



Areas of Practice

- Estate Planning
- Business Transactions
- Real Estate Transactions
- Estate and Trust Administration
- Taxation
- Non-Profit Organizations

David P. Wilson

Partner

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Biography

Partner David Wilson brings over 30 years of legal and industry experience to his representation of families and family-run businesses in high-value estate and tax planning, business and real estate transactions, and estate and trust administration.

David began his legal career in public accounting, and his deep understanding of tax issues offers added value to his transactional clients and a real differentiator to his practice.

From his experience as in-house corporate counsel, David understands the complex legal concerns of businesses from an insider's perspective. He has worked as a tax attorney for a national accounting firm, as in-house counsel for a Midwest gas company and currently serves as outside general counsel for an international trade association in the movie theater equipment and technology industry.

After growing up with seven siblings and now raising five children, David intimately understands the often-complex dynamics of families and family-owned businesses. It is this combination of business and family experiences that makes him uniquely qualified to advise family businesses on their estate and succession planning, real estate acquisitions and sales and business-related contracts and transactions.

David prides himself on his listening skills that enable him to translate his clients' desired outcomes into efficient arrangements that help accomplish their goals. He considers himself a client partner – one who makes it easier for his clients to continue growing and shaping their business entities, knowing their legal concerns are being handled.

A two-time graduate of Creighton University (1982 B.S.B.A. in accounting/finance and 1985 J.D.), David has deep family roots in Omaha and Nebraska. When not advising clients, he enjoys traveling with his wife Laura, running (he's completed 25+ marathons), watching movies and staying active with his family and four dogs.

Professional Associations and Memberships

- Nebraska State Bar Association
- Omaha Bar Association
- Omaha Estate Planning Council

Publications and Presentations

- Has spoken frequently on estate and tax planning topics
- Written articles for Film Journal International on legal matters involving the movie industry
- Presented seminars for lawyers on estate planning topics
- Presented client seminars on estate planning

Education

- J.D., Creighton University School of Law, 1985
- B.S.B.A., Creighton University, 1982 (Accounting and Finance)

Representative Cases

- Represented a high net worth client in creative estate and wealth-transfer planning, saving his client millions of dollars in federal estate taxes
- Obtained a six-figure federal estate tax refund for a client who had previously filed a federal estate tax return
- Negotiated and closed several eight and nine-figure business acquisitions and sales

Representative Clients

- International Cinema Technology Association
- Flinn Paving Company
- Nebraska Furniture Mart, Inc. and affiliated entities

Honors & Awards

- CAP/Chartered Advisory in Philanthropy designation from the American College of Financial Services

Pro Bono Activities

- Member, Mount Michael Benedictine High School Alumni Board
- Member, Nebraska Humane Society Board of Directors

Bar Admissions

- Nebraska
- United States Tax Court

THINGS YOU NEED TO KNOW

I. DYING WITHOUT A WILL – INTESTACY

A. Step 1 – Determine Share of Surviving Spouse

1. If no surviving issue or parents of deceased - entire estate to spouse
2. If no surviving issue - but parent(s) survive - spouse gets first \$100,000 plus $\frac{1}{2}$ of the rest
3. If issue survive who are also issue of the surviving spouse - spouse gets first \$100,000 plus $\frac{1}{2}$ of the rest
4. If issue survive - one or more who are not the issue of surviving spouse - spouse gets $\frac{1}{2}$ of intestate estate

B. Step 2 – Determine Share of Non-spouse Heirs

1. The part of the intestate estate not passing to spouse or the entire intestate estate if no surviving spouse passes to:
 - a. Surviving issue by right of representation
 - b. If no surviving issue - but parent(s) - equally to parent(s)
 - c. If no surviving issue or parents – to the issue of parents or either of them by right of representation
 - d. If no surviving under a, b or c – but surviving grandparent(s) – $\frac{1}{2}$ to maternal grandparents or their issue by right of representation and $\frac{1}{2}$ to paternal grandparents or their issue by right of representation (or if only on one side – to that side entirely)
 - e. If a - d do not apply – to next of kin in equal degree – with priority given to less remote ancestor kin
 - f. If no surviving heirs or next of kin – entire estate escheats to State of Nebraska

C. Issue = Descendants

II. REASONS WHY YOU NEED AN ESTATE PLAN

- A. To adequately and properly provide for loved ones and especially those dependent upon you for support
- B. To avoid the expense of going through an intestate estate administration

- C. To accomplish your wishes with respect to the disposition of your estate
- D. To avoid leaving your family with a mess
- E. To avoid the consequences of family dysfunction
- F. There are ways to avoid estate and trust litigation. Both the Nebraska Probate Code and the Nebraska Uniform Trust Code provide for settlement agreements that can be entered into by all interested parties within a probate or trust administration. If you are able to resolve disputes through these mechanisms, you can save family harmony and the significant expense of estate and trust litigation. Also, while many lawyers may advocate that probate is something to be avoided, it is not always a bad thing. Probate is the court-supervised administration of a decedent's estate. Probate judges are experienced in helping to resolve family disputes which may arise during the course of an estate administration. The courts are a forum for resolving many issues. In the case of a trust administration, there is a mechanism in the Nebraska Uniform Trust Code which enables Trustees and interested parties to register a trust with a court of competent jurisdiction. Having a trust registered with a court provides a forum for resolving disputes and for ensuring proper administration of the trust.

III. LEGAL ZOOM, ROCKET LAWYER AND OTHER FAMILY DISASTERS

- A. Legal formalities are important
 - 1. Wills
 - a. Testator/Testatrix must be at least 18
 - b. Written and signed by Testator or by another at the Testator's direction
 - c. In the presence of 2 competent witnesses, at least one of whom must be disinterested
 - d. Self-proving affidavit – presumes valid execution
 - e. Free and voluntary act; no duress; no undue influence; testamentary capacity
 - 2. Holographic Will
 - a. Signature, date, material provisions are entirely in the Testator's handwriting
 - b. No witnesses necessary

3. The Story of the Black Widow
 - a. Used form Wills – bought at office supply store
 - b. No children despite multiple husbands – who all predeceased Testatrix
 - c. Nieces and nephews – not all named in Will
 - d. Multiple charities named
 - e. Original Will – properly executed – blanks filled in blue ink
 - f. Over a period of years – numerous interlineations and additions to original Will – often in a different color ink
 - g. Testatrix dies. Predictable Will contest ensues.
 - h. Result: After tens of thousands in legal fees (numerous lawyers) – of the original 12 nieces and nephews, 2 friends and 8 charities named – 1 friend, 1 niece and 2 charities split the estate – 3 years after she died.
 - i. It is worth the expense of a lawyer to properly prepare your estate plan and make certain that documents are properly executed.

IV. ASSET TITLING

A. Modes of Asset Title

1. In your name
2. In the name of your Revocable Trust
3. Jointly titled
4. In your name – with death beneficiaries

B. Importance of Asset Titling

1. Determines who has rights in asset during life
2. Determines method by which asset passes on death
3. Asset titling needs to be considered with estate plan
4. Creditor considerations
5. Determine who has control during incapacity

6. Determine lifetime transferability of interest

C. Joint Tenancy Ownership

1. Tenants in Common – Each joint tenant owns an undivided fraction of the whole asset. Undivided interest of deceased joint tenant passes on death by Will or intestacy.

2. Joint Tenants WROS – Each joint owner has an undivided interest in the whole. On death – the interest of a deceased joint tenant passes as operation of law to surviving joint tenant or joint tenants. Neither Will nor Trust will pass deceased tenant's interest on death.

3. Multiple Party Accounts

a. Survivorship bank accounts

b. Each party has rights in whole account

c. During lifetime – each party only has legal claim on account in proportion to his/her contribution

d. Under some circumstances – those accounts can be problematic

e. Bad if one party has creditor issues

f. Bad if non-contributing owner withdraws amounts during life

g. Story account pre-death account raiders

h. Those account can be inconsistent with your estate plan

4. Best Practice Alternatives for Asset Titling

a. Titling assets in your Revocable Trust (assets are subject to terms of Trust Agreement)

b. Titling assets in your name – subject to financial durable power of attorney and Will

c. T.O.D. beneficiary designations consistent with your estate plan

d. T.O.D. beneficiary deeds for real estate

e. Ultimate objectives - Make sure titling is done in a manner which is consistent with your estate plan and which avoids creditor issues and problematic joint owners.

V. WHAT TO INCLUDE IN YOUR ESTATE PLAN

- A. Comprehensive distribution of assets
- B. Payment of debts and expenses and taxes
- C. Appointment of fiduciary in charge (Personal Representative/Trustee)
- D. Appointment of Guardians/Conservators for minors and incapacitated dependents
- E. Incapacity planning documents
 - 1. Financial/personal durable power of attorney
 - 2. Health care durable power of attorney
 - 3. Living will
 - 4. Revocable Trust Agreement
 - 5. The importance of selecting fiduciaries carefully. Fiduciaries are people or institutions who you appoint in your estate planning documents to carry out duties with respect to your person, your income, and your estate. These persons include attorneys-in-fact under durable powers of attorney (both financial and health care), the Personal Representative of your estate under your Will, and Trustees and successor Trustees under your trust agreements. It is important to make certain that these persons are responsible, ethical, financially savvy and are persons that will carry out your wishes.
 - a. The story of the evil and greedy niece
 - b. The story of the child who could not pull the plug
- F. Organ donor documentation
- G. Tax motivated estate planning
- H. Charitable estate planning

VI. OPPORTUNITIES FOR INSURANCE PROFESSIONALS

- A. Long-term care insurance
 - 1. New LTC policies
 - 2. Life insurance for LTC
 - 3. Using existing (not otherwise necessary life policies)

- B. Wealth replacement policies
- C. Succession planning
 - 1. Cross purchase agreements
 - 2. Redemption agreements
 - 3. Family equalization
- D. Insurance can be very useful in blended family situations by providing a source of inheritance for step-relatives

VII. FREEING POLICIES FROM OBSOLETE I.L.I.T.

- A. Many ILITs were set up for the purpose of funding federal estate tax liabilities
- B. Those ILITs may be obsolete because of significant changes in federal estate tax laws
- C. Since ILITs are “irrevocable” – policies are locked up in their Trusts
- D. Freeing up those policies may be desirable when they can be used for other purposes or when beneficiaries need access to cash values
- E. Uniform Trust Code permits termination of irrevocable trusts under certain circumstances:
 - 1. By consent of Settlor and all beneficiaries
 - a. Even if termination is inconsistent with a material purpose
 - b. If all beneficiaries consent – Trust may be terminated if the Court concludes that continuance of the Trust is not necessary to achieve any material purpose of the Trust
 - c. Requires Court Order in an action commenced by Trustee or a beneficiary
 - d. Trustee shall distribute Trust property as agreed by the beneficiaries – upon termination under those proceedings
 - e. If not all beneficiaries consent – the Court may still order termination if
 - (i) termination would have occurred if all beneficiaries had consented, and
 - (ii) the interests of the non-consenting beneficiary(ies) is adequately protected

