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Overview of the Core Documents and What to Look for When Reviewing Them

Basics of Estate Planning

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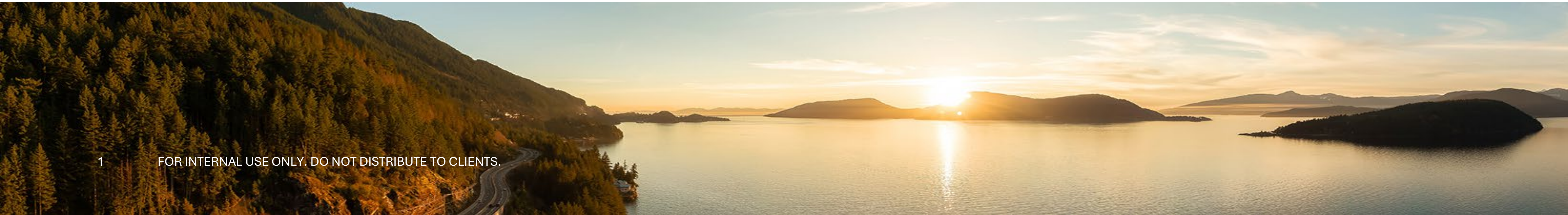

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Basics of Estate Planning

1. Overview

Overview

Why is this important?

EVERYONE NEEDS A PLAN

- Estate Planning documents are vital to a client's overall financial plan
- Important to regularly review what clients have in place
  - At least every 5 years
  - Change in circumstance or situation, legislative change or major life event

BENEFITS OF AN ESTATE PLAN

- Benefits of an Estate Plan
  - Protect your loved ones and your wealth
  - Memorialize your wishes in the event of incapacitation or death
  - Name Guardians
  - Leave a Legacy
  - Save on Taxes

Tax Law Sunset

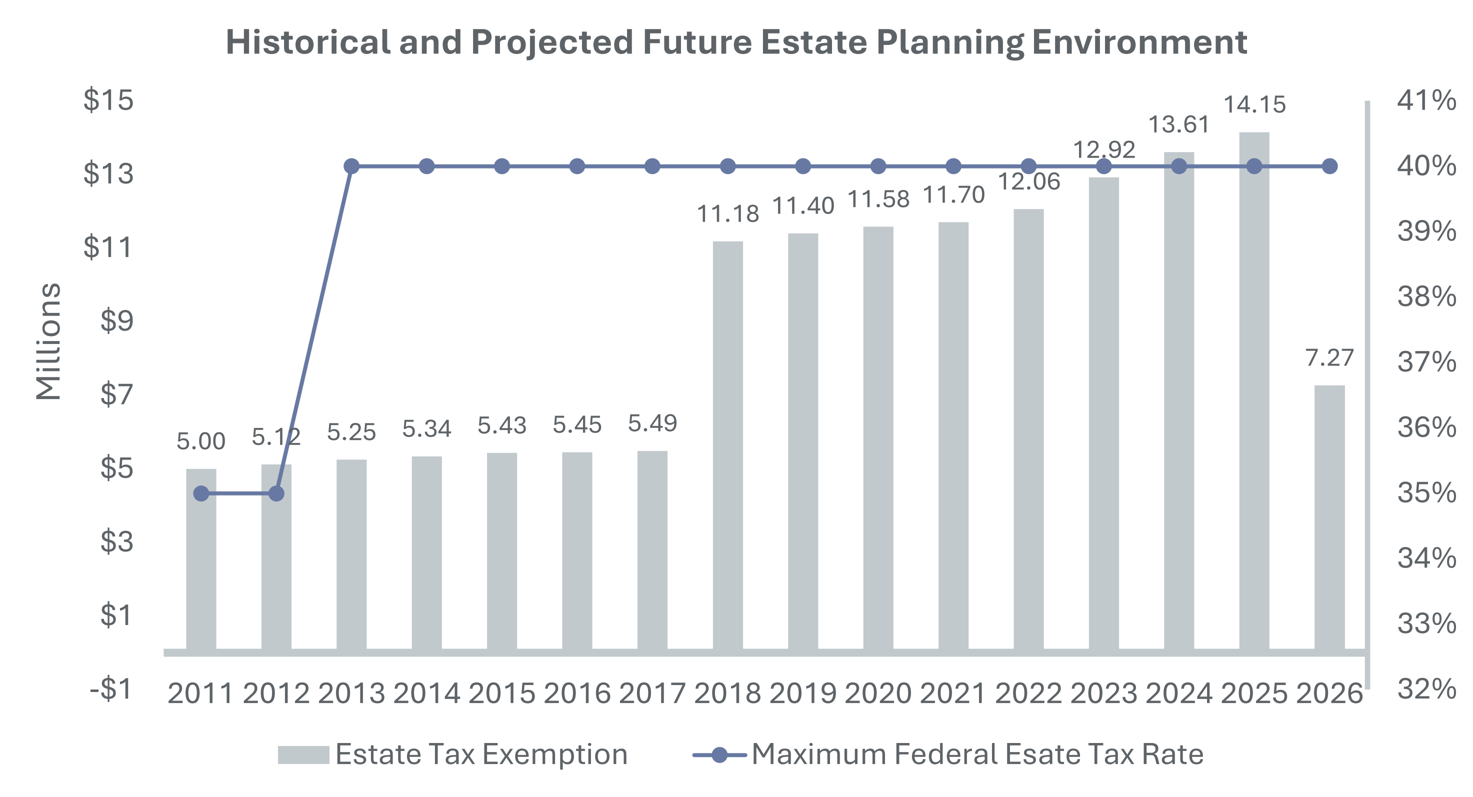
Changes to Federal Estate Tax Exemptions are Set to Sunset in 2026

