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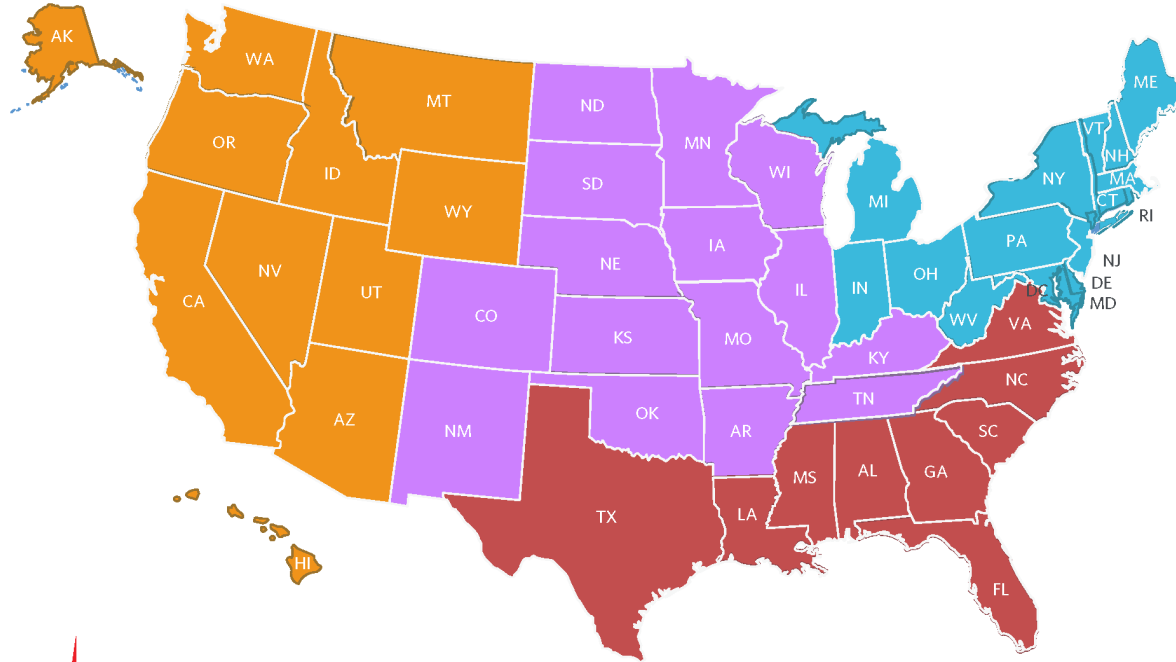
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# FINANCIAL PROFESSIONALS' GUIDE TO ESTATE PLANNING

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# WHY IS ESTATE PLANNING IMPORTANT TO YOU?

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**ESTATE PLANNING IS A VALUABLE SERVICE TO YOUR CLIENTS THAT WILL BENEFIT YOU IN THE LONG RUN.**

- You are already doing it. So why not take credit for it?
- Not addressing estate planning can create challenges for your practice.



# WHY IS ESTATE PLANNING IMPORTANT TO YOU?

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## RETENTION

Many children fire their parents' financial advisor after receiving an inheritance.

## PREPARE FOR INCAPACITY

Not being prepared for incapacity can create practice management issues.

## CLIENT EXPECTATIONS

High net worth clients expect a holistic approach. If you don't provide estate planning guidance, they may find someone who will.



A photograph of an elderly couple smiling and embracing each other outdoors. The man is on the left, wearing a light blue shirt, and the woman is on the right, wearing a purple shirt. They are both looking towards the camera with joyful expressions.

# THE ESTATE PLANNING APPROACH

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## DEVELOP A PROCESS TO HELP YOUR CLIENTS WITH ESTATE PLANNING

### KEEP IT SIMPLE

- Explain things in a down-to-earth, relatable way to help avoid anxiety
- Break up estate planning tasks incrementally
- Accomplish at least one task every meeting

### KEEP IT UP TO DATE

- Make estate planning part of annual reviews
- Always update after life events



A vertical image on the left side of the slide shows a woman with blonde hair smiling and hugging a young child. The image is partially obscured by the text on the right.