2. Termination of uneconomical Trust
 - a. If Trust property has a value of less than \$100,000
 - b. If Court concludes value insufficient to justify continued cost of Trust administration
 - c. Requires Court Order

- F. It is important to keep a close watch on federal estate and gift tax legislation during the Biden administration. If the federal estate and gift tax and GSTT exemptions are reduced with an accompanying increase in rates, it is possible that life insurance funding for estate tax liquidity purposes will become prevalent again. **However, it is important to note that with the current Republican-controlled Congress, it is not likely that there will be tax law changes which decrease the federal estate and gift tax exemptions during the current administration. Republican tax policies favor reduction or elimination of federal transfer taxes. It seems more likely that federal estate and gift tax law changes will occur when the current federal estate and gift tax provisions sunset at the end of 2025.**

VIII. TRANSFER TAX LANDSCAPE

- A. Federal Estate and Gift Tax
 1. \$12,920,000 combined lifetime taxable transfer exemption (2023)
 2. \$17,000 per donee annual present interest gift tax exclusion; \$34,000 for split gifts
 3. \$12,920,000 generation-skipping transfer tax exemption (2023)
 4. While the lifetime exemptions are very high, taking many of our clients out of taxable situations, it is possible or even likely that future legislation could significantly reduce those outrageously high amounts. The current exemption levels are set to expire on December 31, 2025. As of the date of this outline, President Biden has not chosen to expand the federal estate tax by reducing exemption levels or increasing federal estate and gift tax rates. The current emphasis in the Biden tax plan has been to eliminate stepped-up basis and to increase capital gains tax rates. This creates a way for the federal government to make up revenue shortfalls through income tax instead of federal estate taxes.
 5. Before Trump presidency, federal estate and gift tax averaged 2.3% of annual federal revenues
 6. Because of reduced taxes under all of Trump's tax laws, taxes will need to increase at some point in the near future. President Biden campaigned to increase federal income tax rates for individuals earning over \$425,000 (\$509,000 for married taxpayers filing jointly). Because of current economic conditions,

including but not limited to federal spending deficit and the economic stimulus paid by the federal government as a result of COVID-19, it seems logical that income tax rates would increase at some point in the near future.

7. If the federal estate and gift tax laws remain unchanged, beginning in 2026, the exemption levels for federal estate and gift tax and GSTT will fall to \$5 million per taxpayer, adjusted for inflation (estimated at \$6-7 million in 2026). The federal estate tax maximum rate will increase from 40% to 45%. It is also possible, if President Biden follows his campaign platform, that he could push for legislation before 2026 which would decrease the tax exemption to \$3,500,000 per taxpayer. For all of these reasons, tax planning is still important for high-net-worth clients. DSUE planning is very important. See paragraph A10 below.
8. Clients who have taxable situations in the current federal transfer tax environment need experienced tax advisors.
9. Anti-clawback regulations. The Department of the Treasury has issued proposed regulations which would protect taxpayers who have made taxable gifts based upon the increased exemption amounts during years where the exemption amounts are higher if the taxpayers die in future years when the exemption is lower. This presents a significant lifetime gifting opportunity for high-net-worth individuals during the period of time when the exemption levels are high. Again, because of legislative uncertainty it is advisable, if it makes sense for clients, for high-net-worth clients to make lifetime gifts all the way up to the current exemption level. Every situation is unique and there are non-tax considerations which may dictate that this is not a good strategy in some cases. Consulting with tax advisors and legal counsel is extremely important during these uncertain times.
10. DSUE planning. There are portability provisions under federal estate and gift tax law which permit a surviving spouse to “inherit” the unused portion of the deceased spouse’s federal estate tax exemption. In order to take advantage of this significant benefit, it is necessary to file (in a timely manner) a federal estate tax return for the deceased spouse. This is true whether or not the deceased spouse would have been required to have a federal estate tax return filed for his or her estate. In fact, as it has turned out, estates of many deceased spouses are filing federal estate tax returns for this sole purpose. **The problem here has been that where the estate of a deceased spouse would not otherwise be required to file a federal estate tax return, the Personal Representatives of those estates have not even considered filing a return solely for the purpose of taking advantage of portability. A federal estate tax return must be filed no later than nine months after the death of a decedent. An automatic extension of six months can be obtained if filed within that nine-month period. Many estates discovered to their dismay that they missed the nine-month deadline and were unable to take advantage of the portability of the DSUE of a deceased spouse. On July 8, 2022, the Department of the Treasury issued Rev. Proc. 2022-32. This revenue procedure corrected the issue encountered by those estates which did not timely file a federal estate tax return for the sole**

purpose of taking advantage of DSUE portability. The revenue procedure permits late filers to take advantage of portability as long as they file a federal estate tax return on or before the fifth anniversary of the decedent's death. There are specific requirements in the revenue procedure in order to take advantage of this amnesty provision for late filers. A copy of the revenue procedure and Part 6 of the federal estate tax return are attached to these materials.

B. Nebraska Inheritance Tax (see Worksheet attached)

1. Subject to exceptions and exemptions – property passing to non-spouse heirs on death (including gifts made within 3 years of death) is subject to this tax
2. Payable to County Treasurer; statutory lien on real estate arises upon death for this tax
3. Requires an Order from the probate court. Personal Representative or Trustee must file inventory and inheritance tax worksheet with Court and must obtain approval of County Attorney.
4. This tax and its court process – takes the privacy aspect away from Revocable Trusts
5. This tax can't be avoided by having a Revocable Trust
6. Starting point is fair market value of property passing to heirs and devisees
7. Deductions for funeral expenses, expenses of last illness, administration expenses, lawful debts, and other expenses
8. Homestead exemption, exempt property and family allowance are all deductible
9. Exemptions/Tax Rates
 - a. **Siblings, ancestors, issue, and their spouses**
 - \$40,000 exemption – 1% tax rate for decedents dying prior to January 1, 2023
 - \$100,000 exemption – 1% tax rate for decedent dying on or after January 1, 2023
 - Any interest passing to a person who is under twenty-two years of age shall not be subject to tax – for decedent dying on or after January 1, 2023
 - b. **Uncle, aunt, niece, nephew or their lineal descendants and spouses**
 - \$15,000 exemption – 13% tax rate for decedent dying prior to January 1, 2023
 - \$40,000 exemption – 11% tax rate for decedent dying on or after January 1, 2023

- c. **All others**
 - \$10,000 exemption – 18% tax rate for decedent dying prior to January 1, 2023
 - \$25,000 exemption – 15% tax rate for decedent dying on or after January 1, 2023
 - d. No tax on assets passing to surviving spouse, charity or on gifts made more than three years before the decedent's date of death. Gifts made by a decedent within three years prior to his/her death are subject to the Nebraska inheritance tax.
 - e. Other exempt assets include life insurance proceeds payable to a beneficiary other than the decedent's estate, real and personal property having a situs outside of the State of Nebraska, money and property to which immediate family members are entitled as homestead allowance (\$20,000), exempt property (\$12,500) and family maintenance allowance.
10. Nebraska remains in the minority of states which continue to have an inheritance tax
11. Ways to minimize Nebraska inheritance taxes:
- Discounted transfers
 - Updating life insurance policy beneficiaries in cases where they predecease the insured
 - Lifetime gifting in all cases and especially in cases where the donor has no relatives
 - Charitable gifts at death
 - Move to states where there are no state inheritance or estate taxes

WALENTINE O'TOOLE, LLP

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Attorneys at Law

GENERAL TRANSFER INSTRUCTIONS

1. Title to Assets in General

Generally, the proper manner in which to title your assets (other than IRAs, qualified requirement plans, pensions, annuities, and life insurance) is as follows:

_____, Trustee, and ~~his~~ ^{his/her} successors in trust, under the
_____ Revocable Trust created by Trust Agreement dated
_____, and all amendments and restatements thereto.

See Section 7 for instructions for IRAs, pensions, qualified retirement plans, annuities, and similar assets. See Section 8 for instructions for life insurance.

2. Accounts

Transfer your savings accounts, brokerage accounts, mutual fund accounts, money market accounts, certificates of deposit, and similar assets to the Trust (refer to language in Section 1 above). Checking accounts should also be changed to the Trust (refer to language in Section 1 above) if large amounts of money are generally kept in such accounts; otherwise, those checking accounts may be made "transfer on death" (TOD) to (a) a particular family member, or (b) your revocable trust (refer to language in Section 1 above). Take a copy of the Trust Agreement or a Certification of Trust with you to the financial institution to set up the account. **When using TOD beneficiary designations on accounts, please make sure that there are enough liquid assets in your estate or Trust to pay administration expenses, debts and taxes following your death. Do not transfer all of your liquid assets to family members using TOD beneficiary designations, because the beneficiary(ies) will own those assets after your death and may not be obligated to use them to pay those expenses. If you are contemplating using TOD beneficiary designations for accounts or jointly titling accounts with someone other than your spouse, please consult me before doing so.**

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***** (also admitted in South Dakota)

3. Stocks and Bonds

For stock in a closely-held business, a stock power should be prepared to transfer your stock to the Trust (refer to language in Section 1 above). Thereafter, the applicable corporation should issue a new stock certificate to the Trust representing the transferred shares. Before transferring your stock, you should review the corporation's Bylaws and any buy-sell agreements to make certain such agreements do not contain transfer restrictions which prevent you from transferring your stock to the Trust. If you own stock in a public corporation in your individual name in certificated form (which is not in a mutual fund or a brokerage account), please let us know and we will instruct you on the proper manner to transfer title of such stock.

For bearer bonds and registered bonds, a bond power should be prepared for each bond to transfer the bonds to the Trust (refer to language in Section 1 above).

I suggest that you consult me with regard to any transfers of any closely-held business interests or certificated stocks and bonds to make certain that they are done correctly.

4. Real Estate

I will prepare appropriate deeds to properly title your real estate either jointly with right of survivorship, or in the name of your Trust.

5. Partnerships and Limited Liability Companies

Partnership and limited liability company interests may be transferred to the Trust (refer to language in Section 1 above) by execution of an assignment form. If your ownership in the partnership or limited liability company is evidenced by a certificate, a new certificate will need to be issued to the Trust. Before transferring any such interests, you should review the partnership agreement or the limited liability company's operating agreement and any buy-sell agreements to make certain such agreements do not contain transfer restrictions which may prevent you from transferring your interests to the Trust. I suggest that you consult me with regard to any transfers of partnership and limited liability company interests to make certain that they are done correctly.

6. Notes, Trust Deeds and Contracts

An assignment form should be signed for each note or contract and such form should be stapled to the original note or contract in order to transfer such assets to the Trust (refer to language in Section 1 above). An assignment of deed of trust for each trust deed should be signed, notarized and recorded in the county where the real property is located. I suggest that you consult me with regard to transfers of any note, trust deed or contract to make certain that they are done correctly.

