Estate Planning

for Everyone

Create a *thoughtful plan,* while investing in your loved ones' *futures*

There's a common misconception that only wealthy people need estate planning, but nothing could be further from the truth. Virtually everyone should undertake estate planning of some sort, even if it's just creating a will or reviewing their beneficiary designations.

There's no one-size-fits-all way to plan your estate. The most important thing to remember is your plan will be your own – meaning, it's personalized for your specific wants and needs.

The value of estate planning

When you go shopping for a lawnmower, you're not really buying it because you want a lawnmower. You purchase it because you want a freshly groomed lawn.

Similarly, people don't want an estate plan, they want what an estate plan provides: A plan to protect their loved ones, to preserve what they worked a lifetime for, maintain their standard of living, and hopefully set their beneficiaries up for their future.

These choices are different for everyone. You may be more charitably inclined, or you may want to focus on equalizing the estate amongst your children, while someone else wants to try and balance the scales where one child is in the family business, and one is not. Whatever the motivation, all of those factors can be considered when building an estate plan.

What is estate planning?

Estate planning is: Structuring what you leave behind and how you choose to leave it. Your personal choices regarding your hard-earned legacy can vary greatly. Among other things, you can:

- Create a will and/or trust for your loved ones.
- Leave a gift to your alma mater, preferred charity, church, or synagogue.
- Create college tuition accounts for your children or grandchildren.
- Secure your business for your other partners.

Terms to know

There are a few terms you should be familiar with when it comes to estate planning.

Estate

Your estate consists of everything you own or have a right to. This includes your savings accounts, checking account, cash, your car, and even intangible things, like your pending legal court case (if applicable).

Beneficiary

You can leave pretty much all of those items in your estate to a beneficiary – either directly through your will, or possibly by **titling** assets appropriately. Keep in mind, your best laid plans may be ruined if your accounts are not titled correctly. It's imperative that beneficiary designations are reviewed on a regular basis and contingent beneficiaries be named.

Probate

The legal process by which your personal representative or **executor** settles or resolves your estate. This means paying the debts and expenses of the estate and then distributing the assets, either in kind or in cash, to the beneficiaries.

Why planning is important

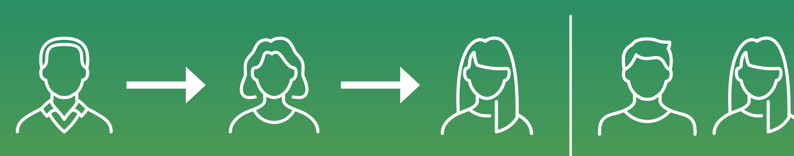
We'll use a house to visualize everything you own – this is your estate. It includes cash, real estate, cars, retirement accounts, life insurance, and some workplace benefits.

Some of your assets may pass to your chosen beneficiary through a beneficiary designation or by operation of law – such as a retirement account, life insurance, or annuity. Others may pass based upon ownership.

Imagine a married couple that owns most of their finances and assets as **joint tenants with rights of survivorship (JTROS)**. When the first spouse dies, the entire JTROS asset immediately passes into the hands of the joint tenant – no probate, no delays.

However, JTROS can sometimes create problems. Imagine a case where two spouses intended to leave their large mutual fund account to their three children through their will. The dad dies first and as the mom ages, she is no longer comfortable with managing her financial assets. She then places her daughter on the account as a joint tenant, so her daughter can sign for the account and use the accounts' assets to pay mom's bills.

When the mom dies, the will is read, and the other two children expect they'll be able to share in that large mutual fund account. Except, the mom inadvertently omitted them from that asset, because the account is immediately vested in the joint tenant daughter.



This example of beneficiary friction is more common than you think. And mom and dad could've avoided it, by using a trust or perhaps by giving power of attorney to their daughter instead.

$13.61 M

ESTATE-AND-GIFT-TAX EXEMPTION

40%

IRS ESTATE TAX RATE

1/1/26

EFFECTIVE RATE-CHANGE DATE

Check with your financial advisor for your state's specifics.

Good news – bad news

Good news: You can leave almost everything in your estate to anyone you choose, as long as it fits through the "door" – the **estate-and-gift-tax exemption, currently $13.61 million.**[2]

Current estate/gift tax exemption

$13.61 M

IRS takes

40%

of everything left in estate

Above the exemption, the IRS will take 40% of everything left in the estate, and that figure may be affected if your state also imposes estate taxes. Check with your financial advisor for more detailed information.

