1 Purpose and scope

Estate planning organises **ownership, control, and distribution of assets** during life, at incapacity, and after death. A complete plan minimises probate delays, taxes, family conflict, and legal costs while ensuring guardianship for minors and continuity for businesses.

2 Foundational documents

1. **Last Will and Testament** – names executor, beneficiaries, guardians, and disposes of probate property.

2. **Revocable Living Trust** – holds assets during life; successor trustee manages upon incapacity, bypassing probate.

3. **Durable Power of Attorney (financial)** – authorises an agent to act on financial matters when the principal cannot.

4. **Health-care Power of Attorney & Advance Directive** – empower medical decisions and state end-of-life wishes.

5. **HIPAA authorisation** – grants health-data access to named agents.

6. **Living Will** – instructions on life-sustaining treatment. Without these, courts may appoint conservators and guardians, adding delay and cost.

3 Probate vs. non-probate transfers

Probate is a court-supervised public process; it validates the will, inventories assets, pays creditors, and distributes residue. Assets that pass **outside probate**:

- Joint tenancy with right of survivorship.
- Beneficiary designations (TOD, POD, retirement accounts, life insurance).
- Trust assets. Avoiding probate cuts settlement time from 6-18 months to a few weeks, keeps details private, and may save fees.

4 Titling strategies

Title property to match planning goals:

- **JTWROS** for spouses desiring automatic survivor ownership.
- **Tenancy-in-common** to direct fractional interests by will.
- **Community property with right of survivorship** (in CP states) for full step-up in basis on both halves at first death.
- **Transfer-on-Death deeds** in ~30 U.S. states convey real estate outside probate. Coordinate titles with beneficiary forms to prevent “accidental disinheritance.”

5 Beneficiary designations and TOD accounts

Retirement plans and life-insurance proceeds override will instructions. Designations should list: primary, contingent, per-stirpes language, tax-ID numbers, and successor custodians for minors. Update after marriage, divorce, births, deaths, or account rollovers. Omissions default to estate, triggering probate and adverse tax acceleration.

6 Trust toolbox

Trust type	Primary use	Key traits
Revocable living	Incapacity management, probate avoidance	Grantor retains control; assets included in estate.
Irrevocable life insurance (ILIT)	Exclude policy proceeds from estate	Cannot change beneficiaries or access cash value.
Credit shelter / bypass	Preserve first spouse exemption	Funds trust up to estate-tax exemption; assets grow outside survivor's estate.
Qualified terminable interest property (QTIP)	Provide income to surviving spouse; preserve remainder for children	Spouse gets income; principal goes to remainder beneficiaries at second death.
Special-needs trust	Support disabled beneficiary without disqualifying public benefits	Trustee discretion prevents means-test count.
Grantor retained annuity/ unitrust (GRAT/GRUT)	Transfer appreciating assets at low gift-tax value	Annuity back to grantor; remainder out of estate if grantor survives term.
Charitable remainder trust (CRT)	Income to non-charitable beneficiary; remainder to charity	Immediate charitable deduction; removes asset from estate.

7 Gift and estate-tax fundamentals (2025 U.S.)

- **Lifetime exemption**: $13.61 million per individual; portable with Form 706.

- **Top estate-tax rate**: 40 %.

- **Annual exclusion**: $18 000 per donee; split-gift election doubles for married couples.

- **Basis step-up** at death resets cost to FMV, erasing embedded capital gains.
  High-net-worth families "freeze" asset value by gifting appreciating assets into trusts, using GRATs, or selling to intentionally defective grantor trusts (IDGTs).

8 Generation-skipping transfer tax (GSTT)

GSTT applies to transfers skipping a generation (e.g., grandparent → grandchild) above a separate lifetime GST exemption (also $13.61 m). Proper allocation of GST exemption to dynasty trusts shields growth from transfer tax for multiple generations.

9 Estate liquidity planning

Estimate death-related cash needs: funeral, debts, last-illness bills, estate tax within nine months, probate fees. Solutions: life-insurance, line-of-credit secured by portfolio, installment-payment election (IRC §6166) for closely-held business tax. Liquidity prevents forced asset sales at depressed prices.

10 Business-succession coordination

A written succession plan defines trigger events (death, disability, retirement), valuation formula (independent appraisal or formula), funding (life-insurance buy-sell, sinking fund), and governance roles. Cross-purchase vs. entity-purchase agreements allocate shares accordingly. Absent a plan, probate can freeze operations.

11 Digital assets and online accounts

Include list of passwords, 2FA recovery codes, crypto wallet keys, cloud storage, social-media directives. Confer access rights via state RUFADAA statute; store inventory in an encrypted vault shared with executor. Without explicit consent, providers may deny access.

12 International considerations

Non-U.S. citizens/ domiciliaries face lower $60 000 U.S. estate-tax exemption on U.S.-situs assets. Treaties (U.S.–India, U.S.–U.K.) may raise relief. Holding U.S. equities via offshore funds can avoid situs issues but may trigger PFIC rules for U.S. taxpayers. Wills should coordinate across jurisdictions to avoid double probate.

13 Portability vs. bypass trust decision

Portability allows surviving spouse to use deceased spouse's unused exemption (DSUE) but freezes DSUE amount; bypass trust shelters post-death appreciation from estate tax. Factors: estate size growth, state-estate tax, asset protection, and administrative cost.

14 Charitable legacy structures

- **Donor-advised fund (DAF)** – immediate deduction, flexible grant timing.
- **Charitable lead trust (CLT)** – payments to charity first, remainder to heirs; lowers taxable estate.
- **Foundation** – control and family involvement but higher compliance burden. Aligns philanthropic intent with tax optimisation.

15 Income-in-respect-of-a-decedent (IRD) assets

Traditional IRAs, deferred compensation, unpaid interest, and accrued bonuses are IRD—taxable to heirs. Use charitable beneficiaries or Roth conversions during life to reduce IRD burden. Deductible estate-tax credit mitigates double tax.

16 Special-needs and spendthrift protections

Discretionary trusts shield assets from beneficiary creditors and imprudent spending. State statutes (UTC §505) outline creditor reach. Draft spendthrift clauses and independent trusteeship to maximise protection.

17 Incapacity planning timeline

Age-based checkpoints:

- **18** – HIPAA release, basic POA, health-care proxy for young adults.
- **30-50** – will, term-life, guardian nomination if children.
- **50-65** – trust funding, review long-term-care insurance.
- **65+** – simplify account structure, assign bill-pay agent, rehearse incapacity protocol.

18 Record-keeping and storage

Store originals of wills, trust deeds, and POAs in a fireproof safe or bank vault; keep scanned copies in encrypted cloud folders shared with executor and attorney. Maintain asset inventory, contact list, and letter of intent (non-legal guidance on personal items, funeral wishes). Update annually.

19 Review cadence and trigger events

Review estate plan every three years or upon marriage, divorce, birth, death, major asset purchase/ sale, relocation, tax-law change, or valuation surge. Outdated plans frequently misalign titles and beneficiaries with intent.