7. IRAs, Retirement Accounts, Pensions, Annuities, and Similar Assets

If you have an IRA, qualified retirement plan assets (i.e., a 401(k), 403(b), profit sharing plan), pensions, annuities, or similar assets, you should request that the custodian of those assets

change the primary beneficiary of such assets to your revocable trust. If you have charitable intentions, we should discuss how charities might be named as the beneficiary of some of these assets for income tax and estate tax savings. If you have retirement accounts other than the ones mentioned above, please let me know and I will instruct you on the proper beneficiary for such assets.

You will need to call the custodians and request that they send you the appropriate "change of beneficiary" forms. After completing the forms, you will need to return the forms to them.

8. Life Insurance Policies

For life insurance policies insuring your life, your Revocable Trust should be named as the primary beneficiary. You will need to call the insurance companies and request that they send you the appropriate "change of beneficiary" forms. After completing the applicable forms, you will need to return the forms to them. Should they request a copy of your Trust Agreement, ask them if you can send them either a Certification of Trust or a copy of the pertinent pages of your Trust Agreement (the first page, the section naming the successor Trustee(s), and the signature page).

9. Automobiles

Future and current automobile titles should be titled in the Trust (refer to language in Section 1 above).

10. 529 Educational Accounts

For any 529 accounts for children, you should consider naming trusted family members as the successor owners after you. With respect to 529 accounts for grandchildren, you should consider naming the parents of the respective grandchild as the successor owners after you. For 529 accounts for nieces, nephews or other individuals, you should consider naming the parents of the respective individual as the successor owners after you.

11. Safe Deposit Box

You should designate one or two individuals (e.g., Successor Trustee, Agent or family members) on your safe deposit box so they may access your original estate planning documents and its other contents upon your death.

12. Assistance with Re-Titling

I would be happy to help you with any of these transfers if you would supply the following documentation:

- (a) Accounts – last account statement;
- (b) Stocks and Bonds – copy of certificates or instruments;
- (c) Real Estate – copy of latest deed;
- (d) Partnership or Limited Liability Company – copy of most recent Form K-1;

- (e) Notes, Trust Deeds and Contracts – copy of note, deed or contract; and
- (f) IRAs, Retirement Plans, Pensions, Annuities, and Life Insurance – change of beneficiary form (and ownership form, if applicable), identification number or policy number, and copy of the policy or last account statement.

Please let me know if you have any questions or need any help in completing these instructions.

Sincerely,

David P. Wilson
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DPW:smd

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Importance of TOD & JTWR0S Designations

The Importance of TOD & JTWR0S Designations

A convenient move that could ward off probate on your accounts.

Provided by Total Financial Advisors, LLC.

TOD, JTWR0S...what do these obscure acronyms signify? They are shorthand for *transfer on death* and *joint tenancy with right of survivorship* – two designations that permit automatic transfer of bank or investment accounts from a deceased spouse to a surviving spouse.

This automatic transfer of assets reflects a legal tenet called the *right of survivorship* – the idea that the surviving spouse should be the default beneficiary of the account. In some states, a TOD or JTWR0S beneficiary designation is even allowed for real property.¹

When an account or asset has a TOD or JTWR0S designation, the right of survivorship precedes any beneficiary designations made in a will or trust.^{1,2}

There are advantages to having TOD and JTWR0S accounts ... and disadvantages as well.

TOD & JTWR0S accounts can usually avoid probate. As TOD and JTWR0S beneficiary designations define a direct route for account transfer, there is rarely any need for such assets to be probated. The involved financial institution has a contractual requirement (per the TOD or JTWR0S designation) to pay the balance of the account funds to the surviving spouse.¹

In unusual instances, an exception may apply: if the deceased account owner has actually outlived the designated TOD beneficiary or beneficiaries, then the account faces probate.³

What happens if both owners of a JTWR0S account pass away at the same time? In such cases, a TOD designation applies (for any named contingent beneficiary).³

To be technically clear, *transfer on death* signifies a route of asset transfer while *joint tenancy with right of ownership* signifies a form of asset ownership. In a variation on JTWR0S called *tenants by entirety*, both spouses are legally deemed as equal owners of the asset or account while living, with the asset or account eventually transferring to the longer-living spouse.³

Does a TOD or JTWR0S designation remove an account from your taxable estate? No. A TOD or JTWR0S designation makes those assets non-probate assets, and that will save your executor a little money and time – but it doesn't take them out of your gross taxable estate.

In fact, 100% of the value of an account with a TOD beneficiary designation will be included in your taxable estate. It varies for accounts titled as JTWR0S. If you hold title to a JTWR0S account with your spouse, 50% of its value will be included in your taxable estate. If it is titled as JTWR0S with someone besides your spouse, the entire value of the account will go into your taxable estate unless the other owner has made contributions to the account.⁴

How about capital gains? JTWR0S accounts in common law states typically get a 50% step-up in basis upon the death of one owner. In community property states, the step-up is 100%.⁵

Could gift tax become a concern? Yes, if the other owner of a JTWRROS account is not your spouse. If you change the title on an account to permit JTWRROS, you are giving away a percentage of your assets; the non-spouse receives a gift from you. If the amount of the gift exceeds the annual gift tax exclusion, you will need to file a gift tax return for that year. If you retitle the account in the future so that you are again the sole owner, that constitutes a gift to you on behalf of the former co-owner; he or she will need to file a gift tax return if the amount of the gift tops the annual exclusion.⁵

TOD & JTWRROS designations do make account transfer easy. They simplify an element of estate planning. You just want to be careful not to try and make things too simple.

TOD or JTWRROS accounts are not cheap substitutes for wills or trusts. If you have multiple children and name one of them as the TOD beneficiary of an account, that child will get the entire account balance and the other kids will get nothing. The TOD beneficiary can of course divvy up those assets equally among siblings, but in doing so, that TOD beneficiary may run afoul of the yearly gift tax exclusion.²

JTWRROS accounts have a potential drawback while you are alive. As they are jointly owned, you have a second party fully capable of accessing and using the whole account balance.²

As you plan your estate, respect the power of TOD & JTWRROS designations. Since they override any beneficiary designations made in wills and trusts, you want to double-check any will and trust(s) you have to make sure that you aren't sending conflicting messages to your heirs.²

That aside, TOD & JTWRROS designations represent convenient ways to arrange the smooth, orderly transfer of account balances when original account owners pass away.

Total Financial Advisors, LLC. may be reached at 516-579-2700 or tfa@totalfinancialadvisors.com.

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NebraskaFarmer



WEEDS AND YOUR ESTATE PLAN: Unwanted invaders in a crop field have to be removed. Pulling weeds is a challenging chore, and there are similarities in that task to what it takes to create a successful estate plan.

Don't let weeds grow in your estate plan

Author learned a life lesson removing "crop invaders" that has value for farmers.

Oct 24, 2018

By Michael Dolan

What can we learn about estate planning from weeds? It may seem odd, but I learned a lot as a young man by pulling weeds. My father had an interesting way of punishing his three sons. When we landed in trouble, in addition to our other chores, he would send us out on the property with directions to pull a certain number of various types of weeds. You had to pile the weeds in piles of 10 for easy tabulation, and if the pulled weed did not have most of its root, it did not count. The number of weeds assigned usually corresponded to the severity of the offense. Needless to say, with three mischievous boys, there were not a lot of weeds on our property. So, what did I learn?

1. I learned that if you make good decisions early, you don't have to face bad consequences. It's not that different in estate planning. If you plan ahead by putting a well-designed system in place to deal with matters upon your disability and/or death, you and your family don't have to face the significant and expensive consequences of failing to plan. Paying excess taxes, navigating probate, or having significant delays and legal complications sound a whole lot worse than hunting down and pulling 200 leafy spurge plants.

2. I learned that taking one more step forward always gets you closer to success. Even though the project often seemed insurmountable to a young man standing in the hot sun, pulling that next weed got me closer to getting it done. To have an effective estate plan, you need to take all the necessary steps. Having a will or trust is a start, but it doesn't mean you have an estate plan. It simply means you have an unimplemented set of instructions that usually have little to do with your objectives for your family. If you want a plan that works, you need to do more than just buy some documents. Learn what steps are needed to have a successful plan, and then take them. You never know when a big patch of Canada thistle may be just over the next rise.

3. I learned that stopping before the job is done can have adverse consequences. If I wandered off to do anything — even my chores — before the assigned number of weeds had been collected, the punishment was swift and uncomfortable. When you estate-plan, you need to complete the entire project. Your estate plan is one of the few things in life that involves everyone you love and everything you own. A couple of hours in the attorney's office many years ago is a classic example of not getting the project done. You need to work closely enough with the attorney to design the plan to fit your family, undertake a process to update and maintain it as time passes, and make sure it is ready to serve your family well when a disability occurs, or the good Lord calls you home. This is the best way to avoid weeds sprouting on your outdated estate plan.

Dolan, an attorney, helps farm and ranch families achieve comprehensive estate, succession and legacy planning objectives. Dolan is the principal of Dolan & Associates P.C. in Brighton and Westminster, Colo. Learn more on his website, estateplansthatwork.com.

Source URL: <https://www.farmprogress.com/management/don-t-let-weeds-grow-your-estate-plan>



BGOV OnPoint **Bipartisan Tax** **Policy Push**

Lauren Turenchalk, Legislative Analyst

Seemeen Hashem, Data Visualization Analyst

April 18, 2023

Bloomberg Government

About This OnPoint

- **Lawmakers are pitching bipartisan proposals on various tax incentives**
 - Deals possible on expanded child, research and development, and low-income housing
 - Efforts to modify SALT cap gaining some support from Republicans, though still faces
- **Democrats, Republicans still at odds over agency funding priorities**
 - IRS released its plan to spend funding provided under Democrats' 2022 tax, health care change law ([Public Law 117-169](#))
- **This OnPoint covers:**
 - The child tax credit and where Democrats, GOP stand
 - Other tax incentives that could garner bipartisan support
 - IRS funding debate

Child Tax Credit Expanded During the Covid-19 Pandemic

The child tax credit allows eligible taxpayers to reduce their federal tax income liability by a certain amount for each qualifying child

The American Rescue Plan Act ([Public Law 117-2](#)) expanded the credit for 2021, particularly for low- and moderate-income families

Expanded Child Tax Credit (2021)

Credit Fully Refundable and Paid in Advance Monthly Payments



Under 6 years old

6 to 17 years old

Income Phaseout



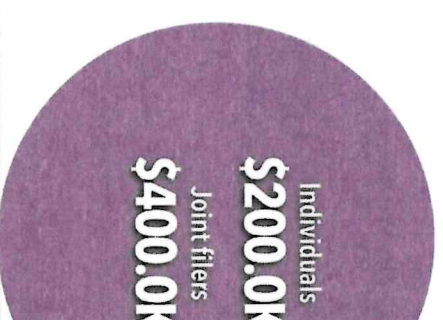
Current Child Tax Credit (2022-2025)