Bad news: Recent studies suggest that more than $68 trillion of wealth is going to be passed from one generation to the next over the next 30 years,[1] and no one can predict the future size of that door. **The estate-and-gift-tax exemption is scheduled to be cut in half on Jan. 1, 2026** – and not only can the exit door be changed at any time by Congress, the 40% estate tax rate may also be changed.

$13.61 M → $6.8 M Estate/gift tax exemption beginning Jan. 1, 2026

It seems reasonable to expect **Congress will reduce the size of the door**, as already planned, because that will target the great wealth transfer with higher taxes to support planned government spending. In the past 40 years alone, the estate tax rate has trended down from 70% to 50% (as recently as 2002), before settling at the 40% it is now.

[1] Cerulli Associates: "The Cerulli Report, U.S. High-Net-Worth and Ultra-High-Net-Worth Markets," 2021.
[2] As of January 2024.

What happens without an estate plan?

The answer is simple – your state government has already thoughtfully created an estate plan for you. It's called intestacy (in-tes-tuh-see) and it's the rules-based, default estate plan to disburse your assets to the people your state assumes should be your beneficiaries.

Intestacy is what the government of your state thinks should happen when you're gone, regardless of:

- Your wishes
- Tax implications
- Efficiency
- The actual best interest of your beneficiaries

Intestacy varies from state to state, but generally operates with similar principles. Intestate distribution may differ if you're married, unmarried, have children, have stepchildren, or even if you have minor children. All of those factors can change the outcome of an intestate distribution.

In general, intestacy would distribute assets to your spouse first, and then to children (if you have any), and then if not, to parents, if they're alive, then to siblings if you have them, and gradually more remote members of your family like nieces, nephews, or cousins. It can vary drastically, depending upon your family situation.

More importantly, and inconveniently, from the beneficiaries' perspective – intestacy will tie things up in **probate**. And probate may average nine months to a year for a straightforward intestate estate to much, much longer for a complex situation.

Lastly, you may think of your assets as my money, but when distributed in intestacy (at least to a non-minor beneficiary), it becomes *their* money, and they're free to do anything they want to with it. Through intestacy, your assets will be given to the default beneficiaries, with no strings attached. In addition, the probate process can be expensive.

Possible threats to wealth

Divorce

Creditors

Predators: Internet

Predators: Caregivers

Destructive family dynamics

Self-destructive behavior

"Too much, too soon"

Beneficiary with poor money management

Your inheritance pinch

More than **one third** of inheritors had a **negative savings rate** over the first two years of inheriting an estate – or in other words, the beneficiaries spent it all.

More than 1/3 of inheritors had a negative savings rate.

However, the percentage who spent it all declines as the amount of inheritance increases, along with the age of the inheritor. And yet, one in five Baby Boomers (presumably already well-established economically), spent their entire inheritance of more than $100,000.[2]

1 in 5 Baby Boomers spent their entire inheritance of more than $100,000.[2]

[2] Journal of Family and Economic Issues: "Do People Save or Spend Their Inheritances?"

Many paths to one destination

Every family's situation is different, and even for an average family, there's a great need to plan for your loved ones' futures. Make sure your estate plan fits your individual needs.

Four similar families:

- Mom and dad, happily married
- Both 68-years-old
- Worth $5 M
- Three kids

+ $5 M +

Four different paths:

1 Family one may be very charitably inclined.

2 Family two wants to prioritize funding education for their grandchildren and beyond.

3 Family three made their money with a small business they owned.

4 Family four made their money as a corporate executive, heavily exposed to a large holding in that single stock.

Destination:

Your estate plan can account for all these circumstances and leave your family in the best possible position to succeed.

What to expect in chapter 2

Now that you know you need a plan, which plan is right for you? We'll also discuss the pain points for your beneficiaries, as well as your assets.

Contact your financial advisor for more information about estate planning.

CHAPTER 2

Estate Planning *for Everyone*

In the last chapter, we discussed the basics of estate planning. In this one, we'll delve into the different types of estate plans and the importance of trusts. What exactly are your options? Which one should you pick? We're here to help, so keep reading.

If you already have a will, congratulations. When was the last time it was reviewed? A will or a trust must be considered a working document and not some stagnant piece of paper.

Estate Planning options

If you don't already have a will or want to complement your plan with other products, there are plenty of options available.

Last Will and Testament: A key tool in an estate plan, a will empowers your personal representative to carry out your wishes in distributing your property through the probate process. Probate can be time consuming and imposes costs on the estate. Probate is a public record, often likened to "airing out your laundry." If you have minor children, a will also gives you the opportunity to designate a guardian of your choice in the event neither parent survives.

