

## UNDERSTANDING THE BASICS

- **Basic Exclusion Amount (BEA):** The federal estate and gift tax exemption is \$13.99 million per person in 2025. Under current law, this exemption is scheduled to be reduced by approximately half when provisions of the Tax Cuts and Jobs Act sunset on December 31, 2025. Future exemption amounts will depend on legislative action.
- **Portability:** Surviving spouses can inherit their deceased spouse's unused exemption, potentially doubling their protection to nearly \$28 million per couple in 2025 (subject to proper election)
- **Step-Up in Basis:** Assets inherited receive a new tax basis equal to their fair market value at death, potentially eliminating capital gains tax on appreciation

## THE GREAT WEALTH TRANSFER

Significant wealth is expected to transfer between generations in the coming decades. A substantial portion is anticipated to pass first between spouses, making thoughtful estate planning essential for married couples to protect assets and minimize tax impact for surviving spouses and heirs.

## COMMON ESTATE PLANNING TOOLS

### Revocable Living Trusts

- **Potential Benefits:** Avoid probate, maintain privacy, and provide continuity of asset management
- **Important Considerations:** Setup and maintenance costs can be substantial; requires proper funding of assets into the trust; ongoing administrative requirements; may not provide creditor protection in all states; does not eliminate estate taxes or provide income tax benefits; requires careful coordination with beneficiary designations

### Credit Shelter Trusts (Bypass Trusts)

- **Potential Benefits:** Preserve both spouses' estate tax exemptions and protect assets for children from previous marriages
- **Important Considerations:** Complex structure requiring ongoing administration and compliance; professional fees for setup and maintenance; risk of improper funding which can undermine the trust's effectiveness; surviving spouse may have limited access to trust assets; loss of full step-up in basis at surviving spouse's death; may be less beneficial given current high exemption amounts and portability provisions

## **QTIP Trusts (Qualified Terminable Interest Property)**

- **Potential Benefits:** Provide income to surviving spouse while controlling ultimate distribution to beneficiaries
- **Important Considerations:** Rigid income distribution requirements; surviving spouse must receive all trust income annually; complex tax implications and reporting requirements; significant setup and ongoing administrative costs; inflexibility in changing beneficiaries; surviving spouse has limited control over principal; may create family conflicts if remainder beneficiaries differ from income beneficiary

## **Irrevocable Life Insurance Trusts (ILITs)**

- **Potential Benefits:** Keep life insurance proceeds outside taxable estate while providing liquidity for estate taxes and expenses
- **Important Considerations:** Irrevocable nature means grantor loses all control over the policy; complex funding requirements including annual Crummey notices to beneficiaries; professional fees for setup and annual administration; gift tax implications for premium payments; three-year lookback rule if existing policy is transferred; trustee must manage policy and make premium payments; inflexibility to change beneficiaries or terms; potential gift tax issues if not properly structured

## **KEY CONSIDERATIONS FOR COUPLES**

- **Spousal Beneficiary Designations:** Coordinate retirement accounts and life insurance policies with overall estate plan
- **Titling of Assets:** Joint tenancy, tenancy by entirety, and community property each have different tax and creditor protection implications
- **Gift Planning:** Strategic use of annual exclusion gifts (\$19,000 per person in 2025) and lifetime exemption can reduce estate size
- **Charitable Planning:** Donor-advised funds, charitable remainder trusts, and qualified charitable distributions can reduce taxes while supporting causes you care about

## **ESSENTIAL TAKEAWAYS**

- Estate planning is about more than just taxes—it's about protecting your spouse and family
- Failing to update beneficiaries can override your entire estate plan
- Portability must be elected on a timely-filed estate tax return, even if no tax is owed
- State estate taxes may apply even when federal taxes don't
- Regular review is essential—laws change, families change, and assets change
- Coordination between estate plan and overall financial plan is critical

## ACTION ITEMS FOR COUPLES

- **Review and Update Documents:** Ensure wills, trusts, powers of attorney, and healthcare directives reflect current wishes and tax laws
- **Beneficiary Audit:** Confirm all retirement accounts, life insurance, and transfer-on-death accounts have correct beneficiaries
- **Consider Trust Planning:** Evaluate whether revocable or irrevocable trusts could benefit your situation, considering both advantages and limitations
- **Plan for Incapacity:** Establish durable powers of attorney and advance healthcare directives for both spouses
- **Coordinate with Financial and Tax Advisors:** Ensure estate plan integrates with investment strategy and tax planning
- **Document Digital Assets:** Provide access instructions for online accounts, cryptocurrencies, and digital files

## COMMON MISTAKES TO AVOID

- Assuming all assets pass through your will (many don't—they pass by beneficiary designation or title)
- Naming minor children as direct beneficiaries on life insurance or retirement accounts
- Failing to fund your trust after creating it
- Using only joint ownership without considering tax implications or creditor exposure
- Forgetting to update estate plan after major life events (marriage, divorce, births, deaths)
- Overlooking state-specific estate tax thresholds that may be lower than federal exemption

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**Professional Consultation Recommended:** Estate planning and tax law are complex and highly personal. We strongly recommend consulting with a qualified estate planning attorney and tax professional before implementing any strategies discussed in this summary.

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