Credit Partially Refundable and Paid Annually



Under 17 years old

Income Phaseout



Notes: For 2021, the child credit was made fully refundable, meaning the entire credit was provided as a refund if it exceeded an individual's income tax liability. The Republicans' 2017 tax law ([Public Law 115-97](#)) increased the credit's value and income phaseouts from 2018 through 2025. Sources: "[The Child Tax Credit](#)," The White House; "[The Expanded Child Tax Credit for 2021: Frequently Asked Questions \(FAQs\)](#)," Congressional Research Service

Lawmaker Deals Possible for Business Tax Breaks

Tax Credit	Background	What to Know
<p>Research and development</p>	<ul style="list-style-type: none"> • Credit previously allowed companies to deduct R&D expenses in the year incurred • 2017 tax law modified credit to require companies, beginning in 2022, to amortize R&D expenses over five to 15 years 	<ul style="list-style-type: none"> • GOP pushing for full R&D expensing in c Democrats want to pair changes with exp credit • Sens. Maggie Hassan (D-N.H.) and Todd reintroduced a measure (S. 866) that wou immediate R&D deductions and raise the refundable R&D credit for small business
<p>Low-income housing</p>	<ul style="list-style-type: none"> • Credit awarded to developers to offset costs of construction if they reserve a share of rent-restricted units for low-income households • Credits are first allocated to states based on population; a 12.5% increase in allocations enacted under fiscal 2018 omnibus expired end of 2021 	<ul style="list-style-type: none"> • Sens. Maria Cantwell (D-Wash) and Todd reintroduce measure from last Congress t LIHTC; bill would also support developers units for extremely low-income household • Young looking to must-pass legislation, s Aviation Administration reauthorization, as expansion • Measure could be combined with another Young and Sen. Ben Cardin (D-Md.) that tax credit to cover the cost between buildi homes in distressed areas and their poter

Note: Amortization is an accounting method used to reflect the decline in value of an intangible asset over time.
 Sources: "R&D Tax Credit and Deductions," Bloomberg Tax; "[Congress Returns to Familiar Tax To-Do List After Recess](#)," Bloomberg Tax; "[Senators Eye Housing Bills for Bipartisan Tax Policy Push](#)," Bloomberg Tax; "[An Introduction to the Low-Income Housing Tax Credit](#)," Congressional Research Service

Cap on State and Local Tax Deduction Also On The Tail

- **Individuals who itemized deductions could fully write off state and local taxes**
 - Republicans' 2017 tax law ([Public Law 115-97](#)) capped amount of state and local taxes that can deduct at \$10,000 through 2025
 - Taxpayers in states with a disproportionate share of high-income individuals and high property taxes, such as California, Connecticut, New Jersey, and New York – more likely to claim the deduction
- **Cap has been a target of lawmakers since its passage in 2017, though any repeal or raise the limit could face uphill battle**
 - Some lawmakers have argued that SALT cap changes would benefit the wealthy
 - Opponents of the change said the cap unfairly targeted their constituents
- **Bipartisan SALT Caucus [relaunched](#) to support full restoration of SALT deduction**
 - Rep. Andrew Garbarino (R-N.Y.), caucus co-chair, introduced bipartisan bill to repeal the cap
 - Some New York House Republicans seeking to increase the limit rather than eliminate it

Sources: "[SALT Cap Repeal Pitched by Lawmakers From High-Tax States](#)," Bloomberg Tax; "[SALT Tax Break Gets Fresh Push From New York-Area Republicans](#)," Bloomberg News; "[Higher SALT Cap Embraced by Republicans in Competitive Districts](#)," Bloomberg Tax; "[The SALT CAP: Overview and Analysis](#)," Congressional Research Service

Lawmakers Diverge on IRS Funding Priorities

- **IRS released [plan](#) to spend the \$80 billion it received under Democrats' 2022 tax, health care, and climate change law**
 - Funding to focus on hiring agents, modernizing IT
 - Agents would increase audits of high-income individuals and corporations, provide guidance to taxpayers
- **House Republicans voted to rescind the funding in [January \(H.R. 23\)](#)**
 - Voiced concerns over funding allocations, transparency and target audit rates
 - Democratic appropriators said they want to make sure the agency has enough fiscal 2024 funding to continue work
 - IRS Commissioner Daniel Werfel to testify at Senate Finance Committee [hearing](#) April 19

GOP Bill Would Eliminate

- Rep. Buddy Carter (R-Ga.) to eliminate the IRS and create a new tax authority
 - Bill wouldn't authorize funding for fiscal 2027
 - Would also replace federal and estate taxes with a new tax among other changes
 - A new Sales Tax Bureau and Department would administer the tax
- Measure has been introduced since 1999, though has never passed
 - Speaker Kevin McCarthy said he had agreed to a vote to win speakership

7 Sources: "[IRS Faces Four Hurdles to Implementing Its \\$80 Billion Plan](#)," Bloomberg Tax; "[IRS \\$80 Billion Roadmap Tees Up Congressional Funding Fight](#)," Bloomberg Tax; "[IRS Details Priorities to Spend \\$80 Billion in Long-Awaited Blueprint](#)," Bloomberg Tax

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IN THE COUNTY COURT OF _____ COUNTY, NEBRASKA	
IN THE MATTER OF THE ESTATE OF _____, DECEASED Date of Death: _____	Case No. PR _____ INHERITANCE TAX WORKSHEET VOLUNTARY APPEARANCE AND WAIVER OF NOTICE (Eff. 2011) Final Determination

ASSETS OF ESTATE FOR INHERITANCE TAX PURPOSES, SECTIONS 77- 2001 & 77-2002

1	Schedule A, Real Estate (or Total of Short Form Inventory Value if Separate Schedules not Filed)		Clear Market Value at Date of Death
2	Schedule B, Stocks and Bonds		
3	Schedule C, Mortgages, Notes and Cash		
4	Schedule D, Life Insurance Payable to Estate		
5	Schedule E, Jointly Owned Property		
6	Schedule F, Other Miscellaneous Property		
7	Schedule G, Transfers During Lifetime (Include Section 77-2002(2) gifts)		
8	Schedule H, Powers of Appointment (See Section 77-2009 for Taxability)		
9	Schedule I, Annuities		
10	Total Clear Market Value (Total of lines 1 through 9) or Total Inventory Value	\$0.00	
11	Contribution by Surviving Joint Tenant (Explanation Attached)		
12	Gross Estate (Line 10 Minus Line 11)		\$0.00

ALLOWANCES & EXEMPT PROPERTY, SECTIONS 30-2322 TO 30-2325 & DEDUCTIONS, SECTION 77-2018.04

13	Homestead Allowance (Maximum \$20,000)		Allowances
14	Exempt Property (Maximum \$12,500)		
15	Family Maintenance Allowance (Maximum \$20,000 Without Court Order)		
16	Total Allowances & Exempt Property (Total of Lines 13 Through 15)		\$0.00
17	Cost of Funeral, Including Interment and Marker		Deductions - Include Only to Extent Paid From, Chargeable to or Paid With Respect to Property Subject to Nebraska Inheritance Tax
18	Attorney Fees and Expenses		
19	Personal Representative Fees		
20	Court Costs and Recording Fees		
21	Publication Costs		
22	Bond		
23	Other Administration Expenses (Schedule J or Other Schedule Attached)		
24	Non-Probate Property Expense		
25	Predeath Debts Not Otherwise Listed (Schedule K or Other Schedule Attached)		Deductions - Debts of Decedent
26	Total Deductions (Total of Lines 17 to 25)		\$0.00

MARITAL EXEMPTION, SECTION 77-2004

Explanation: The Marital Exemption is the total of Spouse's actual share less Homestead Allowance, Exempt Property, and Family Allowance together with claims and administration expenses which are paid out of the interest of the Surviving Spouse.

27	Interest of Spouse in Decedent's Joint Property		Marital Exemption
28	Interest of Spouse in Decedent's Probate Estate		
29	Interest of Spouse in Decedent's Other Property		
30	Total of Spouse's Actual Share of Estate (Total of Lines 27 Through 29)		\$0.00

FEDERAL ESTATE TAX DEDUCTION, SECTION 77-2018.04(5), CHARITABLE EXEMPTION SECTION 77-2007.03 & .04

31	Gross Estate plus Adjusted Taxable Gifts (From Federal Estate Tax Return)		Federal Estate Tax Allocation
32	Total of Line 31 Not Subject to Nebraska Inheritance Tax		
33	Total of Line 31 Subject to Nebraska Inheritance Tax (Line 31 minus Line 32)	0.00	
34	Factor (Line 33 Divided by Line 31 carried to four places)	0.00	
35	Federal Estate Tax Paid (From Form 706)		
36	Federal Estate Tax Paid Attributable to Property Subject to Nebraska Inheritance Tax (Line 34 Multiplied by Line 35)		\$0.00
37	Governmental, Religious, and Charitable Gifts		
38	Total Deductions and Exemptions (Total of Lines: 16, 26, 30, 36 and 37)		\$0.00
39	Net Value of Property Subject to Nebraska Inheritance Tax (Line 12 minus Line 38)		\$0.00

TENTATIVE INHERITANCE TAX PAID AND CREDIT FROM ESTATES OF PRIOR DECEDENTS, SECTION 77-2018.06

	Total Inheritance Tax Credit Due Estate of this Decedent (Explanation Attached)		\$0.00
	Tentative Inheritance Tax Previously Paid in this Estate		\$0.00

**COUNTY ATTORNEY VOLUNTARY APPEARANCE AND WAIVER OF NOTICE FOR FINAL DETERMINATION OF
INHERITANCE TAX**

ESTATE OF _____

I, the undersigned (Deputy) County Attorney, hereby enter my voluntary appearance on behalf of the below designated County and the State of Nebraska in the above captioned proceeding and waive the service of notice upon me to show just cause, and furthermore waive all notice required by law of time and place of hearing for the determination of values of property for inheritance tax purposes and for the purpose of assessing inheritance tax, if any, due under the laws of the State of Nebraska. I have examined the foregoing Worksheet and have no objections thereto for inheritance tax purposes only.