Revocable/Living Trust: This trust, often used as a will substitute, can be changed, revoked, or amended during the lifetime of the creator of the trust (the grantor or settlor). This may make estate settlement easier and less expensive than probate and provides privacy not available in probate.

Irrevocable Trust: This trust, largely unable to be changed after it is implemented, is often used in estate planning. Frequently, this trust holds life insurance, which can provide liquidity for estate taxes or other estate settlement expenses, and when properly structured, protects the life insurance benefit from counting as part of the taxable estate.

Avoiding leaks and perils

Estate planning can also be used as a tool for protecting your beneficiaries as well as your assets while you're alive. Just as routine maintenance can prevent problems with your home, estate planning may offer you solutions to plug possible leaks – before they happen:

Leaks

- Taxes
- Creditors
- Predators
- Lawsuits
- Spendthrift beneficiaries

Perils

- Self-destructive behavior (irresponsibility, drugs, alcohol, etc.)
- Divorce
- Immaturity

Who needs a trust?

Legacy control can be an important motivator in estate planning. There are plenty of reasons to want to protect your legacy. Perhaps you're leaving money to a child who isn't reliable at managing it or a child where you're concerned about exposing assets to a possible divorce.

Trusts can help.

Trusts are fiduciary arrangements that are managed by trustees. Whereas a will is executed by an executor, trusts are handled by trustees. Both are done on behalf of their beneficiaries. Trusts afford some critical benefits that wills do not have. These include:

1. Avoiding probate.
2. Realizing a higher degree of privacy.
3. Gaining faster access to assets for beneficiaries.
4. Retaining control, even after you're gone, over wealth distribution.
5. Protecting legacy through stipulations.

Types of Trusts

Living/Revocable/Family Trust

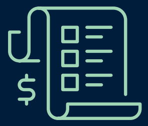
- Assets titled in trust's name
- Works with a **pour-over will**
- Assets pass by trust's terms (not will)
- Enhances privacy
- Avoids/minimizes probate costs

Irrevocable Living Trust (ILIT)

- Typically holds life insurance
- Removes life insurance proceeds from grantor's estate

Special Needs Trust

- Provides for disabled child(ren) after parents are deceased



A **pour-over will** works in partnership with a living trust. It's designed to catch property you didn't put into your trust during your lifetime, letting the court know you want those assets transferred to your trust after you die.

Key groups benefitting from estate planning

We'll discuss many of these in detail, but overall, these are some of the best candidates for estate planning.

Family business owners

Blended families/ special family circumstances

Charitably inclined individuals

High-net worth individuals

Heirs to larger estates

Potential options for your plan

There are other steps you can take in order to protect your beneficiaries as well.

Discuss your needs with your financial, estate or, tax-planning advisors to learn more.

Health care proxy/ directive

Power of Attorney

Living/revocable trust

Family business owners

Part of the American dream was to create a business and become your own boss. Ensuring that a legacy for future generations can certainly be another part of the dream.

Discuss establishing a board to make decisions among various shareholders. If there's a single family member who's going to operate the business (while others remain shareholders), this can help decision making and settle disputes. Be mindful that the person running the business may sometimes resent the silent partners, and it may be more preferable to leave other assets, or life insurance proceeds, to the uninvolved family members.

One option may be to create a trust to own the business as a whole. This keeps in the family the various interests in the business and keeps them away from outside control. A trust may also protect those same interests from being divided up in a divorce, protected from creditors, or from one child selling them and putting another child in business with an incompatible business partner.

In addition to the practical and financial benefits of estate planning, one of the most important, but often overlooked, benefits may be to prevent hard feelings between heirs. A well thought out distribution plan can remove any chance of misunderstanding between heirs and potentially eliminate a lifetime of animosity between them after you're gone.

> "For the business owner, business planning *is personal planning* and personal planning *is business planning*."

Other important questions:

1. What happens when those disputes arise?
2. Is there a mechanism for managing disputes?
3. What level of agreement is needed for heirs to sell?
4. What happens if one child wants to sell and one doesn't?

Blended families

The American nuclear family has grown in its complexity over time. Through divorce, remarriage, two sets of children, adoption, etc. – the family at its core can be more complicated.

A wide range of ages under one roof (or estate) is another complication to consider. For example, how do you balance wanting to leave something for your children, while caring for your new spouse, who is much younger than you?