TAX CUTS AND JOBS ACT

The TCJA of 2017 is set to expire at the end of 2025 without further legislation

FEDERAL ESTATE TAX EXEMPTION

Currently set at $13.61 million for Individuals ($27.22 million for married couples), the Federal Gift, Estate, and Generation-Skipping Transfer Tax Exemption will revert to $5,000,000 for individuals, indexed for inflation.



Source: Internal Revenue Service, 2024; Corient One-Pager: Current and Historical Estate Planning Environment

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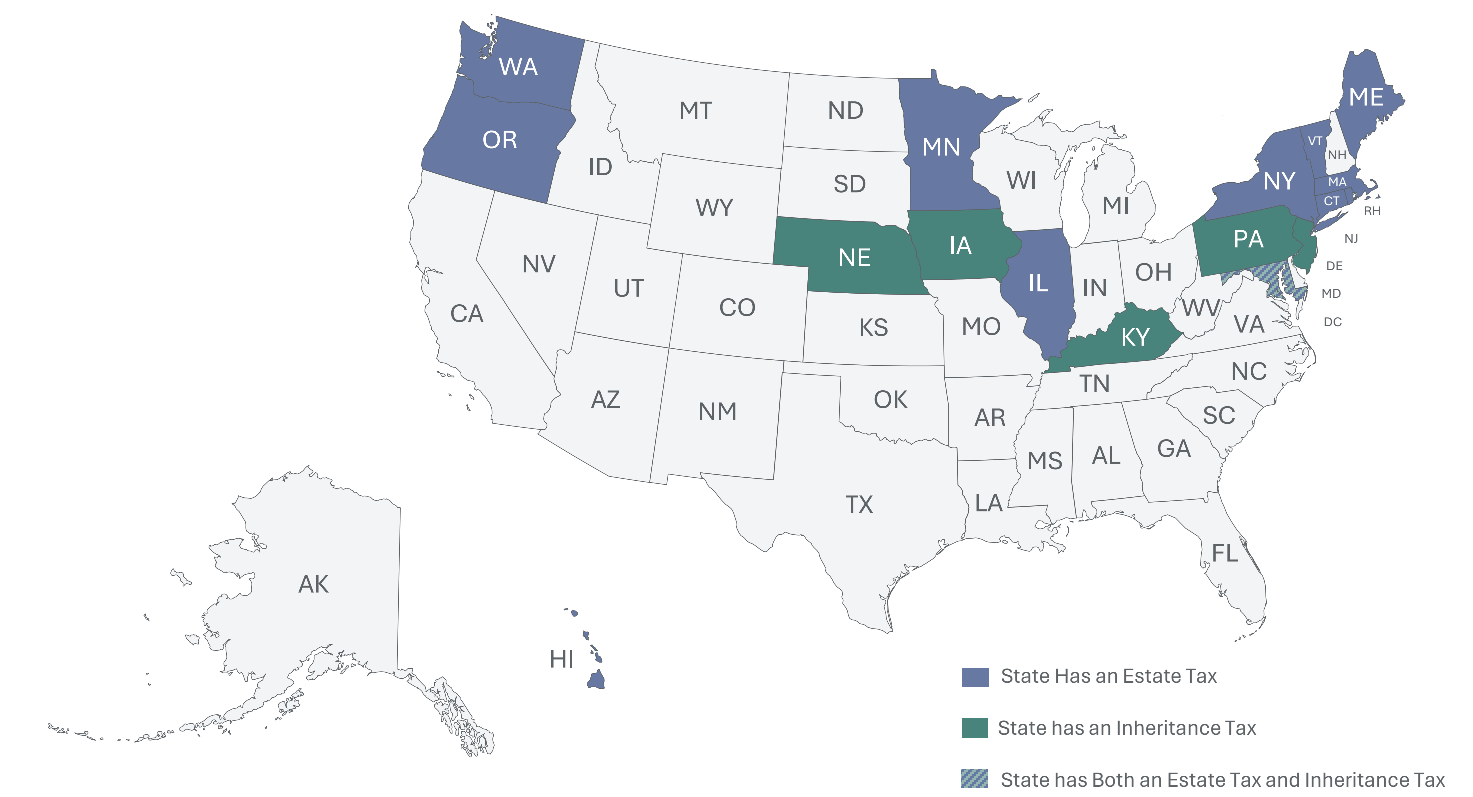
Differences Across States

State Estate Tax, State Exemptions, Inheritance Tax and Portability

NOT EVERY STATE IS THE SAME

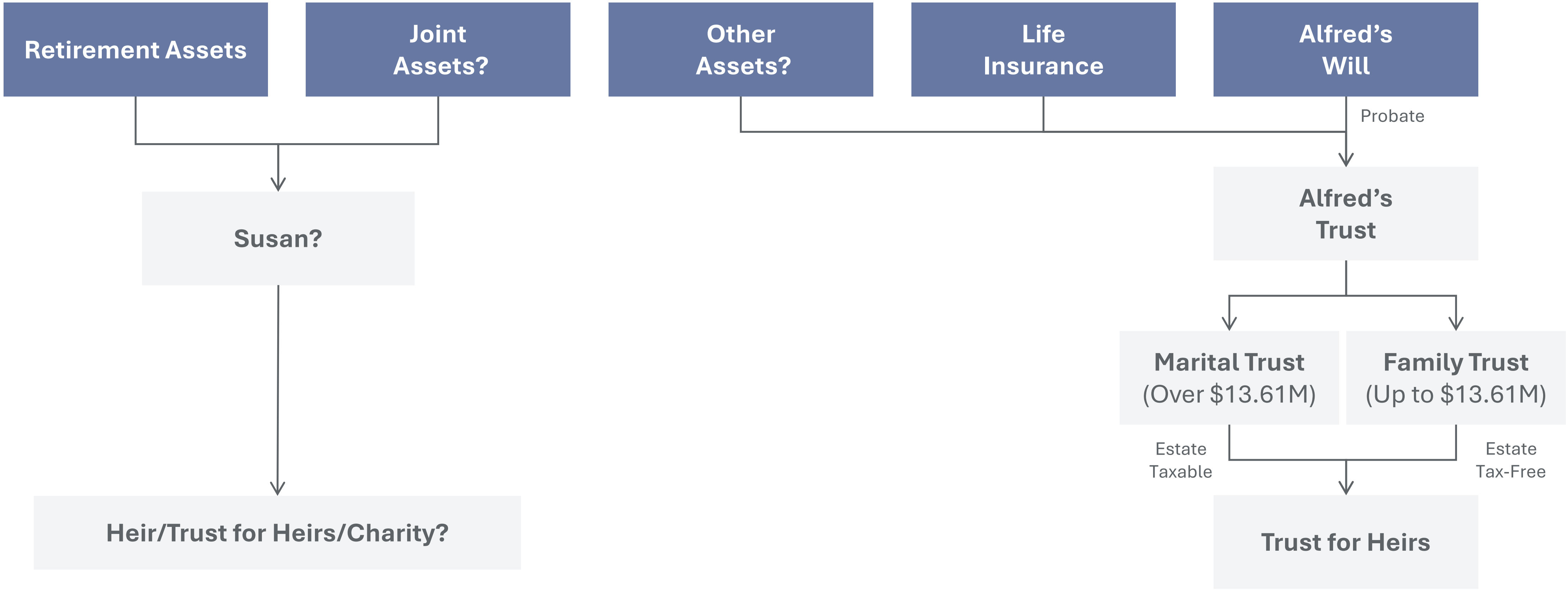
Each state has its own unique set of laws surrounding probate, portability of exemptions between spouses and taxes. It's important to know if there are nuances and how that may impact an Estate Plan.