(Deputy) County Attorney _____ Date

(Deputy) County Attorney _____ County _____ Date

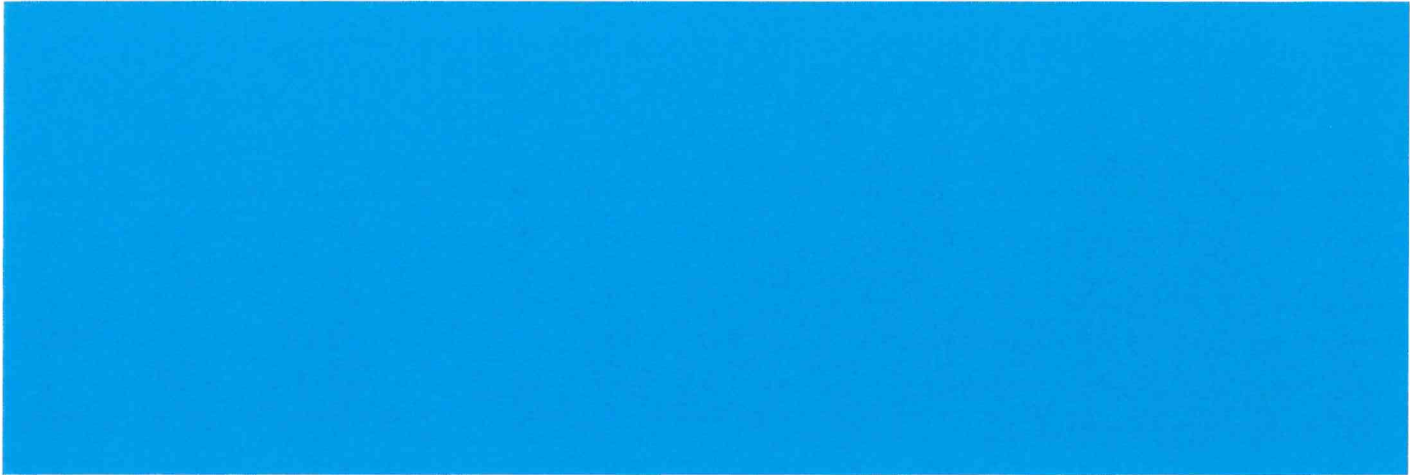
(Deputy) County Attorney _____ County _____ Date

Bloomberg Tax

QUICK TAX REFERENCE

2022/2023

As of January 2023



Bloomberg Tax is pleased to provide you with our 2022/2023 Quick Tax Reference Guide, a practical resource to help you plan and comply in the upcoming year.

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Lisa Fitzpatrick
President
Bloomberg Tax



Standard Mileage Rates

[Source: Notice 2022-03; Announcement 2022-13; Notice 2023-03; Code Section 217(k)]

	2022 Travel on or after Jan. 1, 2022/Travel on or after July 1, 2022	2023 Travel on or after Jan. 1, 2023
Business	58.5 cents per mile/62.5 cents per mile	65.5 cents per mile
Charitable	14.0 cents per mile	14.0 cents per mile
Medical and Moving*	18.0 cents per mile/22.0 cents per mile	22.0 cents per mile

* For tax years 2018-2025, moving mileage may be deducted only by active duty members of the Armed Forces of the United States.

Filing Deadlines for 2022 Tax/Information Returns

Type of Return (calendar year)	Due Date	Extended Due Date
To Employee – Form W-2*	January 31, 2023	1 non-automatic 30-day extension
To Recipient – Form 1099-NEC**	January 31, 2023	1 non-automatic 30-day extension
To Recipient – Form 1099-MISC***	January 31, 2023	1 non-automatic 30-day extension
Partnerships, LLCs - Form 1065****	March 15, 2023	September 15, 2023
S Corporations – Form 1120S****	March 15, 2023	September 15, 2023
Estates and Trusts – Form 1041	April 18, 2023	September 30, 2023
FBAR – FinCEN Form 114	April 18, 2023	October 16, 2023
Corporations – Form 1120	April 18, 2023	October 16, 2023
Individuals – Form 1040*****	April 18, 2023	October 16, 2023
Exempt Organizations – Forms 990	May 15, 2023	November 15, 2023
Employee Benefit Plans – Form 5500	July 31, 2023	October 16, 2023

* Due date for providing W-2 to employees and to SSA.

** For reporting non-employee compensation.

*** For reporting all other payments.

**** Also the due date for Schedule K-1, K-2 and K-3 that entity must provide to equity holders.

***** April 17, 2023 is Emancipation Day in D.C., a federal holiday and Patriot's Day for taxpayers living in Maine or Massachusetts.

Corporate Tax Rate Schedule

2022/2023

[Source: Code Section 11(b); Form 1120 Instructions] All taxable years beginning on or after Jan. 1, 2018

If Taxable Income Is:

The Tax Is:

Over \$0

21% of the taxable income

Individual Tax Rate Schedules

Married Individuals Filing Joint Returns and Qualifying Surviving Spouses

2023

[Source: Code Section 1(j); Rev. Proc. 2022-38]

If Taxable Income Is:		The Tax Is:	
Not over \$22,000		10% of the taxable income	
Over \$22,000	but not over \$89,450	\$2,200.00 plus	12% of the excess over \$22,000
Over \$89,450	but not over \$190,750	\$10,294.00 plus	22% of the excess over \$89,450
Over \$190,750	but not over \$364,200	\$32,580.00 plus	24% of the excess over \$190,750
Over \$364,200	but not over \$462,500	\$74,208.00 plus	32% of the excess over \$364,200
Over \$462,500	but not over \$693,750	\$105,664.00 plus	35% of the excess over \$462,500
Over \$693,750		\$186,601.50 plus	37% of the excess over \$693,750

Note that the 20% deduction for qualified business income passed through to an individual from a pass-through entity reduces the individual's effective tax rate.

Individual Tax Rate Schedules

Married Individuals Filing Joint Returns and Qualifying Surviving Spouses

2022

[Source: Code Section 1(j); Rev. Proc. 2021-45]

If Taxable Income Is:		The Tax Is:	
Not over \$20,550		10% of the taxable income	
Over \$20,550	but not over \$83,550	\$2,055.00 plus	12% of the excess over \$20,550
Over \$83,550	but not over \$178,150	\$9,615.00 plus	22% of the excess over \$83,550
Over \$178,150	but not over \$340,100	\$30,427.00 plus	24% of the excess over \$178,150
Over \$340,100	but not over \$431,900	\$69,295.00 plus	32% of the excess over \$340,100
Over \$431,900	but not over \$647,850	\$98,671.00 plus	35% of the excess over \$431,900
Over \$647,850		\$174,253.50 plus	37% of the excess over \$647,850

Note that the 20% deduction for qualified business income passed through to an individual from a pass-through entity reduces the individual's effective tax rate.

Heads of Households

2023

[Source: Code Section 1(j); Rev. Proc. 2022-38]

If Taxable Income Is:		The Tax Is:	
Not over \$15,700		10% of the taxable income	
Over \$15,700	but not over \$59,850	\$1,570.00 plus	12% of the excess over \$15,700
Over \$59,850	but not over \$95,350	\$6,868.00 plus	22% of the excess over \$59,850
Over \$95,350	but not over \$182,100	\$14,678.00 plus	24% of the excess over \$95,350
Over \$182,100	but not over \$231,250	\$35,498.00 plus	32% of the excess over \$182,100
Over \$231,250	but not over \$578,100	\$51,226.00 plus	35% of the excess over \$231,250
Over \$578,100		\$172,623.50 plus	37% of the excess over \$578,100

Note that the 20% deduction for qualified business income passed through to an individual from a pass-through entity reduces the individual's effective tax rate.

Heads of Households

2022

[Source: Code Section 1(j); Rev. Proc. 2021-45]

If Taxable Income Is:		The Tax Is:	
Not over \$14,650		10% of the taxable income	
Over \$14,650	but not over \$55,900	\$1,465.00 plus	12% of the excess over \$14,650
Over \$55,900	but not over \$89,050	\$6,415.00 plus	22% of the excess over \$55,900
Over \$89,050	but not over \$170,050	\$13,708.00 plus	24% of the excess over \$89,050
Over \$170,050	but not over \$215,950	\$33,148.00 plus	32% of the excess over \$170,050
Over \$215,950	but not over \$539,900	\$47,836.00 plus	35% of the excess over \$215,950
Over \$539,900		\$161,218.50 plus	37% of the excess over \$539,900

Note that the 20% deduction for qualified business income passed through to an individual from a pass-through entity reduces the individual's effective tax rate.

Unmarried Individuals (Other than Qualifying Surviving Spouses and Heads of Households)

2023

[Source: Code Section 1(j); Rev. Proc. 2022-38]

If Taxable Income Is:		The Tax Is:	
Not over \$11,000		10% of the taxable income	
Over \$11,000	but not over \$44,725	\$1,100.00 plus	12% of the excess over \$11,000
Over \$44,725	but not over \$95,375	\$5,147.00 plus	22% of the excess over \$44,725
Over \$95,375	but not over \$182,100	\$16,290.00 plus	24% of the excess over \$95,375
Over \$182,100	but not over \$231,250	\$37,104.00 plus	32% of the excess over \$182,100
Over \$231,250	but not over \$578,125	\$52,832.00 plus	35% of the excess over \$231,250
Over \$578,125		\$174,238.25 plus	37% of the excess over \$578,125

Note that the 20% deduction for qualified business income passed through to an individual from a pass-through entity reduces the individual's effective tax rate.

Unmarried Individuals (Other than Qualifying Surviving Spouses and Heads of Households)

2022

[Source: Code Section 1(j); Rev. Proc. 2021-45]

If Taxable Income Is:		The Tax Is:	
Not over \$10,275		10% of the taxable income	
Over \$10,275	but not over \$41,775	\$1,027.50 plus	12% of the excess over \$10,275
Over \$41,775	but not over \$89,075	\$4,807.50 plus	22% of the excess over \$41,775
Over \$89,075	but not over \$170,050	\$15,213.50 plus	24% of the excess over \$89,075
Over \$170,050	but not over \$215,950	\$34,647.50 plus	32% of the excess over \$170,050
Over \$215,950	but not over \$539,900	\$49,335.50 plus	35% of the excess over \$215,950
Over \$539,900		\$162,718.00 plus	37% of the excess over \$539,900

Note that the 20% deduction for qualified business income passed through to an individual from a pass-through entity reduces the individual's effective tax rate.

Married Individuals Filing Separate Returns

2023

[Source: Code Section 1(j); Rev. Proc. 2022-38]

If Taxable Income Is:		The Tax Is:	
Not over \$11,000		10% of the taxable income	
Over \$11,000	but not over \$44,725	\$1,100.00 plus	12% of the excess over \$11,000
Over \$44,725	but not over \$95,375	\$5,147.00 plus	22% of the excess over \$44,725
Over \$95,375	but not over \$182,100	\$16,290.00 plus	24% of the excess over \$95,375
Over \$182,100	but not over \$231,250	\$37,104.00 plus	32% of the excess over \$182,100
Over \$231,250	but not over \$346,875	\$52,832.00 plus	35% of the excess over \$231,250
Over \$346,875		\$93,300.75 plus	37% of the excess over \$346,875

Note that the 20% deduction for qualified business income passed through to an individual from a pass-through entity reduces the individual's effective tax rate.

Married Individuals Filing Separate Returns

2022

[Source: Code Section 1(j); Rev. Proc. 2021-45]

If Taxable Income Is:		The Tax Is:	
Not over \$10,275		10% of the taxable income	
Over \$10,275	but not over \$41,775	\$1,027.50 plus	12% of the excess over \$10,275
Over \$41,775	but not over \$89,075	\$4,807.50 plus	22% of the excess over \$41,775
Over \$89,075	but not over \$170,050	\$15,213.50 plus	24% of the excess over \$89,075
Over \$170,050	but not over \$215,950	\$34,647.50 plus	32% of the excess over \$170,050
Over \$215,950	but not over \$323,925	\$49,335.50 plus	35% of the excess over \$215,950
Over \$323,925		\$87,126.75 plus	37% of the excess over \$323,925

Note that the 20% deduction for qualified business income passed through to an individual from a pass-through entity reduces the individual's effective tax rate.