Life insurance and trusts can make a big difference in this estate plan. If the patriarch fails to make an estate plan, much of the assets would be left to his younger wife via intestacy (though not necessarily all, depending on the state), who could then direct everything to her own children when she's gone.

Other important factors:

- Address situations where second-marriage spouses have different financial resources.
- Consider a pre-nuptial agreement.
- Life insurance is often used to equalize these estates.
- Ensure your wishes are carried out for each side of the blended family.
- Watch for qualified plans in situations like this. The retirement account is often one of the largest assets in the estate.
- Consider leaving the retirement account to the spouse, since they have the most flexibility as a qualified plan beneficiary, but replace the wealth represented by that with additional life insurance for the adult children.

In summary

There is no one-size-fits-all way to plan your estate. You may, or may not, have a complicated need for estate planning. Either way, the most important step to creating an effective plan is to know why you're creating it. The **who**, **what**, and **where** should always follow the **why**. And in case we haven't made it clear yet, the **when** is – the sooner, the better.

What to expect in the 3rd and final chapter

Now that you know the different types of estate planning, we'll examine how to define your goals and actually create your plan.

Contact your financial advisor for more information about estate planning.

CHAPTER 3

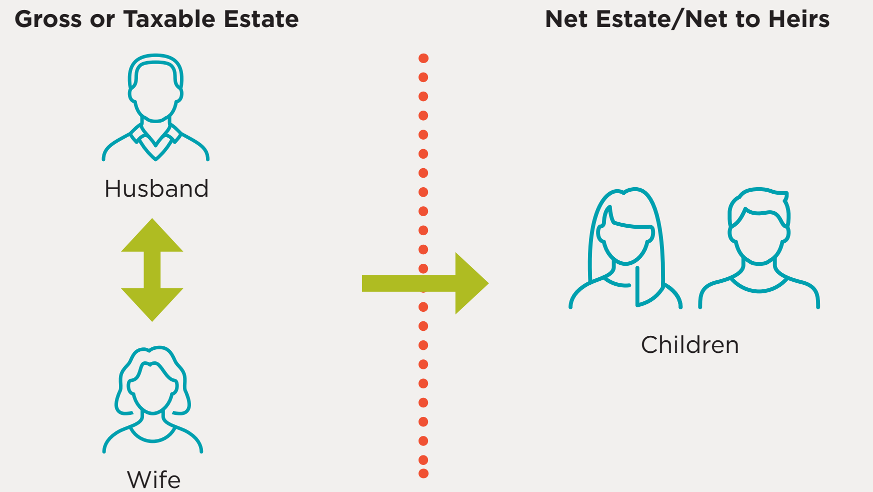
Estate Planning *for Everyone*

In the last chapter, we defined the different kinds of estate planning elements and the importance of trusts. In this one, it's time to act. **Define your goals** and create an estate plan that works best for you. By focusing on how you can keep your eye on your plan's objectives.

Starting your plan

Before you develop your plan, you must first determine your overall objective. The good news after careful consideration, it can be pretty straightforward. The bad news, it's not always so easily achieved. Basically, everyone's main objective is simply this – get your assets across the dotted line (see image) with the minimal amount possible claimed by the IRS.

It's also important to remember that most assets owned by the husband and wife are exposed to the leaks outlined in Chapter 2 including, creditors or predators, divorce/lifestyle choices, and spendthrift beneficiaries.



1. Unlimited spousal transfers are allowed.
2. The red line represents probate and/or taxes of the state/federal variety.
3. Taxes that may be included are:
   - Income
   - Gift
   - Estate
   - Generation-skipping

What it all means

Most wills are referred to as "I-love-you" wills because the husband leaves everything to the wife, the wife leaves everything to the husband, and when the last spouse passes away, the remainder is left to the children.

This can be inefficient for multiple reasons, including financial concerns in cases where a child (for example) comes into a large sum of money – spending it all relatively quickly. We often describe this as the too-much-too-soon risk. Chapter 1 cited data about how quickly many inheritances are spent. This also doesn't plan for any state-level, estate taxes.

> It's common for someone who doesn't feel wealthy to nevertheless have a taxable estate.

Oftentimes, estate planning focuses so much on federal estate taxes that it overlooks the planning to minimize state estate taxes. State taxes are as high as 20 percent in some areas. In some states, estate taxes start at a $1 million threshold, and since that includes everything (e.g., your primary residence), it's common for someone who doesn't feel wealthy to nevertheless have a taxable estate.

