DO YOU NEED AN ESTATE PLAN?

Often we hear people say, “I don’t have an estate,” or “My estate isn’t big enough to worry about.” Virtually everyone has an estate. What is it? It includes everything you own.

Contrary to popular misconception, you don’t have to own a big house or have millions of dollars to have an estate. Your estate can consist of your home, personal property, investments, bank accounts, retirement plans, and interests in a family business or partnership.

If you die without a will or living trust, state law will determine how most of your belongings are distributed, and the result may not be what you would want. Proper planning is important—if not for you, then for your loved ones because they will have to take the necessary actions to settle your estate. This can be made much easier with proper planning.

WHY DO YOU NEED AN ESTATE PLAN?

Planning your estate is one of the most important things you can do for yourself and your family. Creating an estate plan ensures your family is properly cared for after your death. It also allows you to select a loved one or professional to manage your estate should you become unable to do so yourself due to health problems. If you have minor children, an estate plan is where you name a guardian for your children in the event of your death. If you don’t have an estate plan the court has the authority to divide your estate, appoint someone to manage your affairs, and select a guardian for your children. Wouldn’t you rather voice your wishes while you are alive, than have someone guessing after your death?

Here are some of the top reasons to create an estate plan:

1. Avoiding probate
2. Reducing estate taxes
3. Avoiding family disagreements and costly court proceedings
4. Protecting beneficiaries
5. Protecting assets from unforeseen creditors
Several events can occur in your life that will affect your estate plan. The birth of a child may add people to the list of those who will receive an inheritance, or a sudden windfall may bring additional assets for which you must account.

Check the items on this list that have occurred since you last reviewed your estate plan. If you check one or more boxes, you need to review your estate plan and make any necessary changes.

- Divorce
- Birth of a child
- Adoption of a child
- Death of a child
- Birth of a grandchild
- Death of a grandchild
- Marriage of a child
- Divorce of a child
- Death of a spouse
- Increase in personal wealth
- Decrease in personal wealth
- Receipt of a substantial inheritance or gift
- Gifting of a substantial sum
- Purchase of life insurance
- Participation in a new retirement plan
- Relocation to a new state
- Preparation for retirement

Planning your estate is one of the most important things you can do for yourself and your family.

PROS AND CONS OF PROBATE

Have you ever wondered what will happen to your estate after you die? How long will it take for your loved ones to receive the estate you’ve left them? Will each receive what you’d like them to have? If you’re like most people, your estate will go through a probate process.
What is Probate?

Probate consists of court proceedings that conclude all legal and financial matters after your death. The probate court most often distributes your estate according to your wishes—if you left a valid will—and acts as a neutral forum to settle disputes that may arise over your estate.

Basically, the probate process involves the court system (probate judge) reviewing your estate, ensuring expenses are paid, and providing for distribution. Some potential pitfalls should be considered.

Time
Probate often takes a lot of time. It typically takes nine months to two years to settle an estate. Complex or contested estates can take even longer. With few exceptions, your heirs will have to wait until probate is concluded to receive the bulk of their inheritance.

Cost
Of course, the probate court’s “help” with your affairs comes at a price. Probate can be very expensive. Depending on the state, court costs, legal fees, and administrative expenses can consume five to 10 percent of your estate. That amount is calculated before any deductions or liens are taken out. Another consideration is that probate must be done in each state where property is located—adding cost and reducing your estate.

Lack of Privacy
Proceedings of probate courts are public record. Anyone with the time and inclination can go to the county courthouse and find out exactly how much you left to each heir and to whom you owed money. This leaves your heirs with little or no privacy. And it makes it easy for just about anyone to contest your will.

Can I Avoid Probate?
Fortunately, there are strategies you can use to avoid probate altogether. A trust or other tools may enable you to pass your estate to your heirs without going through probate. Proper estate planning can enable you to pass your estate to your loved ones privately, without undue delay or expense.