Source: TaxFoundation.org

Example: Estate Plan Flowchart

How does it all fit together?



Source

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2. Will

Will

Overview of a Will

A Will is a legal document that lays out how a person wants to distribute their property at death

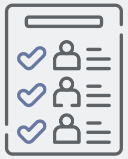
- Wills are public documents and the assets/property go through a state's probate process at death
- Wills **govern** property owned by someone in their individual name, with no beneficiary designation
- Wills **do not govern** property that is owned jointly, owned in a trust, or contains a beneficiary designation
- A Will names key important people to serve in specific roles
  - Executor
  - Guardians
  - Trustees of trusts created within the Will (Testamentary Trusts)
- Wills should identify the person creating the Will (Testator/Testatrix), the state where they are located and should revoke all prior Wills
  - A partial modification or amendment to a Will is called a "Codicil"
- A "Pour-over" Will may be used in conjunction with a Revocable Living Trust
- Each state has specific requirements that govern the proper execution of a Will

Will

Reviewing a Client's Existing Will

Best Practices for Reviewing a Client's Existing Will

Does the client still live in the state where the Will was created and filed?



Are the people named as beneficiaries and appointed to serve in important roles still relevant to the client's life?

- Has the client had any major life events such as marriage, divorce, birth or death of a child; or a change to Guardian's circumstances?

Is there a clause that references any property that has not been specifically bequeathed (usually "residue" or "residuary" will appear)?

Testamentary Trusts: A Trust created within a Will

- Are any trusts being created within the Will at death?
- Who will serve as Trustee? Who are the beneficiaries?
- How will the trusts be funded?

Pour-Over Will: The Will typically leaves the residue to a separate Revocable Trust

- Review the Revocable Trust document

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3. Revocable Trust

Revocable Trust

Overview of a Revocable Trust

A Revocable Trust or Revocable Living Trust is created during a person's lifetime.