Social Security and Self-Employment Tax Limits

2022/2023

[Source: SSA Notice, 86 Fed. Reg. 58,715 (Oct. 22, 2021);
SSA Notice, 87 Fed. Reg. 64,296 (Oct. 24, 2022)]

Social Security Tax (OASDI/HI)

	2022	2023
6.2% OASDI wage base	\$147,000	\$160,200
1.45% HI wage base*	no limit	no limit

*Additional 0.9% Medicare Tax applies for wages exceeding \$200,000 for Single or Head of Household, \$250,000 for Married Filing Jointly, and \$125,000 for Married Filing Separately.

Self-Employment Tax (SECA)

	2022	2023
12.4% OASDI earnings base	\$147,000	\$160,200
2.9% HI wage base*	no limit	no limit

**Additional 0.9% Medicare Tax applies for wages and self-employment income exceeding \$200,000 for Single or Head of Household, \$250,000 for Married Filing Jointly, and \$125,000 for Married Filing Separately.

Alternative Minimum Tax

2022/2023

[Source: Rev. Proc. 2021-45; Rev. Proc. 2022-38]

AMT Exemption Amounts (§55(d)(1))	2022	2023
Married Filing Jointly or Qualifying Surviving Spouse	\$118,100	\$126,500
Single/Head of Household	\$75,900	\$81,300
Married Filing Separate Returns	\$59,050	\$63,250
Estates and Trusts	\$26,500	\$28,400

Excess Taxable Income Above Which 28% Rate Applies (§55(b)(1))	2022	2023
Married Filing Jointly, Single/Head of Household, Estates and Trusts	\$206,100	\$220,700
Married Filing Separate Returns	\$103,050	\$110,350

AMT Exemption Threshold/Complete Phaseout Amounts (§55(d)(3))	2022	2023
Married Filing Jointly or Qualifying Surviving Spouse	\$1,079,800 - \$1,552,200	\$1,156,300 - \$1,662,300
Single/Head of Household	\$539,900 - \$843,500	\$578,150 - \$903,350
Married Filing Separate Returns	\$539,900 - \$776,100	\$578,150 - \$831,150
Estates and Trusts	\$88,300 - \$194,300	\$94,600 - \$208,200

Standard Deduction Table

[Source: Code Section 63(c); Rev. Proc. 2021-45; Rev. Proc. 2022-38]

2022/2023

	2022	2023
Married Filing Jointly and Qualifying Surviving Spouse	\$25,900	\$27,700
Head of Household	\$19,400	\$20,800
All Other Taxpayers	\$12,950	\$13,850
Additional Amount for Aged or Blind	\$1,400 for each	\$1,500 for each
Additional Amount for Aged or Blind if Unmarried and Not a Qualifying Surviving Spouse	\$1,750	\$1,850

Personal Exemption

[Source: Code Section 151(d); Rev. Proc. 2021-45; Rev. Proc. 2022-38]

2022/2023

	2022	2023
Personal Exemption Amount	\$0	\$0

Deduction For Qualified Business Income From Pass-Through Entity

[Source: Code Section 199A]

2022/2023

Subject to certain limitations, for tax years 2018 through 2025, individuals, estates, and trusts may deduct up to 20% of qualified business income they receive from sole proprietorships and pass-through entities (such as partnerships, limited liability corporations, and S corporations) in which they own an interest. The remaining income (after the 20% deduction) is taxed at the individual's, estate's, or trust's regular income tax rate.

	2022	2023
QBI Deduction Rate	20%	20%

First-Year Expensing Limits

2022/2023

[Source: Code Section 179(b); Rev. Proc. 2021-45; Rev. Proc. 2022-38]

	2022	2023
§179 Expensing Limit	\$1,080,000	\$1,160,000
§179 Property Cost Phaseout Begins	\$2,700,000	\$2,890,000

Long-Term Capital Gains and Qualified Dividends

2023

[Source: Code Section 1(h), 1(j)(5); Rev. Proc. 2022-38]

Long-Term Capital Gains Rate	Single	Married Filing Jointly*	Head of Household	Married Filing Separately
0%	\$0 to \$44,624	\$0 to \$89,249	\$0 to \$59,749	\$0 to \$44,624
15%	\$44,625 to \$492,299	\$89,250 to \$553,849	\$59,750 to \$523,049	\$44,625 to \$276,899
20%	\$492,300 or more	\$553,850 or more	\$523,050 or more	\$276,900 or more

* Or qualifying surviving spouse

2022

[Source: Code Section 1(h), 1(j)(5); Rev. Proc. 2021-45]

Long-Term Capital Gains Rate	Single	Married Filing Jointly*	Head of Household	Married Filing Separately
0%	\$0 to \$41,674	\$0 to \$83,349	\$0 to \$55,799	\$0 to \$41,674
15%	\$41,675 to \$459,749	\$83,350 to \$517,199	\$55,800 to \$488,499	\$41,675 to \$258,599
20%	\$459,750 or more	\$517,200 or more	\$488,500 or more	\$258,600 or more

* Or qualifying surviving spouse

Estates and Trusts Tax Rate Schedules

2023

[Source: Code Section 1 (j); Rev. Proc. 2022-38]

If Taxable Income Is:		The Tax Is:	
Not Over \$2,900		10% of the taxable income	
Over \$2,900	but not over \$10,550	\$290.00 plus	24% of the excess over \$2,900
Over \$10,550	but not over \$14,450	\$2,126.00 plus	35% of the excess over \$10,550
Over \$14,450		\$3,491.00 plus	37% of the excess over \$14,450

Note that the 20% deduction for qualified business income passed through to an estate or trust reduces the estate's or trust's effective tax rate.

Estates and Trusts Tax Rate Schedules

2022

[Source: Code Section 1 (j); Rev. Proc. 2021-45]

If Taxable Income Is:		The Tax Is:	
Not Over \$2,750		10% of the taxable income	
Over \$2,750	but not over \$9,850	\$275.00 plus	24% of the excess over \$2,750
Over \$9,850	but not over \$13,450	\$1,979.00 plus	35% of the excess over \$9,850
Over \$13,450		\$3,239.00 plus	37% of the excess over \$13,450

Note that the 20% deduction for qualified business income passed through to an estate or trust reduces the estate's or trust's effective tax rate.

Estate and Gift Tax Rates for Decedents Dying and Gifts Made in 2022 and 2023

2022/2023

[Source: Code Sections 2001(c), 2502(a)]

Taxable Amount Over	Taxable Amount Not Over	Tax on Amount in 1st Column	Rate of Tax on Excess Over Amount in 1st Column
\$0	\$10,000	\$0	18% of the taxable amount
\$10,000	\$20,000	\$1,800 plus	20% of the excess over \$10,000
\$20,000	\$40,000	\$3,800 plus	22% of the excess over \$20,000
\$40,000	\$60,000	\$8,200 plus	24% of the excess over \$40,000
\$60,000	\$80,000	\$13,000 plus	26% of the excess over \$60,000
\$80,000	\$100,000	\$18,200 plus	28% of the excess over \$80,000
\$100,000	\$150,000	\$23,800 plus	30% of the excess over \$100,000
\$150,000	\$250,000	\$38,800 plus	32% of the excess over \$150,000
\$250,000	\$500,000	\$70,800 plus	34% of the excess over \$250,000
\$500,000	\$750,000	\$155,800 plus	37% of the excess over \$500,000
\$750,000	\$1,000,000	\$248,300 plus	39% of the excess over \$750,000
\$1,000,000	—	\$345,800 plus	40% of the excess over \$1,000,000

* Note that the mandatory application of the estate and gift tax unified credit to the tax imposed on taxable amounts up to the applicable exclusion amount effectively results in estate and gift taxes being imposed at a flat rate of 40% on any taxable amounts exceeding the basic exclusion amount of \$12,920,000 for 2023. [Source: Rev. Proc. 2022-38]

Applicable Exclusion Amount for Estate and Gift Tax

[Source: Code Section 2010(c)(3); Rev. Proc. 2021-45; Rev. Proc. 2022-38]

Year of Transfer	Applicable Exclusion Amount
2022	\$12,060,000 basic exclusion amount
2023	\$12,920,000 basic exclusion amount

Gift Tax Annual Exclusion

[Source: Rev. Proc. 2021-45; Rev. Proc. 2022-38]

Year of Transfer	Applicable Exclusion Amount
2022	\$16,000
2023	\$17,000

ERISA and Tax Code Pension and Retirement Plan Limits

[Source: Notice 2021-61; Notice 2022-55]

	2022	2023
Deferral Limits for Plans		
§401(k)	\$20,500	\$22,500
§403(b)	\$20,500	\$22,500
§457	\$20,500	\$22,500
SIMPLE	\$14,000	\$15,500
Catch-Up Contributions for Participants Age 50 or Older		
Other Than SIMPLE Plans	\$6,500	\$7,500
SIMPLE Plans	\$3,000	\$3,500
Qualified Plans – Annual Compensation Limit	\$305,000	\$330,000
Defined Benefit Maximum Annual Benefit*	\$245,000	\$265,000
Defined Contribution — Maximum Annual Addition	\$61,000	\$66,000
"Key Employee" in Top-Heavy Plan	\$200,000	\$215,000
To Determine Maximum Account Balance in ESOP Subject to 5-Year Distribution Period	\$1,230,000	\$1,330,000
"Highly Compensated Employee" Threshold	\$135,000	\$150,000
To Determine Additional Account Balance Increments for ESOP Subject to 5-Year Distribution Period	\$245,000	\$265,000
SEP Compensation Threshold for Participation	\$650	\$750
Definition of "Control Employee" for Fringe Benefit Valuation		
Reg. §1.61-21(f)(5)(i)	\$120,000	\$130,000
Reg. §1.61-21(f)(5)(iii)	\$245,000	\$265,000

Individual Retirement Accounts	2022	2023
Traditional IRAs		
Contribution Limit	\$6,000	\$6,500
Catch-Up Contribution for Participants Age 50 or Older	\$1,000	\$1,000
Deduction Phase-Out Range (Modified AGI)		
Married Filing Jointly and Participant in Employer Plan	\$109,000-\$129,000	\$116,000-\$136,000
Married Filing Jointly and Spouse in Employer Plan	\$204,000-\$214,000	\$218,000-\$228,000
Single or Head of Household and in Employer Plan	\$68,000-\$78,000	\$73,000-\$83,000
Roth IRAs		
Contribution Limit	\$6,000	\$6,500
Catch-Up Contribution for Participants Age 50 or Older	\$1,000	\$1,000
Contribution Phase-Out Range (Modified AGI)		
Married Filing Jointly	\$204,000-\$214,000	\$218,000-\$228,000
Married Filing Separately	\$0-\$10,000	\$0-\$10,000
Single or Head of Household	\$129,000-\$144,000	\$138,000-\$153,000

* For a participant who separated from service before January 1, 2023, the limitation for defined benefit plans under I.R.C. §415(b)(1)(B) is computed by multiplying the participant's compensation limitation, as adjusted through 2022, by 1.0833.