Benefits of an Estate Plan

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<thead>
<tr>
<th>YOUR ASSETS</th>
<th>BENEFITS OF AN ESTATE PLAN</th>
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<tbody>
<tr>
<td>Probate fees</td>
<td>HEIRS/BENEFICIARIES</td>
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<tr>
<td>Final expenses</td>
<td>Taxes</td>
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An effective estate plan can help you minimize taxes and preserve wealth for yourself and loved ones.

Estate Taxes
Under current law, it’s fair to say most estates will not be affected by federal estate taxes. A law passed in 2013 placed the federal estate-tax exemption at $5.25 million (indexed after 2013). Some states, however, do have an estate or inheritance tax. For those affected by estate tax, it’s not enough to simply know they exist. It’s important to know strategies to minimize them. Also, you need to plan how you and your family eventually will pay them.
THE ESTATE TAX DILEMMA

Understanding what property will be included in your estate for federal estate-tax purposes is important. An estate includes all property owned at the time of death: investments, cash, real estate, vehicles, personal property, life-insurance proceeds from policies owned within three years of death, life insurance paid to the estate, retirement assets, and business interests. The gross estate includes assets passing through probate as well as assets inherited directly by joint owners or beneficiaries.

Federal estate taxes generally are due nine months after the date of death. And they are due in cash. In addition to estate taxes, there may be final expenses, probate costs, administrative fees, and various other costs. It’s important to be sure the money for these items will be there when it’s needed.

REDUCING TAXES IS CRITICAL

While it may be difficult to completely eliminate estate taxes, you can effectively reduce them with different types of trusts. Planning is a must.

ESTATE DISTRIBUTION OPTIONS

Your estate can be distributed in several ways to your heirs after your death. Each allows a different degree of control over distribution, and each poses different challenges and opportunities. If you haven’t taken steps already, it’s important to consider planning now for distribution of your assets.

The following five distribution methods are common ways assets are passed to beneficiaries:
• Intestacy
• Wills
• Joint ownership
• Beneficiary designations
• Trusts
If you die without a will, it is called dying “intestate.” In these situations, the probate court will order your debts paid and your assets distributed. Unfortunately, your assets will be distributed according to state law. Because the state doesn’t know your preferences, the probate court may not distribute your assets according to your wishes.

Because intestacy is settled in probate court, your heirs may have to endure a long, costly, and public probate process that could take nine months to two years or more. They will have to wait until the probate process is over to receive the bulk of their inheritance. And, depending on the state, probate fees could consume over five percent of your gross estate.

A will is your personal outline of how you would like to distribute your estate. While using a will usually results in probate, it is more desirable than intestacy. On your death, the probate court will rule on the validity of your will and then order payment of your debts and distribution of your estate. Your property will be divided according to the terms you specify in your will.

There are several types of wills. The most common are the simple will and the trust will. The simple will leaves all property interests to the surviving spouse. The trust will establishes a trust at the death of the decedent. The type of will that is best for you depends on your situation.

Another way to distribute your estate is through jointly held property, specifically, joint tenancy with rights of survivorship. When you hold property this way, it will pass to the surviving co-owners automatically, “by operation of law.” Because title passes automatically, there is no need for probate.

Joint tenancy can involve any number of people, and it does not have to be between spouses. “Qualified joint tenancy,” however, can exist only between spouses. In common law states, this arrangement generally is known as “tenancy by the entirety.” Qualified joint tenancy has certain income- and estate-tax advantages over joint tenancy involving non-spouses.

How you hold title to your property may have substantial implications for yourself and your beneficiaries. You should consider how you hold title to all of your property, including your real estate, investments, and savings accounts. There are risks associated with joint tenancy, like what occurs in the event of a lawsuit or divorce of a joint owner.

The next way to pass your property interests is through beneficiary designations. If you have a retirement plan, life insurance, or annuity contract, you probably designated a beneficiary for the proceeds of the contract. The rights to the proceeds will pass automatically to the person...
you selected. Just like joint tenancy, this happens without the need for probate.

It is important to review your retirement plans, life insurance, and other contracts to make sure your beneficiary designations reflect your current wishes. Don’t wait until it’s too late.

