

BRIGHTADVISOR®

Estate Planning Essentials

Protect your legacy, provide for your family, and minimize taxes. A comprehensive guide to wills, trusts, gifting strategies, and estate tax planning for 2026.

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Chapter 1: Why Estate Planning Matters

Estate planning is not just for the wealthy. Every adult — regardless of net worth — needs an estate plan. Without one, state laws dictate who inherits your assets, who makes medical decisions if you are incapacitated, and who raises your minor children. An estate plan gives you control over these critical decisions.

Despite its importance, studies consistently show that the majority of Americans do not have even a basic will. The consequences of dying without an estate plan (called "intestacy") can be devastating: family disputes, unnecessary taxes, prolonged probate, and outcomes that may be completely contrary to your wishes.

What an Estate Plan Accomplishes

- Ensures your assets go to the people and organizations you choose.
- Names guardians for minor children.
- Minimizes estate taxes and probate costs.
- Protects assets from creditors, lawsuits, and divorcing spouses of beneficiaries.

- Provides for your care if you become incapacitated.
- Specifies your healthcare wishes if you cannot communicate them.
- Creates a smooth transition for family businesses.
- Can provide for charitable giving aligned with your values.

Key Documents in an Estate Plan

1. Last Will and Testament — directs asset distribution and names guardians.
2. Revocable Living Trust — manages and distributes assets while avoiding probate.
3. Financial Power of Attorney — authorizes someone to manage your finances if incapacitated.
4. Healthcare Power of Attorney (Healthcare Proxy) — authorizes someone to make medical decisions on your behalf.
5. Living Will (Advance Directive) — specifies your wishes for end-of-life medical care.
6. HIPAA Authorization — allows designated individuals to access your medical records.
7. Beneficiary Designations — controls who inherits your retirement accounts, life insurance, and other contract-based assets.

Critical Insight: An estate plan is not a one-time project. Life changes — marriage, divorce, birth of children, death of a spouse, significant changes in wealth, moving to a new state — all require a review and update of your estate plan. We recommend a review every 3-5 years at minimum, and immediately after any major life event.

Chapter 2: Estate Tax Overview

The federal estate tax applies to the transfer of property at death. However, due to a generous exemption, the vast majority of estates owe no federal estate tax. Understanding the exemption and its potential changes is critical for planning.

2026 Federal Estate Tax Exemption

The Tax Cuts and Jobs Act (TCJA) of 2017 approximately doubled the estate tax exemption. For 2025, the exemption is approximately \$13.61 million per individual (\$27.22 million for a married couple). However, there is significant uncertainty about 2026 and beyond:

Scenario	Per Individual	Per Married Couple	Top Rate
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TCJA Extended (projected 2026)	~\$13.99 million	~\$27.98 million	40%
TCJA Sunsets (reverts to pre-2018)	~\$7.0 million	~\$14.0 million	40%

TCJA Sunset Risk: The TCJA estate tax provisions are currently scheduled to sunset after December 31, 2025. If Congress does not act to extend them, the exemption will revert to approximately \$7 million per individual (indexed for inflation from the 2017 base of \$5.49 million). This could expose millions of additional estates to federal estate tax. Monitor legislative developments and plan with your estate attorney for both scenarios.

How the Estate Tax Works

1. At death, the gross estate includes all assets: real estate, investments, retirement accounts, life insurance (if you own the policy), business interests, and personal property.
2. Deductions are subtracted: debts, funeral expenses, charitable bequests, and the unlimited marital deduction for assets passing to a surviving spouse.
3. The net estate is compared to the lifetime exemption amount.
4. Any amount above the exemption is taxed at rates up to 40%.
5. The estate tax return (Form 706) is due 9 months after the date of death.

Portability

"Portability" allows a surviving spouse to use any unused portion of the deceased spouse's estate tax exemption. For example, if the first spouse to die uses \$5 million of their \$13.99 million exemption, the surviving spouse can add the remaining \$8.99 million to their own exemption, for a total of \$22.98 million. However, portability is not automatic — the executor must file Form 706 to elect portability, even if no estate tax is owed.

State Estate Taxes: Approximately 12 states and the District of Columbia impose their own estate or inheritance taxes, often with much lower exemptions (as low as \$1 million in some states). If you live in or own property in one of these states, state estate tax planning is essential.