# DEVELOP A PROCESS: PLANNING BY CLIENT NEED

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## ESSENTIALS: TRANSFERRING WEALTH

- Wills
- Beneficiary designations
- Account titling

## SITUATIONAL: PLANNING FOR INCAPACITY AND CONTROL

- Powers of attorney (POAs), living wills, advance directives
- Restricted beneficiaries
- Trusts

## HIGH NET WORTH: STRATEGIES FOR WEALTHY CLIENTS

- Trusts
- Gifting
- Reduce taxes





# **ESSENTIALS: TRANSFERRING WEALTH**

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# ESSENTIALS: TRANSFERRING WEALTH

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## THE FUNDAMENTAL ELEMENT OF ANY ESTATE PLAN IS THE PHYSICAL PROCESS OF TRANSFERRING WEALTH

### THE GOAL

- Transfer assets to the intended beneficiaries
- Avoid delays, confusion, and chaos
- Reduce expense and taxes

### THREE METHODS THAT CONTROL WEALTH TRANSFER

- Probate
- Ownership (titling) of assets
- Beneficiary designations



# ESSENTIALS: TRANSFERRING WEALTH

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## HELPING YOUR CLIENTS UNDERSTAND THE PROBATE PROCESS WILL SHOW THEM THE IMPORTANCE OF FUNDAMENTAL ESTATE PLANNING

### PROBATE

Process of proving the will in order to pass legal title from the estate of the deceased to the beneficiaries

### THE WILL

Governing instrument used by the probate court to determine who inherits the decedent's assets



**DEAD**

**D**elays

**E**xpenses

**A**ccess to creditors

**D**isinheritance

# POTENTIAL DISADVANTAGES OF PROBATE

A vertical image on the left side of the slide shows a person from behind, wearing a backpack and walking a dog on a leash along a dirt path in a forest. The scene is bathed in warm, golden light, suggesting late afternoon or early morning.

# ESSENTIALS: TRANSFERRING WEALTH

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**FOR ASSETS THAT PASS THROUGH PROBATE, A WELL-CONSTRUCTED AND UP-TO-DATE WILL IS KEY TO EFFICIENT WEALTH TRANSFER**

## THREE ACTION STEPS FOR THE WILL

1. Ensure the client has a will and/or some other estate planning document such as a trust. **Make sure it's up to date.**
2. Suggest clients review their will periodically with a legal professional. **It should fit with the financial goals and the client's intentions.**
3. Identify property that does not pass by will. **The will may be superseded by the way assets are owned or through beneficiary designations.**

# ESSENTIALS: TRANSFERRING WEALTH

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## THE WAY AN ASSET IS OWNED WILL DETERMINE HOW IT TRANSFERS AFTER DEATH

### JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP (JTWROS)

Assets pass automatically to the surviving joint owner by title and do not go through probate.

### TENANTS BY THE ENTIRETY

A form of ownership used by spouses. Assets will pass directly to the surviving spouse outside of probate.

### TENANTS IN COMMON (TIC)

Instead of the property passing by title to the surviving joint owner, the asset passes to the estate of the nonliving owner and passes through probate.