2023 Medicare Part B Total Premiums For High-Income Beneficiaries With Full Part B Coverage

[Source: 87 Fed. Reg. 59,080 (Sept. 29, 2022)]

Single/Head of Household	And Modified AGI is	Income-Related Monthly Adjustment Amount	Total Monthly Premium
	Not over \$97,000	\$0.00	\$164.90
	Over \$97,000 but not over \$123,000	\$65.90	\$230.80
	Over \$123,000 but not over \$153,000	\$164.80	\$329.70
	Over \$153,000 but not over \$183,000	\$263.70	\$428.60
	Over \$183,000 and less than \$500,000	\$362.60	\$527.50
	\$500,000 or more	\$395.60	\$560.50
Married Filing Jointly	And Modified AGI is	Income-Related Monthly Adjustment Amount	Total Monthly Premium
	Not over \$194,000	\$0.00	\$164.90
	Over \$194,000 but not over \$246,000	\$65.90	\$230.80
	Over \$246,000 but not over \$306,000	\$164.80	\$329.70
	Over \$306,000 but not over \$366,000	\$263.70	\$428.60
	Over \$366,000 but less than \$750,000	\$362.60	\$527.50
	\$750,000 or more	\$395.60	\$560.50
Married Filing Separately	And Modified AGI is	Income-Related Monthly Adjustment Amount	Total Monthly Premium
	Not over \$97,000	\$0.00	\$164.90
	Over \$97,000 but less than \$403,000	\$362.60	\$527.50
	\$403,000 or more	\$395.60	\$560.50

2023 Medicare Part B Total Premiums For High-Income Beneficiaries With Part B Immunosuppressive Drug Coverage Only

[Source: 87 Fed. Reg. 59080 (Sept. 29, 2022)]

Single/Head of Household	And Modified AGI is	Income-Related Monthly Adjustment Amount	Total Monthly Premium
	Not over \$97,000	\$0.00	\$97.10
	Over \$97,000 but not over \$123,000	\$64.70	\$161.80
	Over \$123,000 but not over \$153,000	\$161.80	\$258.90
	Over \$153,000 but not over \$183,000	\$258.90	\$356.00
	Over \$183,000 and less than \$500,000	\$356.00	\$453.10
	\$500,000 or more	\$388.40	\$485.50
Married Filing Jointly	And Modified AGI is	Income-Related Monthly Adjustment Amount	Total Monthly Premium
	Not over \$194,000	\$0.00	\$97.10
	Over \$194,000 but not over \$246,000	\$64.70	\$161.80
	Over \$246,000 but not over \$306,000	\$161.80	\$258.90
	Over \$306,000 but not over \$366,000	\$258.90	\$356.00
	Over \$366,000 but less than \$750,000	\$356.00	\$453.10
	\$750,000 or more	\$388.40	\$485.50
Married Filing Separately	And Modified AGI is	Income-Related Monthly Adjustment Amount	Total Monthly Premium
	Not over \$97,000	\$0.00	\$97.10
	Over \$97,000 but less than \$403,000	\$356.00	\$453.10
	\$403,000 or more	\$388.40	\$485.50

Medicare Part A Deductible And Coinsurance Amounts

[Source: 87 Fed. Reg. 59,094 (Sept. 29, 2022)]

Deductible/Coinsurance	2022	2023
Inpatient hospital deductible	\$1,556.00	\$1,600.00
Daily coinsurance - days 61-90	\$389.00	\$400.00
Daily coinsurance - lifetime reserve days	\$778.00	\$800.00
Skilled nursing facility coinsurance	\$194.50	\$200.00

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Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.201: Rulings and determination letters.
(Also Part I, Section 2010; 20.2010-2; 301.9100-3)

Rev. Proc. 2022-32

SECTION 1. PURPOSE

This revenue procedure supersedes Rev. Proc. 2017-34, 2017-26 I.R.B. 1282, and provides a simplified method for certain taxpayers to obtain an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to make a “portability” election under § 2010(c)(5)(A) of the Internal Revenue Code (Code). For purposes of the Federal estate and gift taxes, a portability election allows a decedent’s unused exclusion amount (deceased spousal unused exclusion amount, or DSUE amount) to become available for application to the surviving spouse’s subsequent transfers during life or at death. The simplified method provided in this revenue procedure is to be used in lieu of the letter ruling process. No user fee is required for submissions filed under this revenue procedure.

SECTION 2. BACKGROUND

.01 Section 303(a) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (TRUIRJCA), Pub. L. No. 111-312, 124 Stat. 3296, 3302 (2010), amended § 2010(c) of the Code to allow the estate of a decedent who is survived by a spouse to make a portability election. For purposes of the Federal estate and gift taxes, a portability election allows the surviving spouse to apply the decedent's DSUE amount to the surviving spouse's own transfers during life and at death. The portability election applies to estates of decedents dying after December 31, 2010, if such decedent is survived by a spouse. The portability provisions under § 2010(c) of the Code were scheduled to expire on January 1, 2013, pursuant to §§ 101(a)(1) and 304 of TRUIRJCA. However, § 101(a) of the American Taxpayer Relief Act of 2012, Pub. L. No. 112-240, 126 Stat. 2313 (2013), made the ability to elect portability permanent.

.02 Section 2010(c)(5)(A) provides certain requirements that the estate of a deceased spouse must satisfy to elect portability, including that the estate must elect portability of the DSUE amount on an estate tax return that is filed within the time prescribed by law (including extensions) for filing such return.

.03 For estates that are not required to file an estate tax return under § 6018(a) of the Code (as determined based on the value of the gross estate and adjusted taxable gifts), § 20.2010-2(a)(1) of the Estate Tax Regulations clarifies that the due date of an estate tax return required to elect portability is nine months after the decedent's date of death or the last day of the period covered by an extension (if an extension of time for filing has been obtained). Section 20.2010-2(a)(1) further provides that an extension of

time under § 301.9100-3 to elect portability may be available to an estate that is not required to file an estate tax return under § 6018(a).

.04 On June 26, 2017, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) published Rev. Proc. 2017-34, which provides a method for obtaining an extension of time under § 301.9100-3 to make a portability election under § 2010(c)(5)(A) that is available to the estates of decedents dying after December 31, 2010, if that estate was not required by § 6018(a) to file an estate tax return and if such a decedent was survived by a spouse. Under Rev. Proc. 2017-34, this method is a simplified method that is to be used in lieu of the letter ruling process and is available for a period extending to the second anniversary of the decedent's date of death.

.05 Since the publication of Rev. Proc. 2017-34, the IRS has continued to issue numerous letter rulings under § 301.9100-3 granting an extension of time to elect portability under § 2010(c)(5)(A) in situations in which the decedent's estate was not required by § 6018(a) to file an estate tax return and the time for obtaining relief under the simplified method had expired. The IRS has observed that a significant percentage of these ruling requests have been from estates of decedents who died within five years preceding the date of the request. The number of these requests continues to place a significant burden on the available resources of the IRS. The Treasury Department and the IRS have determined that the considerable number of ruling requests for an extension of time to elect portability received since the publication of Rev. Proc. 2017-34 indicates a need for continuing relief for the estates of decedents having no filing requirement under § 6018(a). Accordingly, this revenue procedure supersedes Rev.

Proc. 2017-34 and updates the procedures set forth therein by extending the period within which the estate of a decedent may make the portability election under that simplified method to on or before the fifth anniversary of the decedent's date of death.

SECTION 3. SCOPE

.01 In General. The simplified method of this revenue procedure is available to the executor (either an appointed executor or, if none, a non-appointed executor, as provided in § 20.2010-2(a)(6)) of the estate of a decedent if:

(1) The decedent:

(a) was survived by a spouse;

(b) died after December 31, 2010; and

(c) was a citizen or resident of the United States on the date of death.

(2) The executor is not required to file an estate tax return under § 6018(a) as determined based on the value of the gross estate and adjusted taxable gifts and without regard to the need to file for portability purposes;

(3) The executor did not file an estate tax return within the time required by § 20.2010-2(a)(1) for filing an estate tax return; and

(4) The executor satisfies all requirements of section 4.01 of this revenue procedure.

.02 Executors that Timely Filed an Estate Tax Return. The simplified method of this revenue procedure is not available to the estate of a decedent whose executor filed an estate tax return within the time prescribed by § 20.2010-2(a)(1). Such an executor either will have elected portability of the DSUE amount by timely filing that estate tax

return or will have affirmatively opted out of portability in accordance with § 20.2010-2(a)(3)(i).

.03 Estates with a § 6018 Filing Requirement. As set forth in § 20.2010-2(a)(1), an extension of time to elect portability under § 301.9100-3, including through the simplified method of this revenue procedure, is not available to an estate that is required to file an estate tax return under § 6018(a) (as determined based on the value of the gross estate and adjusted taxable gifts) because, in that case, the due date of the election is prescribed by statute and not by regulation.

.04 Failure to Qualify for Relief under this Revenue Procedure. The executor of an estate not within the scope described in section 3.01 of this revenue procedure only because the executor does not satisfy the requirements of section 4.01 of this revenue procedure may request an extension of time to make the portability election under § 2010(c)(5)(A) by requesting a letter ruling under the provisions of § 301.9100-3. The requirements for requesting a letter ruling are described in Rev. Proc. 2022-1 (or any successor revenue procedure).

SECTION 4. RELIEF FOR CERTAIN LATE PORTABILITY ELECTIONS

.01 Requirements for Relief. The requirements for relief under this revenue procedure are as follows:

(1) A person permitted to make the election on behalf of the estate of a decedent-- that is, an executor described in § 20.2010-2(a)(6)--must file a complete and properly prepared Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, on or before the fifth annual anniversary of the decedent's date of death. The

Form 706 will be considered complete and properly prepared if it is prepared in accordance with § 20.2010-2(a)(7).

(2) The executor filing the Form 706 on behalf of the decedent's estate must state at the top of the Form 706 that the return is "FILED PURSUANT TO REV. PROC. 2022-32 TO ELECT PORTABILITY UNDER § 2010(c)(5)(A)."

.02 Extent of Relief. Satisfaction of the requirements for relief provided in section 4.01 of this revenue procedure, by an executor for whom the relief is available pursuant to section 3.01 of this revenue procedure, is deemed to satisfy the requirements for relief under § 301.9100-3 and upon that satisfaction, relief is granted under the provisions of § 301.9100-3 to extend the time to elect portability under § 2010(c)(5)(A). Accordingly, for purposes of electing portability, the Form 706 of that decedent's estate will be considered to have been filed timely in accordance with § 20.2010-2(a)(1).

.03 Subsequent Determination that Executor Is Required to File a Return under § 6018(a). If, subsequent to the grant of relief pursuant to this revenue procedure, it is determined that, based on the value of the gross estate and taking into account any taxable gifts, the executor was required to file an estate tax return under § 6018(a), the grant of an extension as provided in section 4.02 of this revenue procedure is deemed null and void *ab initio*.