Chapter 3: Annual Gift Tax Exclusion

The annual gift tax exclusion allows you to give a specified amount to any number of individuals each year without gift tax consequences and without using any of your lifetime exemption.

2026 Gift Tax Exclusion

Category	Amount (2026 Projected)	Notes
Annual Exclusion per Recipient	\$19,000	Per donor, per recipient, per year
Married Couple (Gift Splitting)	\$38,000	Both spouses can gift \$19,000 each to same recipient
Lifetime Gift Tax Exemption	~\$13.99M (if TCJA extended)	Unified with estate tax exemption
Lifetime (if TCJA sunsets)	~\$7.0M	Reduced exemption if TCJA expires

How the Annual Exclusion Works

You can give up to \$19,000 per year to as many recipients as you wish without filing a gift tax return. These gifts do not reduce your lifetime exemption. For example, a married couple with 3 children and 6 grandchildren can give up to \$38,000 to each of the 9 recipients, transferring \$342,000 per year out of their estate without any gift tax consequences.

Gifts That Do Not Count Against the Exclusion

- Payments made directly to a medical provider for someone else's medical expenses (must be paid directly to the provider, not the individual).
- Payments made directly to an educational institution for someone else's tuition (must be paid directly to the school; does not include room, board, or books).
- Gifts to a spouse (unlimited marital deduction).
- Gifts to qualified charities (charitable deduction).
- Gifts to political organizations.

Strategy: The direct payment exemptions for medical and education expenses are one of the most underutilized estate planning tools. A grandparent can pay a grandchild's medical school tuition (\$50,000+) directly to the institution AND also give the grandchild \$19,000 in the same year — all without gift tax implications or reducing their lifetime exemption.

When a Gift Tax Return Is Required

You must file IRS Form 709 (Gift Tax Return) if any single gift to a recipient exceeds \$19,000 in a year, or if you and your spouse elect gift-splitting. Filing a return does not necessarily mean you owe tax — it tracks the use of your lifetime exemption. The return is due by April 15 of the year following the gift.

Chapter 4: Wills and Probate

A will is the foundation of any estate plan. It is a legal document that specifies how your assets should be distributed after death, who should serve as executor, and who should serve as guardian of your minor children.

Types of Wills

Type	Description	Best For
Simple Will	Distributes assets directly to named beneficiaries	Straightforward estates with no complex needs
Pour-Over Will	Directs all assets into a trust at death	Used alongside a revocable living trust to catch any assets not already in the trust
Testamentary Trust Will	Creates one or more trusts upon death	Providing for minor children or beneficiaries with special needs

The Probate Process

Probate is the court-supervised process of validating a will, paying debts, and distributing assets. While necessary in many cases, probate can be:

- Time-consuming: Probate typically takes 6-18 months, sometimes longer for complex estates.
- Expensive: Court filing fees, attorney fees, and executor commissions can consume 3-8% of the estate value.
- Public: Probate records are public, exposing your asset details and beneficiary information.
- Contested: Disgruntled heirs can challenge the will in probate court, leading to costly litigation.

Assets That Avoid Probate

Not all assets go through probate. The following pass directly to beneficiaries outside of the will:

- Retirement accounts (401(k), IRA) with named beneficiaries.

- Life insurance policies with named beneficiaries.
- Assets held in a trust.
- Jointly titled property (joint tenancy with right of survivorship).
- Payable-on-death (POD) and transfer-on-death (TOD) accounts.
- Community property with right of survivorship (in community property states).

Important: Because beneficiary designations override your will, it is critical that your beneficiary designations and your will work together as part of a coordinated estate plan. A common mistake is updating your will but forgetting to update retirement account and life insurance beneficiaries.

Dying Without a Will (Intestacy)

If you die without a will, state intestacy laws determine who inherits your probate assets. Each state has different rules, but generally assets pass to your closest relatives in a prescribed order (spouse, children, parents, siblings). Intestacy can produce results contrary to your wishes — for example, a common-law partner or stepchild may receive nothing.

Chapter 5: Trust Types

A trust is a legal arrangement where a trustee holds and manages assets for the benefit of one or more beneficiaries. Trusts are versatile tools that can accomplish a wide range of estate planning, tax planning, and asset protection goals.