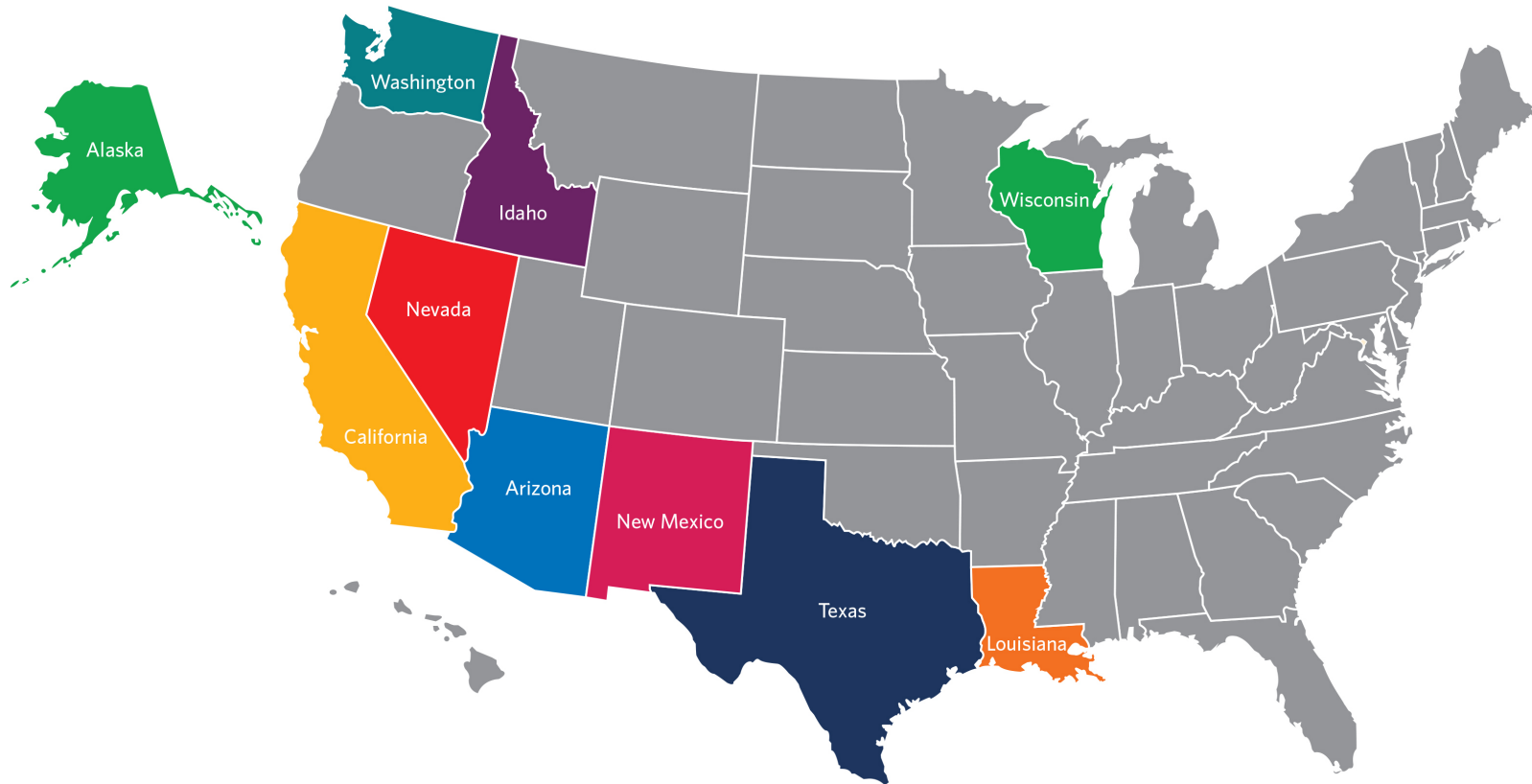
### TRUST OWNERSHIP

Assets owned by a trust pass directly from the trust to the beneficiaries listed in the trust without going through probate.\*

\* Trusts created through a will as testamentary trusts are subject to probate when funded.

# COMMUNITY PROPERTY LAWS

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A photograph of a man in a blue shirt carrying a young child with curly hair on his shoulders. The child is wearing a red shirt and a blue backpack, and is laughing joyfully. They are outdoors in a grassy area with trees in the background.

# ACCOUNTS WITH BENEFICIARY DESIGNATIONS

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## THE THIRD METHOD FOR TRANSFERRING ASSETS AFTER DEATH IS VIA BENEFICIARY DESIGNATION

### TYPES OF ACCOUNTS WITH BENEFICIARY DESIGNATIONS

- Qualified plans
- IRAs
- Annuities
- Life insurance
- Transfer on Death (TOD) accounts
- Pay on Death (POD) accounts

A man in a grey tank top and blue shorts is holding a young child in a green patterned shirt and grey pants. The child is holding a basketball high above their head. They are on an outdoor basketball court with a blue and red surface. In the background, other people are visible on the court.

# ACCOUNTS WITH BENEFICIARY DESIGNATIONS

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Beneficiary designations supersede the will, avoiding probate and allowing assets to pass directly to the listed beneficiary.

Incorrect or out-of-date beneficiary designations may result in disinheritance.

