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# 2019 Financial Planning Guide: Estate Planning



# 2019 ESTATE PLANNING UPDATES

## Federal Estate Planning Guidelines

	2018	2019
Estate Tax Exclusion	\$11,180,000	\$11,400,000
Maximum Estate Tax Rate	40%	40%
Lifetime Gifting Exemption	\$11,180,000	\$11,400,000
Maximum Gift Tax Rate	40%	40%
Annual Exclusion Gift	\$15,000	\$15,000
Annual Gifting Limit to US Citizen Spouse	Unlimited	Unlimited
Annual Gifting Limit to Non-US Citizen Spouse	\$152,000	\$155,000



### IRS Issues Clarification on Lifetime Gifts

In late November, the IRS issued proposed regulations that it would not retroactively “clawback” gifts made under the increased gifting exemption amounts afforded by the Tax Cuts and Jobs Act (2018-2025).



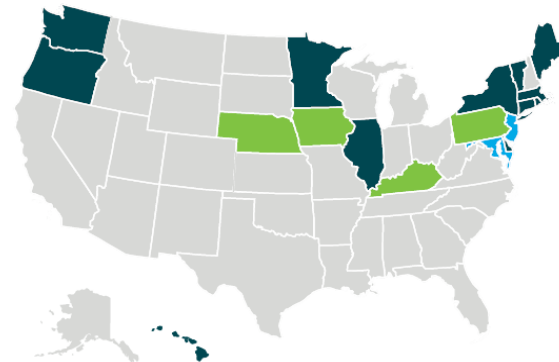
### Don’t Forget Estate Tax at the State Level!

In recent years, many states have “decoupled” from the federal estate exclusion. As a result, such states have estate exclusions below the federal level which may result in state estate taxes.

### State Estate & Inheritance Taxes (2018)

State	Estate tax	Inheritance tax
Connecticut	\$2M; 7.2%-12%	
Delaware*	\$5.49M; 0.8%-16%	
Hawaii	\$5.49M; 10%-15.7%	
Iowa		0%-15%
Illinois	\$4M; 0.8%-16%	
Kentucky		0%-16%
Maine	\$5.49M; 8%-12%	
Maryland	\$3M; 16%	0%-10%
Massachusetts	\$1M; 0.8%-16%	
Minnesota	\$2.1M; 10%-16%	
Nebraska		1%-18%
New Jersey*	\$2M; 0.8%-16%	0%-16%
New York	\$5.25M; 3.06%-16%	
Oregon	\$1M; 10%-16%	
Pennsylvania		0%-15%
Rhode Island	\$1.515M; 0.8%-16%	
Vermont	\$2.75M; 16%	
Washington	\$2.129M; 10%-20%	
District of Columbia	\$2M; 8%-16%	

\* The estate tax has been repealed for 2018 and beyond in Delaware and New Jersey (though New Jersey’s inheritance tax remains).



- State has an estate tax
- State has an inheritance tax
- State has both an estate and inheritance tax
- State has no transfer tax

# 2019 GUIDE TO ESTATE PLANNING

## Level One (Must Haves)

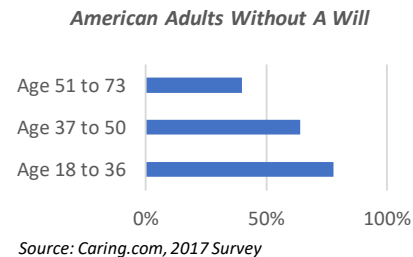
***Planning for and documenting the transfer of assets with minimized tax and transfer cost. Review upon life events (marriage, divorce, birth, adoption, etc.)***

- A Will appoints guardians for your children and spells out specifically how you want your property split
- A Living Trust avoids probate, allows for privacy and to designate how assets are to be divided upon your death
- A Healthcare Power of Attorney allows you to designate a Healthcare agent to make health decisions in the event you are unable to make decisions for yourself
- A Financial / Property Power of Attorney allows you to designate an agent to make financial decisions in the event you are unable to make decisions for yourself
- Joint accounts transfer to a designated person upon death, it is important to review co-ownership provisions and the titling of accounts
- Some assets (such as IRAs, Life Insurance, and Annuities) pass to your designated Beneficiaries; it is important to review those beneficiary designations

## Level Two (Considerations)

***Further enhance the direction of assets, minimize Estate Taxes, or increase Asset Protection***

- Grantor Retained Annuity Trusts (GRAT) seek to pass assets to beneficiaries free of estate and gift tax that have appreciated over the IRS Section 7520 interest rate
- Explore Charitable Trust, Donor Advised Fund and Foundation Options
- Since Life Insurance is not estate tax free, consider establishing an Irrevocable Life Insurance Trust
- Qualified Personal Residence Trust (QPRT)
- Intra-Family Loans can provide family members lower borrowing rates than traditional financing options
- Special Needs Trusts ensure the proper passing of assets to ensure beneficiaries with needs are not disqualified from benefits they are entitled to



## Level Three + (Advanced)

***For Complex Estate Tax Issues or Liability Concerns***

- Domestic and Offshore Asset Protection Trusts offer those in high liability fields of work and those with high estate tax brackets options to reduce liability
- Self-Cancelling Notes allow the exchange of property for periodic payments based upon mortality
- Family Limited Partnerships and Family LLC's provide legal, financial, and tax structure to family businesses

## Concept Check: Portability

Portability allows you to use your spouse's unused estate tax exclusion. While portability was made permanent for federal estate tax purposes, you should check if your resident state also allows for portability of a deceased spouse's unused estate exclusion. In the event your resident state does not allow for portability, it may make sense for both spouses to have assets in their respective name (or trust's name) up to the resident state's estate exclusion amount.