Here are eight most-common types of estate assets

1. Owned by you – payable to a designated beneficiary immediately after your death (life insurance, IRAs, 401(k)s, and annuities)
2. Payable on death (POD) or transfer on death (TOD) designations (bank accounts)
3. Own jointly as joint tenants or joint tenants with rights of survivorship (JTWROS) [discussed in Chapter 1]
4. Own with your spouse as tenants by the entirety (TBE)
5. Owned by your revocable living trust
6. You retain a life estate
7. Owned individually
8. Beneficiary designation assets where the designation fails (or was not made)

Important:
The **green** assets above are assets where your will does not control what happens to them. However, the **blue** assets are assets where the disposition will be controlled by your will. In addition, some **green** assets could turn **blue** because of the unknowns of life, such as where a beneficiary pre-deceases the account holder.

For those claiming, "I don't need a will"

You jointly own an asset with someone, a small business for instance.

1. That person dies before you. You are the beneficiary of the account that was payable upon death to you. Now, that asset is owned completely by you.
2. What if you and the person you jointly own an account with dies in a common accident? This instance could make dividing up your assets between your loved ones very messy.

For people claiming, "I don't really need a will," they may assume things go well and that their accounts pass by beneficiary designation, as intended, but ignore the possibility of complications.

Assets not covered by your will

It's also important to note there are other assets your will has no control over. **That's right – your will has no control over some of the largest assets you own.**

It's important to coordinate those accounts with your overall financial plan because the failure of a beneficiary designation can be avoided. Sometimes the issue is administrative when the account is opened. Other times, no one remembered to name a contingent beneficiary and the primary beneficiary had already passed away. Sometimes, divorce may terminate the beneficiary designation, by operation of state law, leaving an account with no beneficiary at all. The importance of **beneficiary reviews** cannot be overstated.

It's important to coordinate beneficiary designations in advance – particularly if those assets are left to different people, perhaps as a means of equalizing the estate.

Be sure to also coordinate those assets that will pass by beneficiary designation (and not through your will), such as:

- Retirement accounts
- Life Insurance
- Annuities
- Property owned jointly with another individual

These property types are not impacted by changes to your will or trust, and the beneficiary designations should be reviewed periodically, especially whenever there is a significant change in the family – such as a death, marriage, divorce, birth, etc.

Review *all* of your beneficiary designations periodically.

Why Estate Planning *Really* is for Everyone

Unless you like giving money to the IRS, careful planning for your estate can make all of the difference.

Keep assets in the family

- Away from creditors
- Safe from lawsuits
- Out of divorce court

Insulate assets from estate and gift taxes

- Not just for the first generation
- But for the second (and beyond) as well

Protect spendthrift beneficiaries or those too young to reliably manage their own affairs

So everyone's wishes are respected – protect and equitably distribute assets in:

- Second marriages
- Blended families

Creating a More Effective Plan

How Life Insurance sets the tone

If you purchase **Life Insurance** via a trust, you can then establish that the eventual death benefit is to replace or replenish assets used for Long-Term Care (LTC). Both you and your spouse could also consider Life Insurance for income replacement, even if it's only to replace Social Security checks lost when you or your spouse die. Life Insurance is also often used to cover final expenses.

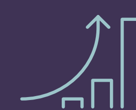
In addition, **Survivorship Life Insurance**, which covers two insureds at once, may offer a better value for you as a couple, especially if one of you has health problems that prevents them from qualifying for Life Insurance. These policies are typically owned by a trust to protect assets from estate taxes. This approach also allows the insured (you or your spouse) to maintain control "from beyond" via the trust's instructions for how beneficiaries may use the death benefit.

Life Insurance features and benefits

Death benefit exceeds premiums paid

Survivorship policies protect couples at second death

Tax-free death benefit, may, in some policies, be used to fund LTC needs



Viable option to replenish lost wealth for clients who cannot qualify for traditional LTC policies or riders

The importance of longevity planning

Longevity should always be a careful consideration. People generally balance assets among their heirs, but if one of those assets needs to be spent down (or an asset needs to be liquidated) in order to pay for **LTC** after an unexpected event – it's nice to already have a plan in place.

There are even insurance solutions that you may find more flexible than traditional LTC insurance. **Linked Benefits** (sometimes called **LTC-hybrid solutions**) offer great value and benefits as part of your overall financial plan.

These products are life insurance contracts integrated with LTC benefits. In these types of policies, the death benefit is not the primary focus – but the policy enables a way to ensure you don't lose your premiums should you not have a care need. However, if you do need care, Linked Benefit products include care coordination resources from your insurance carrier.