## **PROPERLY DESIGNATING BENEFICIARIES CAN HELP AVOID**

- Unnecessary expenses and taxes
- Disinheriting the intended beneficiaries
- Unnecessary delays



# ACCOUNTS WITH BENEFICIARY DESIGNATIONS

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**WATCH FOR WARNING SIGNS THAT BENEFICIARY DESIGNATIONS ARE INCOMPLETE, INCORRECT, OR POORLY CONSTRUCTED**

## **BLANK DESIGNATIONS**

- Assets pay to the estate and are subject to probate
- Check to ensure contingent designations are listed

## **ESTATE IS LISTED**

- Probate issues

## **OUT-OF-DATE BENEFICIARY DESIGNATIONS**

- Death, disability, divorce, birth, and marriage can fundamentally alter a beneficiary designation.

# DESIGNATION WARNINGS

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## OTHER WARNING SIGNS INCLUDE

### MULTIPLE BENEFICIARIES

- What happens if one beneficiary passes away?
- Per capita vs. per stirpes

### JUVENILE BENEFICIARY LISTED

- Minors generally lack legal capacity; a guardian may be required.
- UTMA/UGMA as beneficiary may be an option. (Keep in mind, once the beneficiary reaches the age of majority in his or her state, the guardian/custodian no longer has any control over the account.)
- If long-term control is needed, a trust may be considered.

### TRUST LISTED AS BENEFICIARY

- Ensure the trust is necessary
- May limit beneficiary distribution options

# TRANSFERRING WEALTH BEST PRACTICES

**Ensure** the client has an up-to-date will

**Review** the impacts of property ownership and who inherits assets

**Make** beneficiary reviews an ongoing exercise

**Involve** the client's beneficiaries in the process

**Organize** the client's beneficiary designations

**Encourage** clients to keep account information and beneficiary designations in a safe location





**SITUATIONAL:**

# **PLANNING FOR INCAPACITY AND CONTROL**



# PLANNING FOR INCAPACITY

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## INCAPACITY PLANNING IS A CRUCIAL PART OF COMPREHENSIVE ESTATE PLANNING

Incapacity may leave a person unable to make legal and financial decisions.

Conditions that could lead to incapacity include:

- Stroke
- Terminal stage diseases
- Dementia
- Alzheimer's





# ABSENCE OF A PLAN

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## APPOINTMENT OF A GUARDIAN MAY BE NECESSARY IF CLIENTS ARE UNABLE TO CARE FOR THEMSELVES OR THEIR FINANCIAL AFFAIRS

### A PICTURE OF INCAPACITY WITHOUT PLANNING

- Individual becomes incapable of handling affairs and lacks legal capacity to make decisions or care for their well-being.
- A petition is filed with the court to have a guardian appointed.\*
- A hearing will be held to prove the individual is incapable of handling his or her affairs.
- The guardian appointed will be responsible for the individual and will be required to report back to the court periodically.

\* In some states a guardianship may be called a conservatorship.

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A photograph of two cyclists riding on a road at sunset. The cyclist in the foreground is wearing a light blue jersey and dark shorts, riding a black road bike. The second cyclist is slightly behind and to the right, wearing a dark jersey. The background shows a hilly landscape under a warm, orange-hued sky.

# PLANNING FOR INCAPACITY

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## **AVOID THE APPOINTMENT OF A GUARDIAN BY SETTING UP A POWER OF ATTORNEY (POA) BEFORE INCAPACITY OCCURS**

### **TYPES OF POAs**

#### **General Power of Attorney**

Grants broad powers, which ends upon death, disability, or incapacitation

#### **Durable Power of Attorney**

Includes a durable clause that keeps the POA in force after the principal becomes incapable of handling affairs but will end after death

#### **Special or Limited Power of Attorney**

The agent is only granted power over limited or specific areas, such as finances or health care.

#### **Springing Power of Attorney**

The POA is not active until the occurrence of a specific event.

A person with short grey hair, wearing an orange dress with a white pattern, is walking away from the camera on a paved path. They are using a black cane. In the background, there is a light-colored building with a dark roof.

# PLANNING FOR INCAPACITY

## ADVANCE HEALTHCARE DIRECTIVES

### LIVING WILLS

- A document that controls healthcare decisions only when a person becomes unable to make decisions on his or her own.

### HEALTHCARE PROXY

- Another term for a healthcare POA. Designates another person to be a proxy for healthcare decisions.