Trust Comparison Table

Trust Type	Revocable?	Primary Purpose	Tax Benefits
Revocable Living Trust	Yes	Avoid probate, manage assets during incapacity	None (assets included in taxable estate)
Irrevocable Trust	No	Remove assets from taxable estate, asset protection	Assets excluded from estate; income taxed to trust or beneficiaries
Bypass (Credit Shelter) Trust	No (at death)	Preserve estate tax exemption of first spouse to die	Shelters appreciation from estate tax
ILIT	No	Remove life insurance from taxable estate	Death benefit excluded from estate
	No		

Charitable Remainder Trust (CRT)		Provide income to donor, remainder to charity	Income tax deduction; capital gains deferral
GRAT	No	Transfer appreciation to heirs at reduced gift tax cost	Passes growth above hurdle rate gift-tax-free

Revocable Living Trust

The revocable living trust is the most common estate planning trust. During your lifetime, you serve as both the trustor and the trustee, maintaining full control over the assets. Key benefits include:

- Probate avoidance: Assets in the trust pass directly to beneficiaries without probate.
- Incapacity planning: If you become incapacitated, your successor trustee can manage the trust assets seamlessly without court intervention.
- Privacy: Trust distributions are private, unlike probate which is public record.
- Flexibility: You can amend, revoke, or change the trust at any time during your lifetime.
- Multi-state property: If you own real estate in multiple states, a trust can avoid the need for probate in each state.

Limitations: A revocable living trust does not provide estate tax savings (assets are still included in your taxable estate) or creditor protection during your lifetime.

Irrevocable Life Insurance Trust (ILIT)

An ILIT is designed specifically to hold life insurance policies outside of your taxable estate. Without an ILIT, the death benefit of a life insurance policy you own is included in your gross estate for estate tax purposes. For a \$3 million policy in a 40% estate tax bracket, that could mean \$1.2 million in estate taxes on the death benefit.

1. The ILIT is established as an irrevocable trust and is the owner and beneficiary of the life insurance policy.
2. You transfer funds to the ILIT annually (as gifts) to pay premiums.
3. Beneficiaries receive "Crummey" notices giving them a temporary right to withdraw the gift (satisfying the annual exclusion requirement).
4. When you pass away, the death benefit is paid to the ILIT — outside of your taxable estate.
5. The trustee distributes funds to beneficiaries according to the trust terms.

Charitable Remainder Trust (CRT)

A CRT allows you to transfer appreciated assets into an irrevocable trust, receive an income stream for a period of years or for life, and then have the remaining assets pass to a charity. Benefits include:

- Immediate income tax deduction for the present value of the charitable remainder.

- Avoidance of capital gains tax on the sale of appreciated assets within the trust.
- A steady income stream (either a fixed annuity amount or a percentage of trust value).
- Removal of assets from your taxable estate.
- Support for charitable causes you care about.

Grantor Retained Annuity Trust (GRAT)

A GRAT is an advanced estate planning technique used to transfer asset appreciation to heirs with minimal or no gift tax. You transfer assets to the trust, receive annuity payments for a fixed term, and any remaining value passes to beneficiaries. If the assets grow faster than the IRS Section 7520 hurdle rate, the excess growth transfers gift-tax-free.

Trust Selection: The right trust depends on your goals, net worth, and family situation. Many estate plans use a combination of trusts. A revocable living trust is appropriate for most families; irrevocable trusts are typically warranted when net worth approaches or exceeds the estate tax exemption, or when specific asset protection or tax planning goals are involved.

Chapter 6: Beneficiary Designations

Beneficiary designations on retirement accounts, life insurance policies, annuities, and certain bank and brokerage accounts are among the most powerful — and most commonly mishandled — components of an estate plan. These designations override your will, making them critically important.

How Beneficiary Designations Override Your Will

If your will says your daughter should inherit your IRA, but your ex-spouse is still listed as the IRA beneficiary, the ex-spouse receives the IRA. The will has no effect on assets that transfer by beneficiary designation. This is one of the most common and costly estate planning mistakes.

Common Beneficiary Designation Mistakes

1. Not naming a beneficiary at all — the asset defaults to your estate, subjecting it to probate and potentially unfavorable tax treatment.
2. Failing to update after divorce — your ex-spouse may still be the beneficiary.
3. Naming minor children directly — minors cannot legally receive assets; a court-appointed guardian will manage the funds.
- 4.