There are other ways to transfer assets by beneficiary designations depending on the type of asset. For example, bank accounts can transfer using a “pay on death” designation. Investment accounts and titles (like cars) can transfer using a “transfer on death” designation, and in many states real estate can pass using a “beneficiary deed” or its equivalent. Use of these methods is dependent on state law and is not available in all states. To find out if these are available, consult a professional in your state.

Lastly, you can pass your assets to others through a trust. A trust is a legal arrangement under which one person, the trustee, manages property given by another party, the trustor, for the benefit of a third person, the beneficiary. Trusts can be very effective estate-planning tools.

Trusts can be established during your life or at death. They give you maximum control over the distribution of your estate. Trust property will be distributed according to the terms of the trust, without the time, cost, and publicity of probate.

Trusts have other advantages too. You can benefit from the services of professional asset management, and you can protect your assets in the event of your incapacity. While trusts offer numerous advantages, they typically cost more, and if a corporate trustee is used there will be ongoing administrative fees.

If you use a revocable living trust in your estate plan, you may be the trustor, the trustee, and the beneficiary of your own trust. This allows you to maintain complete control of your estate. Check your local and state laws for any variances.

**MANY CONSIDERATIONS**

Various considerations will determine the distribution methods appropriate for you. For example, you must consider your distribution goals. By examining your situation and understanding how your assets will pass after your death, you’ll be better able to identify the methods that will help you achieve your goals most effectively.

Likewise, the larger your estate, the more you may want to consider using a trust to help guide your estate distribution. However, estates of all sizes may benefit from a trust. In addition, you will have to consider any special situations you may have—such as a divorce, minor children, or a disabled child. All of these are important considerations. Consult a professional to discuss your options.

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**WILL**

- Probate fees 5% of total estate.
- This is money that would not go to heirs.

**LIVING TRUST**

- Probate fees $0.
- This estate passes to heirs.
UNDERSTANDING LIVING TRUSTS

Living trusts enable you to control the distribution of your estate and may enable you to reduce or avoid many taxes and fees that could be imposed upon your death.

A trust is a legal arrangement under which one person, the trustee, controls property given by another person, the trustor, for the benefit of a third person, the beneficiary. When you establish a revocable living trust, you can be the trustor, trustee, and beneficiary of that trust.

When you set up a living trust, you transfer ownership of all the assets you’d like to place in the trust from yourself to the trust. Legally, you no longer own any assets in your trust. Your trust now owns your assets. But, as the trustee, you maintain complete control. You can buy or sell as you see fit. You can even give assets away.

On your death, assuming you have transferred all of your assets to the revocable trust, there isn’t anything to probate because the assets are held in the trust. Therefore, living trusts completely avoid probate. If you use a living trust, your estate will be available to your heirs on your death, without any delays or the expensive court proceedings that accompany the probate process.

“A disciple saves wisely in order to create a better tomorrow for self, family, the church’s mission, and the world.”

—Tithing: A Disciple’s Generous Response
LIVING TRUSTS

OTHER IMPORTANT DOCUMENTS

1. The couple creates a trust. The trust is a legal relationship created where property or assets are managed by one party for benefit of another party.

2. When the first spouse dies, the surviving spouse becomes sole trustee and must follow the wishes of his or her spouse as outlined in the trust.

3. With an A-B discretionary trust, the surviving spouse may decide to split the trust into two separate trusts: marital trust and family trust.

4. Once the trust is split, the surviving spouse must decide how much will go in the marital trust and family trust.

   a. The marital trust can contain 100 percent of the surviving spouse’s separate assets and up to 50 percent of joint assets. It is REVOCABLE and fully amendable.

   b. The family trust can contain 100 percent of the deceased spouse’s separate assets and up to 50 percent of joint assets. It is IRREVOCABLE and cannot be amended.

5. If the surviving spouse does not split the trust, it continues as originally created.

6. At the death of the surviving spouse, the trust(s) is controlled by the successor trustee.

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7. The successor trustee must follow all instructions given in the trust(s) and distribute to the heirs as directed.