### DO NOT RESUSCITATE (DNR)

- A legal document that prevents medical intervention to prolong life artificially, through means such as CPR or life support.

### THE FIVE WISHES®

- Uniform comprehensive advance directive that is valid in 42 states. Learn more at [agingwithdignity.org](https://agingwithdignity.org).



# PLANNING FOR INCAPACITY ROADMAP

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- Pick an age to discuss POAs with your clients
- When possible, ensure you have a relationship with your client's POA or the name of a "trusted contact person."
  - Amendment to FINRA Rule 4512
- Review POAs to determine if they are providing the desired powers
  - Does the POA cover paying bills, banking, investment activities, gifting, filing tax returns, etc.?
  - Does the healthcare POA meet the client's objectives, identify the right person to make decisions, etc.?
  - Can the POA change beneficiary designations?
- Suggest your client consider an advance directive



# MAINTAINING CONTROL



# CONTROL

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## A MAJOR PART OF ESTATE PLANNING IS GUIDING HOW AND WHEN BENEFICIARIES INHERIT ASSETS

### THE GOALS

- Guide how the inheritance is distributed — spendthrifts
- Stipulate when assets are inherited: All at once, periodically, or at a specific time
- Account for special considerations: special needs beneficiaries

### INSTRUMENTS THAT CONTROL WEALTH TRANSFER

- Wills
- Restricted beneficiary designations
- Trusts





# CONTROL: WILLS

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## CREATING WILLS THAT HELP GUIDE INHERITANCE

### ADVANTAGES

- Ease of setup
  - All that is necessary is a proper will.
- Simplicity
  - The intent of the deceased person can be expressed easily.
  - Not as involved or as expensive as drafting a trust

### DISADVANTAGES

- Assets are subject to probate.
- The estate must remain open and the executor of the estate is responsible for management.
- Privacy concerns as the estate is open to the public





# CONTROL: RESTRICTED BENEFICIARY DESIGNATION

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## ANOTHER WAY TO PROVIDE WEALTH CONTROL IS THROUGH A RESTRICTED BENEFICIARY DESIGNATION

This is a custodian-provided program that controls the beneficiary's access to the account via the beneficiary designation.

Restrictions can be based on age, a number of years, or a specific distribution amount. Tax law may limit the restrictions that can be placed on certain payouts.

### ADVANTAGES:

- Ease of setup
- No cost
- Beneficiary customization (limited)

### DISADVANTAGES:

- Limited capabilities
- Limited to specific asset
- Lacks flexibility
- Only as good as the custodian



# CONTROL: TRUST OWNERSHIP

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## TRUSTS CAN HELP GUIDE MORE COMPLEX WEALTH TRANSFERS

### ADVANTAGES

- **Customization** - Trust language provides power to guide funds.
- **Flexibility** - Trustees may be granted discretion over assets.
- **Capabilities** - Trusts can accomplish multiple objectives.
- **Confidentiality** - Clients can keep financial and beneficiary information private.

### DISADVANTAGES

- **Cost** - Attorney and potential administration fees.
- **Rigid** - Terms of the trust might be locked in.
- **Complexity** - Features and terms of the trusts may be difficult to understand.



# CONTROL: TWO TYPES OF TRUSTS

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## REVOCABLE TRUSTS (LIVING TRUSTS)

- Treated as grantor for tax purposes
- Can be changed or revoked
- Trust may use the grantor's SSN.
- All taxes pass through to the grantor.
- Does not separate the asset from the grantor for tax purposes

## PURPOSES

- Avoid probate
- Asset consolidation
- Asset distribution
- Incapacity provisions

A photograph of a smiling couple taking a selfie. The man is wearing a brown hat and glasses, and the woman is wearing a pink beanie and a denim jacket. They are both smiling and looking at the camera.

# CONTROL: TWO TYPES OF TRUSTS

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## IRREVOCABLE TRUSTS

- Separate legal entity from the grantor
- Uses a Tax Identification Number (TIN)
- Files a separate tax return (1041)
- Provides separation of assets from the grantor, including for tax purposes
- Special tax reporting rules apply to Irrevocable Grantor Trusts.