Not naming contingent beneficiaries — if the primary beneficiary predeceases you and there is no contingent, the asset goes to your estate.

5. Naming your estate as beneficiary — eliminates the stretch/inherited IRA benefits and subjects the asset to probate.
6. Inconsistency between beneficiary designations and the rest of your estate plan.

Beneficiary Designation Review Checklist

- Review all employer-sponsored retirement accounts (401(k), 403(b), pension).
- Review all IRA accounts (Traditional, Roth, SEP).
- Review all life insurance policies (individual and group).
- Review all annuity contracts.
- Review all bank accounts with POD (payable on death) designations.
- Review all brokerage accounts with TOD (transfer on death) designations.
- Verify primary AND contingent beneficiaries on every account.
- Ensure designations align with your current will and/or trust.
- Consider "per stirpes" designations so a deceased beneficiary's share passes to their children.

Action Item: Request beneficiary designation forms from every financial institution where you hold accounts. Review them against your current estate plan. Make updates immediately if any designations are outdated. Keep copies of all signed beneficiary forms in a secure location.

Chapter 7: SECURE 2.0 and Inherited IRAs

The SECURE Act of 2019 and SECURE 2.0 Act of 2022 fundamentally changed the rules for inherited retirement accounts. Understanding these rules is essential for both estate planning and beneficiary planning.

The 10-Year Distribution Rule

For most non-spouse beneficiaries who inherit an IRA or 401(k) from an account owner who passed away after December 31, 2019, the entire inherited account must be distributed within 10 years of the original owner's death. This replaced the former "stretch IRA" strategy, which allowed beneficiaries to take distributions over their own life expectancy.

Annual RMDs Within the 10-Year Window

An important clarification from the IRS (proposed regulations issued in 2022 and finalized in 2024): If the original account owner had already begun taking RMDs (i.e., they died on or after their Required Beginning Date), the non-spouse beneficiary must take annual RMDs within the 10-year window, AND the remaining balance must be fully distributed by the end of the 10th year. If the owner died before their Required Beginning Date, the beneficiary has flexibility on the timing of distributions within the 10-year window (no annual RMD requirement).

Eligible Designated Beneficiaries (EDBs)

Certain beneficiaries are exempt from the 10-year rule and can still stretch distributions over their own life expectancy:

EDB Category	Distribution Rule	Notes
Surviving Spouse	Can roll over to own IRA or treat as own	Most flexible option; can delay RMDs to own RMD age
Minor Child of Deceased	10-year rule begins at age of majority (21)	Life expectancy until age 21, then 10-year clock starts
Disabled Beneficiary	Life expectancy	Must meet IRS definition of disabled
Chronically Ill	Life expectancy	Must meet IRS definition of chronically ill
Not More Than 10 Years Younger	Life expectancy	E.g., sibling close in age to the deceased

Planning Impact: The 10-year rule can create significant "tax bombs" for beneficiaries who inherit large IRAs. For example, a beneficiary who inherits a \$1 million IRA must distribute the entire balance within 10 years — potentially adding \$100,000+ per year to their taxable income during their peak earning years. Roth conversions by the original owner, life insurance, and trust-based strategies can help mitigate this tax burden.

Strategies to Mitigate the 10-Year Rule Impact

1. **Roth Conversions:** Convert Traditional IRA assets to Roth during your lifetime. The beneficiary still faces the 10-year distribution rule, but the distributions are tax-free.
2. **Life Insurance:** Use an ILIT to provide a tax-free death benefit that can offset the tax cost of inheriting a traditional IRA.
- 3.

Charitable Planning: Name a charity or Donor-Advised Fund as the IRA beneficiary for the charitable portion of your estate (charities pay no income tax on IRA distributions).

4. Trust Planning: Use a properly structured trust as the IRA beneficiary to provide control over distributions, but be aware that trust income tax rates reach the top bracket at just \$15,200 (2026 projected).
5. Timing: Beneficiaries can strategically time distributions within the 10-year window — larger distributions in low-income years, smaller distributions in high-income years.

