you have a personal philosophy or a key piece of advice for family members?

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