## PURPOSES

- Asset distribution
- Wealth transfer
- Tax planning



# CONTROL: IRREVOCABLE TRUSTS

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## IRREVOCABLE TRUSTS ARE TYPICALLY CREATED WITH ONE OF THREE OBJECTIVES IN MIND

### CONTROL

- Spendthrift Trusts
- Special Needs Trusts
- QTIP Trusts

### TAX PLANNING

- Credit Shelter Trusts
- Irrevocable Life Insurance Trusts
- Generation-skipping Trusts
- Grantor Retained Trusts
- Intentionally Defective Trusts

### CHARITABLE PLANNING

- Charitable Lead Trusts
- Charitable Remainder Trusts

# CONTROL: DEVELOP A PROCESS

## **Look for control solutions**

your client already has in place or has access to

## **Identify the method of control**

that makes the most sense for the client (e.g., cost, ease of implementation, objectives)

## **Communicate and collaborate**

with professionals (such as CPAs and estate planning attorneys) to ensure strategy pieces fit and flow well

## **Identify specific estate planning**

**concerns** in order to enhance value for clients and your practice



# HIGH NET WORTH: STRATEGIES FOR WEALTHY CLIENTS





A hiker with a large backpack is crossing a log bridge over a stream in a forest. The hiker is wearing a backpack and using trekking poles. The forest is lush with green trees and foliage.

# HIGH NET WORTH HOUSEHOLDS: REDUCE TAXES

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## THE GOALS

- Transfer assets with as little tax as possible
- Create post-death tax efficiencies
- Provide liquidity to pay taxes

## TAXES THAT IMPACT WEALTH TRANSFER

- Income tax
- Estate tax
- Gift tax
- Generation-skipping transfer tax



# HIGH NET WORTH: INCOME TAX CONSIDERATIONS

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## IRREVOCABLE TRUST INCOME IS TAXED UNDER A DIFFERENT SET OF RULES THAN TYPICAL INDIVIDUAL INCOME

### INCOME TAXATION OF TRUSTS

- Certain trusts have a more compressed income tax schedule.
- Taxable income retained beyond the end of the tax year is generally taxable to the trust.
- Selection of investments is important.
- If an irrevocable trust receives taxable income, it may be taxed under a different set of rules than typical individual income.



# INCOME TAX CONSIDERATIONS

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## STEP-UP IN COST BASIS

Certain assets (e.g., stocks, mutual funds, real estate, certain bonds) receive an adjustment in cost basis to current value when inherited. Gifted assets do not receive a step-up in cost basis; they receive a carryover basis.

## INCOME IN RESPECT OF A DECEDENT (IRD)

Inherited assets that are income taxable to a beneficiary:

- IRAs
- Qualified plans
- Interest income



# TRANSFER TAXES

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## FEDERAL ESTATE TAX

- Assessed against transfers at death
- \$11.58 million (individual) is excluded from any federal estate tax.
- Any of the unused \$11.58 million estate tax exclusion can be added to a spouse's exclusion of \$11.58 million. This is referred to as "portability."
- The estate tax does not apply to transfers to spouses.

A man with short brown hair and a beard, wearing a dark suit jacket over a light-colored shirt, is looking down at a tablet computer he is holding with both hands. The background is blurred, suggesting an office or professional setting.

# TRANSFER TAXES

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## GIFT TAX

- Integrated with the estate tax
- Annual gifts of \$15,000 per person are allowed free of gift tax.  
A married couple can each gift \$15,000 making the total gift \$30,000.
- This annual exclusion does not reduce the lifetime exclusion.
- Amounts over the annual exclusion can reduce the \$11.58 million lifetime exclusion.
- The gift tax does not apply to transfers to spouses.