The rules for inherited IRAs are complex and have changed multiple times. Incorrect handling can result in significant penalties and unnecessary taxes. Both account owners (for estate planning) and beneficiaries (for distribution planning) should work with a knowledgeable financial advisor and tax professional.

Chapter 8: Power of Attorney

A Power of Attorney (POA) is a legal document that authorizes another person (your "agent" or "attorney-in-fact") to act on your behalf in financial or legal matters. Without a POA, if you become incapacitated, your family may need to go through a costly and time-consuming court guardianship proceeding to gain authority to manage your affairs.

Types of Power of Attorney

Type	Description	When It Takes Effect	When It Ends
Durable Financial POA	Covers all financial matters; remains in effect if you become incapacitated	Immediately upon signing (or can be springing)	Your death or revocation
Springing POA	Only takes effect upon a triggering event (usually incapacity)	Upon incapacity determination	Your death, recovery, or revocation
Limited POA	Covers specific transactions or time periods	As specified	Upon completion or expiration
Healthcare POA (Proxy)	Authorizes medical decisions on your behalf	Upon incapacity	Your death, recovery, or revocation

Choosing Your Agent

Selecting the right agent is one of the most important estate planning decisions. Your agent should be:

- Trustworthy — they will have access to your finances and the authority to make binding decisions.

- Capable — they should be organized, financially competent, and willing to serve.
- Available — they should live close enough (or be responsive enough) to act quickly when needed.
- Aligned with your values — they should understand and respect your wishes.
- Named with a successor — always name at least one backup agent in case your primary agent cannot serve.

Financial POA Powers

A comprehensive financial POA typically grants the agent authority to:

- Access and manage bank and investment accounts.
- Pay bills, taxes, and other financial obligations.
- Manage real estate (buy, sell, lease, maintain).
- Handle insurance matters (file claims, change beneficiaries with your consent, pay premiums).
- Manage retirement accounts and government benefits.
- Conduct business transactions.
- Make gifts (if specifically authorized — be cautious about gifting powers to prevent abuse).

A POA is a powerful document. An unscrupulous agent could abuse their authority. Consider including safeguards such as: requiring the agent to keep records and provide periodic accountings, limiting gifting authority, requiring co-agents for major transactions, and naming a "trust protector" or monitor.

Chapter 9: Healthcare Directives

Healthcare directives ensure that your medical treatment preferences are known and followed if you cannot communicate them yourself. These documents work alongside your Healthcare Power of Attorney.

Living Will (Advance Directive)

A living will specifies your wishes regarding life-sustaining medical treatment in situations where you are terminally ill, permanently unconscious, or in an end-stage condition. Common provisions address:

- Artificial nutrition and hydration (feeding tubes, IV fluids).
- Mechanical ventilation (breathing machines).
- Cardiopulmonary resuscitation (CPR).
- Dialysis.
- Antibiotics and other medical interventions.

- Pain management and comfort care preferences.
- Organ and tissue donation preferences.

HIPAA Authorization

The Health Insurance Portability and Accountability Act (HIPAA) restricts who can access your medical information. A signed HIPAA authorization allows your designated individuals — such as your spouse, children, or healthcare agent — to communicate with your doctors and access your medical records. Without this authorization, family members may be unable to get information about your condition.

Do Not Resuscitate (DNR) Order

A DNR order instructs medical personnel not to perform CPR if your heart stops or you stop breathing. This is a medical order signed by your physician, distinct from a living will. A DNR is typically appropriate for individuals with terminal illnesses or those who have expressed a desire not to be resuscitated.

Practical Tips: Give copies of your healthcare directives to your healthcare agent, your primary care physician, your local hospital, and close family members. Keep the originals in an accessible location (not a safe deposit box, which may be inaccessible in an emergency). Consider registering your advance directives with your state's registry if one is available.

State-Specific Requirements

Healthcare directive requirements vary by state — some states require witnesses, others require notarization, and the specific forms and terminology differ. Ensure your documents comply with the laws of your state of residence. If you spend significant time in another state, consider executing healthcare directives that comply with that state's laws as well.

Chapter 10: Gifting Strategies

Strategic gifting during your lifetime can reduce your taxable estate, provide for family members, and allow you to witness the impact of your generosity. Here are the most effective gifting strategies.