- Unlike a Will, a Revocable Trust is a private contractual document and property titled in the name of the trust avoids the probate process
- Grantor and the initial trustee are usually the same person
- Design of Revocable Trusts may vary depending on the state and the drafting attorney
  - E.g., Separate trust created for each spouse vs. one Joint Revocable Trust created by both spouses together
- Trustee handles the administration of the trust and a successor trustee may serve in the event the first trustee is no longer able
- Beneficiaries are the people and/or organizations that will benefit from the assets of the trust after death
- Revocable = Trust may be changed or eliminated at any time
  - Taxes are paid by the grantor/trustee
  - Can change, add, remove beneficiaries
  - No creditor protection
  - When the original grantor dies, the trust becomes *irrevocable*
- Becomes irrevocable at death but Grantor may give powers to beneficiaries to appoint property differently than the stated terms of the trust.
- Trusts are typically created upon death to take advantage of estate tax exemption and marital deduction.
- FDIC Insurance is also available for revocable trusts, $250,000 per beneficiary

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4. Incapacity Documents

Incapacity Documents

Power of Attorney for Healthcare

POA for Healthcare appoints someone to make healthcare decisions on your behalf if you cannot make them for yourself

Common Decisions

- Admittance or discharge from a health care facility
- Treatments or medications that you want to receive (or not want to receive)
- HIPAA authorization directs who can receive your medical records and protected medical information

The POA Document can also describe certain preferences as to end of life care

In some states, a Living Will is another document that may contain a more detailed description of medical and end of life wishes

Different states may have variations on the name

Reviewing a client's POA for Healthcare Documents

- Has the client named primary and successor agents?
- Are those individuals still relevant in the client's life?
- If the client has children turning 18, recommend executing a Healthcare POA and HIPAA authorizations

Incapacity Documents

Financial Power of Attorney

Financial POA appoints someone to make financial decisions on your behalf if you cannot make them yourself

The agent would have authorization to perform a variety of financial activities

- Execute transactions
- Pay bills
- Authorize money movement

Some financial institutions have their own versions of Financial POAs

Reviewing a client’s financial Power of Attorney Documents

- Has the client named primary and successor agents?
- Are those individuals still relevant in the client’s life?
- Is the financial Power of Attorney “Durable” (meaning explicitly gives the named agent authority to act even after the principal becomes incapacitated)?

Client can nominate his or her guardian if one is needed.

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5. Analyzing a Client’s Planning Needs

Analyzing a Client’s Planning Needs
Best Practices

Estate Planning should start with the balance sheet

- Confirm titling of all assets and accounts
- Confirm beneficiaries on retirement accounts and life insurance plans
  - Do any taxable account have a “Transfer on Death” designation? If so, was TOD implemented at the attorney’s instruction? TOD accounts can unintentionally undo estate planning.
- What existing documents are in place?
  - Summarize the documents by reviewing how old they are, material changes to a client’s family or circumstances and state of residency
  - Summarize the key individuals named in the documents
  - Was the existing estate plan implemented?
- The next steps may be dictated by a couple of different factors
  - Client’s wishes and desires for their wealth
  - Size of their balance sheet
  - State they live in
  - Future liquidity events
- Does the Estate Tax sunset create an estate tax liability where there previously wasn’t one?
- Are the estate tax exemptions and laws within their state residency impact them sooner than Federal exemptions?

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6. Resources

Resources

Where to look for additional resources

WEALTHNET	▪ Estate Planning Section
	  ▪ Client Ready Documents including an “Estate Planning Basics” and “Current and Historical Estate Planning Environment” one-pagers
	  ▪ Link to Estate Planning and Wealth Transfer Blogs on the Corient Website
	▪ Coming Soon: Internal resources, technology and templates
	▪ Wealth Transfer Section
	  ▪ Client Ready Documents include “Corient Wealth Transfer Overview”
	  ▪ Educational papers on Charitable Lead Trusts, Charitable Remainder Trusts, Grantor Retained Annuity Trusts, Intentionally Defective Grantor Trusts, Qualified Personal Residence Trust and Spousal Lifetime Access Trusts
	    ▪ “Grand Rounds” webinars highlighting these strategies
	  ▪ Thought Leadership pieces
	  ▪ Links to past “Grand Rounds”

REGIONAL DIRECTOR OF WEALTH PLANNING TEAM	▪ List of team members and their respective region can be found on Wealth Net ▪ Can assist in determining when to engage Wealth Transfer
WEALTH TRANSFER TEAM	▪ List of team members and their respective region can be found on Wealth Net

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Thank You