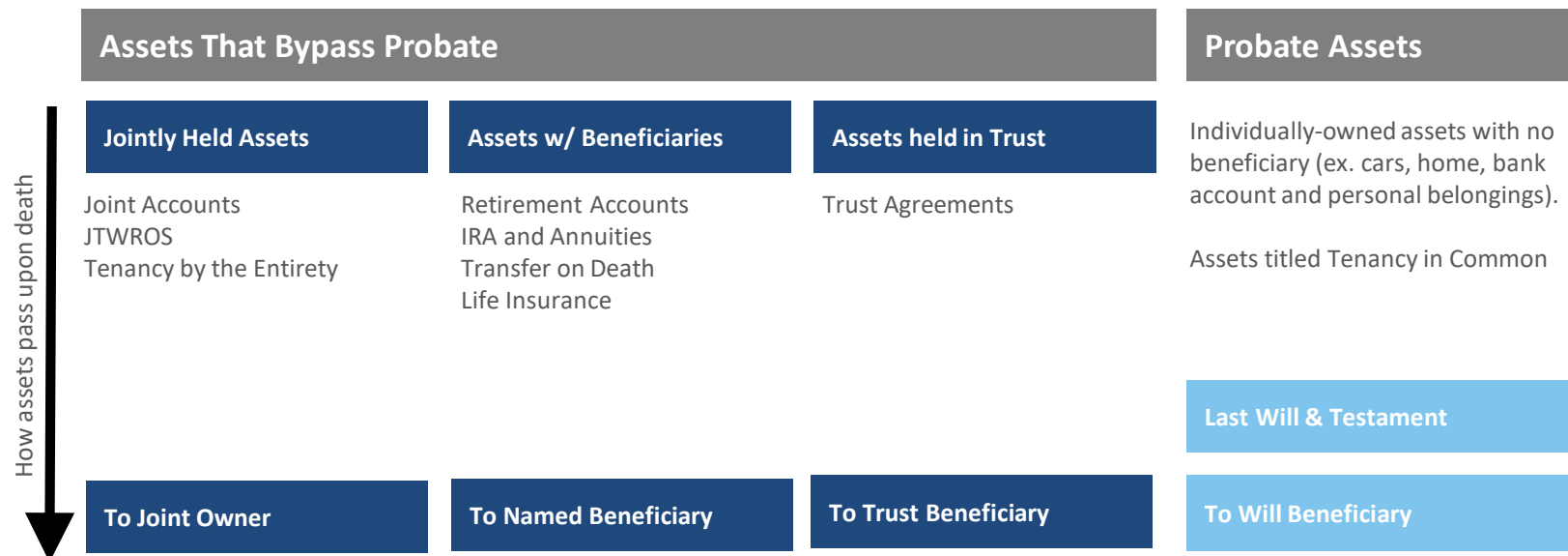
# HOW ASSETS PASS UPON DEATH



## Probate vs Non-Probate Assets

*Probate is a public-court process that helps settle legal and financial matters upon death according to a will, if written.*

*Court costs, length of time, the lack of privacy and family disagreements are all potential issues that may arise within the probate process. With proper Estate Planning, you can limit the amount of assets that pass through Probate.*



**Digital Assets:** 41 states have passed a version of the Uniform Law Commission's Fiduciary Access to Digital Assets Act, Revised that legally allows for an executor, trustee, etc. to access a deceased's digital accounts. Consider discussing your digital estate with your attorney and the potential need to share online access information with your executor.

# HOW ASSETS PASS UPON DIVORCE



## Marital vs Non-Marital Assets

*Estate planning is not divorce planning. Without a pre- or post-nuptial agreement, marital assets are subject to equitable division in a divorce proceeding.*



*Effective for divorces finalized after January 1, 2019, alimony payments will no longer be tax-deductible by the paying spouse and will not be added to the taxable income of the receiving spouse.*

How assets pass upon divorce ↓	Marital Assets	Non-Marital Assets
	Property Acquired During Marriage	Property Acquired Before Marriage
	<p>Any property, real or personal, the couple acquires during the course of the marriage, <u>regardless of title or who paid for it</u>.</p> <p>Typical examples include:</p> <ul style="list-style-type: none"><li>• Retirement &amp; Investment Accounts,</li><li>• Pensions,</li><li>• Homes and Vacation Homes</li></ul>	<p>Any property, real or personal, acquired prior to the marriage, also including specific instances of property acquired during the course of the marriage by one spouse.</p> <p>Typical examples include:</p> <ul style="list-style-type: none"><li>• Inheritances</li><li>• Gifts</li><li>• Any property owned prior to marriage</li></ul>
	Subject to Equitable Division	Not Subject to Equitable Division



**Tainting of Assets:** *Non-marital assets may be tainted during the course of a marriage and be treated as marital assets in a divorce proceeding. For example, if a spouse deposits a personal inheritance into a joint account or uses income from an inheritance to support the couple's lifestyle, this non-marital asset may be treated as a marital asset.*



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