A-B TRUSTS

Some trust strategies serve very specific estate needs. One of the most widely used is a living trust with an A-B provision. An A-B trust enables you to pass up to double the exemption amount to your heirs free of estate taxes. It can be DISCRETIONARY or AUTOMATIC.

When an A-B trust is implemented, two subsequent trusts are created on the death of the first spouse. Assets will be allocated between the marital trust, or "A" trust, and the family trust, or "B" trust.

This will create two taxable entities, each of which is entitled to use a personal exemption. The surviving spouse retains full control of his or her trust. He or she can also receive income from the deceased spouse’s trust and can even withdraw principal from it when necessary or for health, education, support, or maintenance.

On the death of the second spouse, the assets of both trusts pass directly to the heirs, completely avoiding probate. If each of these trusts contains less than the exemption amount, these assets will pass to the heirs free of federal estate taxes.

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OTHER IMPORTANT ESTATE PLANNING DOCUMENTS

Planning is part of nearly everything we do in life. It’s definitely a necessary part of aging. Who will make financial and medical decisions in the event of your incapacity? By taking steps in advance, you have a greater say in how these questions are answered. And isn’t that how it should be?

Typical estate documents include:

• Pour-over will
• Durable power of attorney
• Health-care power of attorney and living wills
• HIPAA documents

See page 20.

ESTATE PLANNING TIP

Keep all of your important financial and legal information in a central file for your executor. Be sure to include:

• location of important documents
• letters of last instructions
• medical records
• bank/brokerage statements
• income- and gift-tax returns
• insurance policies
• titles and deeds
• will and trust documents

God provides “enough and to spare”
—Doctrine and Covenants 101:2f
POUR-OVER WILL

Even if you decide to use a trust, you should have a will. A will with a trust generally is called a “pour-over will” where anything not in the trust pours over into the trust. If all the assets are in the trust, this document is not used. If not, it serves as a safety net and transfers any remaining assets into the trust. This does not avoid probate, but it makes sure assets go where they need to go.

DURABLE POWER OF ATTORNEY

Incapacity poses almost as much of a threat to your financial well-being as death. Fortunately, tools can help you cope with this threat. A durable power of attorney is a legal agreement that enables you to designate who will make your legal and financial decisions if you become incapacitated.

HEALTH-CARE POWER OF ATTORNEY AND LIVING WILLS

Similar to the durable power of attorney, a health-care power of attorney is a document in which you designate someone to make health-care decisions for you if you are incapacitated.

The person you designate generally can make decisions regarding medical facilities, medical treatments, surgery, and various other health-care issues. Much like the durable power of attorney, the health-care power of attorney involves some important decisions. Take the utmost care when choosing who will make these decisions for you.

A related document, the living will, spells out the kinds of life-sustaining treatments you will receive as you near the end of life. The decision for or against life support is one you can make in advance. That makes the living will a valuable estate-planning tool. You may use a living will in conjunction with a durable health-care power of attorney. Bear in mind that laws governing the recognition and treatment of all these documents except the living trust may vary from state to state.

HIPAA DOCUMENTS

The Health Insurance Portability and Accountability Act of 1996, or HIPAA, requires health-care providers to take care with your private health information. A good estate plan includes a series of documents that authorizes medical providers to discuss your health situation with family and trustees.

GENEROSITY AND ESTATE PLANNING

God is generous and provides “enough and to spare” (Doctrine and Covenants 101:2f). Part of our generosity can be leaving a legacy to generations in the future. In fact, part of the emphasis of Tithing: A Disciple’s Generous Response is counsel that disciples save “to create a better tomorrow for themselves, their heirs, the church, and the world.”

Many church members would like to see a portion of the estate they have worked hard to build further the church’s mission for children, grandchildren, and future generations. We have heard from many who say through their estate plan they can make the most significant gift in their lives and still plan a substantial inheritance for their families.