Annual Exclusion Gifting

As discussed in Chapter 3, you can give up to \$19,000 per recipient per year (2026 projected) without any gift tax consequences. For married couples using gift splitting, that doubles to \$38,000 per recipient. Over time, this can remove substantial wealth from your estate.

Scenario	Annual Gift Amount	Over 10 Years	Over 20 Years
Single to 3 children	\$57,000/year	\$570,000	\$1,140,000
Couple to 3 children	\$114,000/year	\$1,140,000	\$2,280,000
Couple to 3 children + 6 grandchildren	\$342,000/year	\$3,420,000	\$6,840,000

529 Superfunding

The 529 plan allows a unique "superfunding" provision where you can contribute up to 5 years of annual exclusion gifts in a single year:

- Individual: $\$19,000 \times 5 = \$95,000$ per beneficiary in a single year.
- Married Couple: $\$38,000 \times 5 = \$190,000$ per beneficiary in a single year.
- The gift is treated as if made ratably over 5 years for gift tax purposes.
- No additional annual exclusion gifts can be made to the same beneficiary during the 5-year period.
- If the donor dies during the 5-year period, a pro-rata portion is included in their estate.

Direct Payment of Medical and Education Expenses

Payments made directly to a medical provider or educational institution for someone else's expenses are not considered taxable gifts and do not count against your annual exclusion or lifetime exemption. These payments must be made directly to the institution — not to the individual.

Example: A grandparent can simultaneously (1) pay \$60,000 directly to a university for a grandchild's tuition, (2) give the grandchild \$19,000 in cash, and (3) contribute \$95,000 to a 529 plan for another grandchild — all in the same year, all without gift tax consequences.

Gifting Appreciated Assets

Gifting appreciated assets (stocks, real estate) to family members in lower tax brackets can be a tax-efficient strategy. The recipient takes your cost basis ("carryover basis"), so if they sell in a low bracket, they may pay lower capital gains

taxes than you would. However, for large gifts, be aware of the "kiddie tax" for minors and the loss of the stepped-up basis that would apply if the asset were inherited.

Charitable Gifting

- Donate appreciated securities directly to charity to avoid capital gains tax and receive a deduction for the full market value.
- Use a Donor-Advised Fund (DAF) for a large charitable deduction in a single year, then distribute grants over time.
- Consider a Charitable Remainder Trust (CRT) for large appreciated assets — provides income to you and a remainder to charity.
- Qualified Charitable Distributions (QCDs) from IRAs for those 70 and a half or older — reduces taxable income and satisfies RMDs.

Chapter 11: Next Steps Checklist

Use this checklist to assess your current estate plan and identify areas that need attention:

1. Inventory your assets and estimate your total estate value (include all accounts, real estate, business interests, and life insurance death benefits).
2. Determine whether your estate may be subject to federal or state estate tax under both the current exemption and the potential sunsetted exemption.
3. Create or update your will — ensure it reflects your current wishes, family structure, and asset situation.
4. Establish or review your revocable living trust — ensure all appropriate assets are titled in the trust name.
5. Review and update ALL beneficiary designations on retirement accounts, life insurance, and annuities.
6. Execute or update your Financial Power of Attorney — name a trustworthy and capable agent.
7. Execute or update your Healthcare Power of Attorney and Living Will — communicate your wishes to your agent.
8. Sign a HIPAA authorization for each family member or trusted person who should have access to your medical records.
9. Evaluate whether an Irrevocable Life Insurance Trust (ILIT) is appropriate for estate tax planning.
10. Implement annual gifting strategies to reduce your taxable estate — consider 529 superfunding for education.
11. If you have a closely held business, establish a succession plan and consider buy-sell agreements funded by life insurance.
12. Review your plan with an estate planning attorney every 3-5 years, or after any major life event.

13. Communicate your plan to your family — ensure your executor, trustee, and agents know their roles and can locate your documents.
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Next Step: Schedule a complimentary estate planning review with a BrightAdvisor® financial professional. We will help coordinate your estate plan with your overall financial strategy. Call (602) 497-0277 or visit brightadvisor.com.

This guide is for educational purposes only. Estate planning involves complex legal, tax, and financial considerations that vary by state. The information in this guide is based on 2026 projected federal figures and may not reflect your state's laws. Work with a qualified estate planning attorney, tax professional, and financial advisor to create a plan tailored to your specific situation.