# TAX-REDUCTION STRATEGIES: INCOME TAX

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**THERE ARE MANY STRATEGIES THAT MAY HELP REDUCE THE IMPACT OF INCOME TAXES ON AN INHERITANCE**

## **ROTH IRAs**

- Eliminate RMDs during owner's life
- Tax-free inheritance to beneficiaries

## **DELAY RECEIVING IRD ASSETS**

- Maintain tax-deferral and control taxation of inherited assets for up to 10 years (for most beneficiaries)

## **TRUSTS**

- Irrevocable Life Insurance Trust (ILIT)
- Credit Shelter Trust (CST)
- Charitable Remainder Trust (CRT)





# TAX-REDUCTION STRATEGIES: ESTATE TAX

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## MORE STRATEGIES FOR HELPING TO REDUCE THE IMPACT OF ESTATE TAXES ON AN INHERITANCE

### ANNUAL GIFTS TO HEIRS

- Reduces taxable estate

### CHARITABLE GIFTS

- Reduces taxable estate
- Estate tax deduction

### LIFETIME GIFTS TO HEIRS

- Freezes growth out of the estate

# HIGH NET WORTH: DEVELOP A PROCESS

**Discuss** trust  
taxation with trustees

**Identify** assets  
entitled to a step-up  
in cost basis

**Determine** if your  
client is charitably  
inclined

**Identify** IRD assets

**Discuss** post-death  
distribution options  
with beneficiaries

**Consider** gifting  
opportunities

# NEXT STEPS: CREATE A CHECKLIST

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## REMEMBER TO MAKE A LIST OF THE ESTATE PLANNING TOPICS YOU WOULD LIKE TO INCLUDE IN YOUR PRACTICE

- Integrate them incrementally
  - Segment clients and focus on their estate planning needs
- 
- |   |   |  |
|---|---|--|
| ✓ Do they have a will?                  | ✓ Do they have a POA for health care and an advance healthcare directive? | ✓ Do they need estate reduction strategies?                    |
| ✓ Are beneficiary designations current? |   | ✓ Do they intend to make gifts to family members or charities? |
| ✓ Do they have a POA for finances?      | ✓ Do they need a living trust?  | ✓ Do they need estate tax planning strategies?                 |

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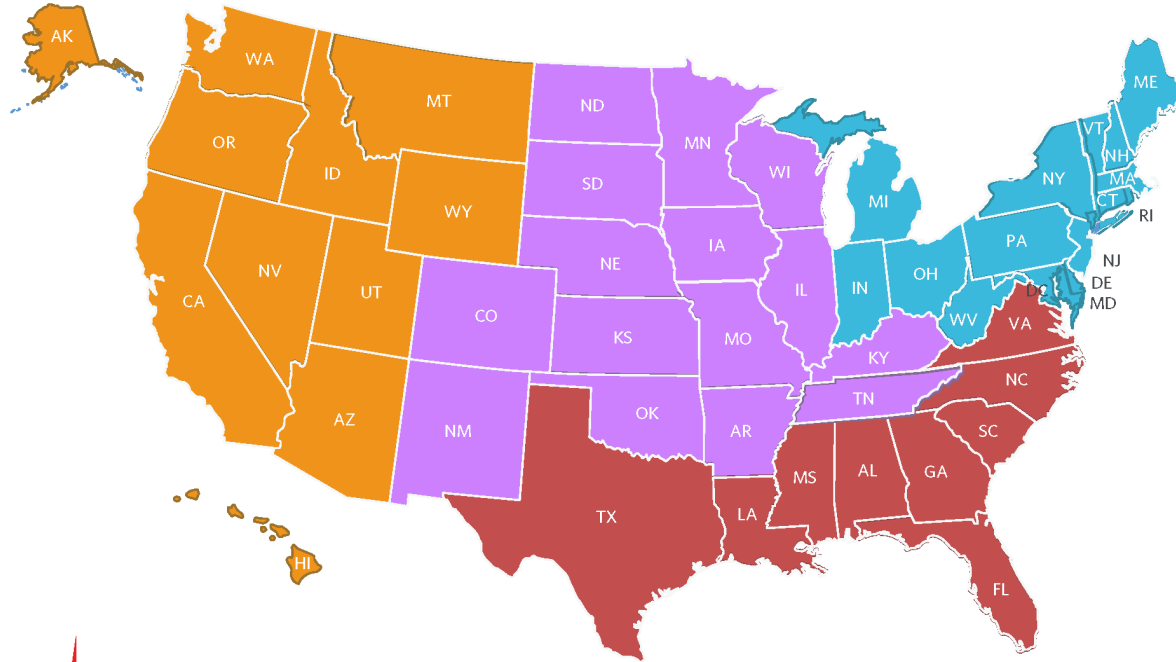
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# THANK YOU!

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