The church has realized the generosity of many who have gone before and left bequests to provide resources to further the mission of the church. You are invited to consider such a gift, one that thoughtfully expresses who you are, what you stand for, your hopes and dreams, and most of all, your deepest gratitude to God. Not just because you can, but because your heart desires to share because you have received.
WHAT TO GIVE
There are various types of assets to give through your estate plan:
- Cash
- Securities
- Tangibles
- Real estate
- IRAs
- Life insurance
- Business interests

WHERE TO GIVE
Church members are encouraged to support the specific Mission Initiatives they feel passionate about:
Many members also make provisions for:
- Congregational ministries
- Mission center ministries
- Campgrounds

WAYS TO GIVE
There are many ways to give to the church and maximize your tax benefits.

OUTRIGHT GIFTS DURING LIFE
Giving outright during life produces an immediate income tax deduction for fair market value of the property. While cash is always an option, other assets can be considered.

APPRECIATED PROPERTY
From a tax perspective, a donor who wishes to make a gift should first consider giving appreciated property (i.e., property worth more than was paid for it or would otherwise produce a taxable gain on its sale). By giving appreciated property the donor gets a deduction for the full market value of the asset, and escapes paying capital-gains tax due under US law if the asset were sold.

BEQUESTS
Many members and friends of the church desire to leave a legacy to continue the work of the church beyond their lives. This most often is done by identifying a percentage of the trust or estate to benefit specific ministries of the church.

Sometimes it is preferable to identify a specific dollar amount or an asset that would come to the church. In any case, the Mission Initiatives, a congregation, campgrounds, a mission center, or church affiliates often are named to benefit from bequest gifts.

IRAS, 401(k)s, AND PENSION PROCEEDS
Disbursements from these plans are taxable to the designated beneficiaries. But if the church is named as beneficiary, no tax will be due. By planning an estate carefully, the church can be named beneficiary on such plans, while other assets that don’t result in income taxation are left to individual beneficiaries of the estate. Such planning will maximize the amount individual beneficiaries receive from the estate.

REAL ESTATE
Real estate (for example, a farm or home) may be given to the church, subject to a “life estate” that entitles the donor possession for as long as he or she lives. A life estate results in a lifetime tax deduction and assures the property will go to the church upon death.
GIFTS THAT PAY INCOME BACK TO THE DONOR

Donors may make gifts to the church and arrange to receive income back for life or a period of years. Two of the most popular gifts are charitable gift annuities and charitable remainder trusts.
CHARITABLE GIFT ANNUITY

A donor may arrange with the church to make a contribution in exchange for the church’s promise to pay the donor an income for life.

A charitable gift annuity consists of two elements: (1) an outright charitable gift, and (2) an agreement for a fixed income annuity. Income payments can begin immediately or can be deferred for a period determined by the donor. The payment period can be measured by one life (typically the donor) or by two lives (usually husband and wife).

Because the higher the donor’s age the higher the payout rate, these plans are particularly attractive to older donors.

CHARITABLE REMAINDER TRUST

These plans can be very useful to donors when property contributed is subject to capital-gains tax. Examples are stock, real estate, and business interests. Capital-gains tax generally is avoided, and income is paid to the donor (and spouse, if desired) for the rest of his or her life. In some cases, donors decide to continue payment to heirs for a time, as well.

To create a charitable remainder trust, you set up a trust and transfer the property you want to donate to it. The church often serves as trustee and manages or invests the property so it will produce income for you. The trust then pays you (or someone you name) a portion of the income generated by the trust property for a specified number of years, or for your whole life. You specify the payment period in the trust document. Then, at your death or the end of the period you set, the remaining property goes to the church for the purpose you select.
The Mission Funding Team can help you create a personal plan that can preserve wealth, distribute assets to your heirs, and ensure your legacy—taking into account your wishes and objectives.

Our team of trained specialists is available to provide confidential, professional services at no charge to help:

- clarify your financial and personal goals;
- create an estate plan that addresses your unique needs;
- show you how to turn assets into income;
- provide real estate and business planning expertise; and
- give voice to your legacy.

We look forward to working with you to develop an estate and gift plan that meets your needs.