Estate planning complemented with a plan for the unexpected including **LTC solutions** or **Linked Benefits** is a great way to cover all of your bases.

Imagine if you're incapable of managing your affairs. Your family would need to scramble to figure out where your estate plan is located. Then, they would need to bring the estate under the control of a conservator.

If you planned in advance, your trustee would continue to control your property, even if you were disabled. And because you took care of this in advance, you could establish the exact terms and wishes for your assets. There would be some forethought to which assets are going to be liquidated first to pay for your care, where to provide for care, and so much more particular to your exact situation.

"High-net worth clients don't have the affordability objection. But there's the likelihood that they could experience an unexpected health event as they age. There's simply no guarantee that their need for care would come at a time that's either convenient to them or to the performance of their portfolio," Nancy Simm, Director of LTC and Longevity Planning, Highland Capital Brokerage said.

Consider coupling estate planning with planning for the unknown - by adding LTC Insurance to your financial picture.

Using Annuities to your advantage

Annuities are often used in estate planning, either inside or outside of a trust, and several approaches may be beneficial for what you want to accomplish. For example, a lifetime income annuity gives you the "permission to spend" other assets, knowing you have the annuity to rely on.

In a trust, a beneficiary will be forced to cash out the annuity within five years of the annuitant's death, which could compress all the taxable gains into a short period of time, particularly if the annuity has significant growth. The trustee could use those proceeds, after cashing out the annuity to buy lifetime-income annuities or other products to secure an annual income for the trust's beneficiaries.

Annuities are sometimes used, if owned by a trust, to fund a life insurance policy using lifetime income from the annuity. Appreciated annuities that have lifetime income riders may see those riders "turned on" to generate income that the grantor will use to buy life insurance after gifting the income to a trust.

A traditional fixed annuity, with its guarantee of principal, can provide some significant advantages in an overall investment plan. Acting as a fixed asset in an allocation model, it can provide balance to the equity portion of the portfolio while substantially lowering the potential risk of a traditional bond allocation. In addition, at the death of the owner, the annuity's proceeds would pass directly to the beneficiaries without the delays and cost of probate.

Annuities can represent an invaluable part of your estate plan, or if you're looking for guaranteed income. Some annuities even offer enhanced payouts for LTC needs. Fixed annuities may potentially offer you better rates of return when compared to your current savings, especially if the savings are in traditional bank products, such as savings accounts, CDs, and money market accounts. With a principal guarantee and tax deferral, you essentially receive **triple compounding**: Interest on your principal, interest on your interest, and interest on the funds you would otherwise would've paid in taxes.

Leverage and planning are the name of the game.

Need for Coverage

Consumers' concerns over finances may be growing, given current inflation rates and the lingering effects of the pandemic. Here are some things to consider:

	Life Insurance	Annuities	Linked Benefit/ Hybrid LTC
Tax-deferred growth			
LTC benefits			
Tax-free death benefit			
Available lifetime guaranteed income			
Available supplemental retirement income			
Avoid 'use it or lose it' of LTC insurance			

The wrap

There's no time like the present to start planning, especially since the current planning environment is favorable with high estate-and-gift tax exemption, wide income tax brackets, and availability of favorable estate-planning techniques. An estate plan doesn't just protect you – it protects your loved ones. We've all read stories of heirs who blow through their whole inheritance – quickly.

Leverage and planning are the name of the game. Modest gifts, leveraged in a trust, can help secure the legacy you want to leave behind. Oftentimes, this leverage and planning affords you the freedom to spend other assets, knowing you still secured a legacy for your family. Always remember – it's never too soon to start to plan.

About the Author

Michael Raczkowski, J.D., CFP®, Vice President, Head of Advanced Planning, Sales Support, and Underwriting – is an attorney and Certified Financial Planner® with more than 15 years of experience in the life insurance industry. His primary focus is providing advanced planning assistance for Highland Capital Brokerage advisors and other producers.

Raczkowski joined Highland following a long and successful career at John Hancock where he held multiple roles, including account management, internal and external wholesaler, and advanced markets attorney. Raczkowski also has experience in the field, starting his insurance career as a producer at New York Life.

Raczkowski received his Bachelor of Arts degree from Bridgewater State University in Mass., and completed his J.D. at Suffolk University Law School in Boston. He is licensed to practice law in Mass. Born and raised south of Boston, Raczkowski now lives in Medway, Mass., with his wife, Meredith, and their two children.

Contact your financial advisor

for more information about estate planning today.

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