SECTION 5. IMPACT OF RELIEF ON SURVIVING SPOUSE

.01 Application of DSUE Amount. If the decedent's estate is granted relief under this revenue procedure so that the estate tax return is considered to have been timely filed for purposes of electing portability, the DSUE amount of that decedent is available to the decedent's surviving spouse or the estate of the surviving spouse for application

to the surviving spouse's transfers made on or after the decedent's date of death in accordance with the rules prescribed under § 20.2010-3 of the Estate Tax Regulations and § 25.2505-2 of the Gift Tax Regulations. However, if the increase in the surviving spouse's applicable exclusion amount attributable to the addition of the decedent's DSUE amount as of the decedent's date of death results in an overpayment of gift or estate tax by the surviving spouse or his or her estate, no claim for credit or refund may be made if the period of limitations under § 6511(a) of the Code for filing a claim for credit or refund of an overpayment of tax with respect to such transfer has expired. That is, an extension of time to elect portability granted under this revenue procedure does not extend the period during which the surviving spouse or the surviving spouse's estate may make a claim for credit or refund under § 6511(a).

.02 Protective Claim for Credit or Refund of Tax in Anticipation of Relief under this Revenue Procedure. Because a surviving spouse has no DSUE amount from a deceased spouse to apply to such surviving spouse's transfers until the portability election has been made by the deceased spouse's executor (see §§ 20.2010-3(a)(2) and 25.2505-2(a)(2)), a claim for credit or refund of tax filed within the time prescribed in § 6511(a) by the surviving spouse or the estate of the surviving spouse in anticipation of a Form 706 being filed to elect portability pursuant to this revenue procedure, and otherwise meeting applicable legal requirements, will be considered a protective claim for credit or refund of tax.

.03 Examples.

(1) Example 1.

(a) Predeceasing Spouse (S1) dies on January 1, 2018, survived by Surviving Spouse (S2). The assets includible in S1's gross estate consist of cash on deposit in bank accounts held jointly with S2 with rights of survivorship in the amount of \$4,500,000. S1 made no taxable gifts during life. S1's executor is not required to file an estate tax return under § 6018(a) and does not file such a return.

(b) S2 dies on January 29, 2021. S2's taxable estate is \$17,000,000 and S2 made no taxable gifts during life. S2's executor files a Form 706 on behalf of S2's estate on October 29, 2021, claiming an applicable exclusion amount of \$11,700,000. S2's executor includes payment of the estate tax with the Form 706.

(c) Pursuant to this revenue procedure, S1's executor files a complete and properly prepared Form 706 on behalf of S1's estate on December 1, 2022, reporting a DSUE amount of \$11,180,000. The executor includes at the top of the Form 706 the statement required by section 4.01(2) of this revenue procedure. The filing of the return satisfies the requirements for a grant of relief under this revenue procedure and S1's estate is deemed to have made a valid portability election. The IRS accepts the return of S1's estate with no changes.

(d) To recover the estate tax paid, S2's executor must file a claim for credit or refund of tax by October 29, 2024 (the end of the period of limitations prescribed in § 6511(a)), even though a Form 706 to elect portability was not filed on behalf of S1's estate at the time S2's estate filed its Form 706. Such a claim filed on Form 843, Claim for Refund and Request for Abatement, in anticipation of the filing of the Form 706 by S1's executor will be considered a protective claim for credit or refund of tax.

Accordingly, as long as the Form 843 is filed on or before October 29, 2024, the IRS

can consider and process that claim for credit or refund of tax once S1's estate is deemed to have made a valid portability election and S2's estate notifies the IRS that the claim for credit or refund is ready for consideration.

(2) Example 2.

(a) The facts relating to S1 and S1's estate are the same as in Example 1. S2 makes a gift to Child of \$13,000,000 on December 1, 2020. S2 has made no prior taxable gifts. On April 15, 2021, S2's executor files a Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, claiming an applicable exclusion amount of \$11,580,000. S2's executor tenders payment of the gift tax with the Form 709.

(b) To recover the gift tax paid, S2's executor must file a claim for credit or refund of tax (protective or otherwise) within the time prescribed in § 6511(a) for filing a claim for credit or refund; in this case, April 15, 2024.

(3) Example 3.

(a) The facts are the same as in Example 2 except that S2's Form 709 claims an applicable exclusion amount of \$22,760,000, including a DSUE amount of \$11,180,000 from S1's estate. As a result, the Form 709 reports no tax due and S2's executor tenders no gift tax.

(b) Although the portability election, once made, makes S1's DSUE amount available to S2 retroactively to S1's date of death, that DSUE amount is not available until the election is made. Because S2's executor files the Form 709 before S1's estate makes the portability election, the claimed application of the DSUE amount will be denied and gift tax on the transfer will be assessed. S2's executor pays the gift tax assessed. To recover that gift tax once the portability election has been made by S1's

estate, S2's executor must file a claim for credit or refund of tax (protective or otherwise) within the time prescribed in § 6511(a) for filing a claim for credit or refund.

SECTION 6. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2017-34, 2017-26 I.R.B. 1282, is superseded. Rev. Proc. 2022-3, 2022-1 I.R.B. 144, is amplified.

SECTION 7. EFFECTIVE DATE

.01 In General. This revenue procedure is effective July 8, 2022.

.02 Letter Rulings Will Not Be Issued. On or before the fifth anniversary of a decedent's date of death, the exclusive procedure for obtaining an extension of time under § 301.9100-3 to make a portability election under § 2010(c)(5)(A) for the estate of a decedent, if the decedent and executor meet the requirements of section 3.01(1) through (3) of this revenue procedure, is the procedure described in section 4.01 of this revenue procedure. If an executor of such an estate has filed a request for a letter ruling seeking an extension of time under § 301.9100-3 to make a portability election under § 2010(c)(5)(A) and that letter ruling is pending in the National Office on July 8, 2022, the Office of the Associate Chief Counsel (Passthroughs & Special Industries) will close its file on the ruling request and refund the user fee, and the estate may obtain the relief granted by this revenue procedure only by complying with section 4.01 of this revenue procedure.

SECTION 8. DRAFTING INFORMATION

The principal author of this revenue procedure is Juli Ro Kim of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information

regarding this revenue procedure contact Ms. Kim at (202) 317-6859 (not a toll-free call).

Prepared for: David Wilson



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Estates, Gifts and Trusts Portfolios

- Estates, Gifts and Trusts Portfolios: Estate Planning/Business Planning

- Portfolio 859-3rd: Durable Powers of Attorney

- Working Papers

- Portfolio 859-3rd: Durable Powers of Attorney, W19. Worksheet 19, Worksheet 19 Statistical...

Worksheet 19 Statistical Analysis of Power of Attorney Abuse

A word search on Westlaw on April 12th, 2013 created the data set outlined herein.

There were 672 reported cases in the nation over the last eight years which substantively and directly involved power of attorney abuse. It is noteworthy, however, that many disputes do not go to court. Fewer still are handled by published opinions. Additionally, not all published opinions are entered into reporter systems.

Although this number of 672 may seem low, it is noteworthy that due to the rise in the use of Revocable Living Trusts, many people sue under trusts when DPA abuse occurs. This may be in part due to the clear duties of a trustee to account to beneficiaries. It may also have to do with attorney decision making or other tactical elements of litigation. Sadly, many beneficiaries do not learn of DPA abuse until after the principal's death.

Of these 672 cases, we drew a statistically representative sample of 29 cases. These cases were from many different states across the nation and entailed a variety of issues relating to POA abuse.

Category	Percentage of Representative Sample (Total = 100)
Identity Theft	5.448%
Theft of Funds (General Misappropriation)	11.793%
Gifting	36.482%
Inappropriate DPA and Trust Transfers (dissolution and withdrawal of corpus)	8.344%
Inappropriate Financial Products	6.896%
Real Property Interest Transfers and Sales	13.793%
Beneficiary Changes	5.896%
Neglect of Principal (Physical Abuse)	4.448%
Agent Mistake	6.896%

Worksheet 19 Statistical Analysis of Power of Attorney Abuse

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BTAX OnPoint: Treasury Releases Fiscal 2024 Greenbook

3/10/23

Click [here](#) download a copy of this presentation

Bloomberg Tax

About This OnPoint

- **The Treasury released its Greenbook for fiscal 2024 detailing the revenue President Biden’s budget plan**
- **It includes familiar revenue raisers and expanded health and retirement programs**
 - Increased rates and expanded brackets for high-earners
 - Increased corporate rates
 - Expanded premiums under the Affordable Care Act
- **This OnPoint provides key highlights from the Greenbook**
 - Various changes in corporate and individual taxes
 - Modifications to bring the US in line with international agreements
 - Adjustments to federal health programs and requirements for retirement accounts and

Tax Changes Would Raise \$2.2 Trillion Over Decade on

Proposal	10-y
Increase corporate tax rate to 28%, from 21%	
Raise the additional Medicare tax for high-income households to 5%, from 3.8%; change how tax applies to certain passthrough income	
Adopt undertaxed profits rule	
Impose 25% minimum tax on total income of wealthiest 0.01% of taxpayers	
Increase excise tax on corporate stock buybacks	
Increase top marginal income tax rate to 39.6%, from 37%, for individuals earning more than \$400,000, or more than \$450,000 for joint filers	
Change taxation of capital income	
Eliminate various fossil fuel tax incentives	
Tax carried interest as ordinary income	
Impose digital asset mining energy excise tax	

3 Note: Revenue estimates are from fiscal 2024 through 2033. Some proposals may not be from the Greenbook.

Sources: Fiscal 2024 budget request; "[Biden to Urge 25% Billionaire Tax, Levies on Rich Investors](#)," Bloomberg News

Corporate Rates Increased, Basis Step-Up Deferred

Rates	Current Law	Greenbook Pro
Corporate income tax	21%	28%
Stock repurchase excise tax	1%	4%

- **Apply matching rule to related-person partners on partnership's elective b following property distribution**
 - Partners related to distributee-partner wouldn't benefit from basis step-up of non-distribut until distributed property is disposed of in fully taxable transaction
- **Tax carried (profits) interest as ordinary income**
 - Apply to income on investment services partnership interest if partner's taxable income sources) exceeds \$400K
 - Income would be ineligible for reduced long-term capital gain rates

Proposal Modifies Tax Treatment of Corporate Transact

Increased Dividend Treatment of Distributions

- Treat leveraged distributions as dividends from funding corporation
- If funded with principal purpose of dividend avoidance

Treat purchase of hook stock by subsidiary as deemed distribution of property to issuing corporation

Repeal boot-within-gain limitation in reorganizations where shareholder's exchange has dividend distribution effect

More Divisive Reorganization Requirements

- Distributing corporation would recognize gain:
- On the lesser of its excess monetization amount or controlled corporation boot transferred to creditors, and
 - If its excess monetization amount exceeds the controlled corporation boot transferred to creditors

- Controlled corporation must:
- Be adequately capitalized as a result of reorg, and
 - Post-reorg, continue to be economically viable entity
- Consider contingent liabilities assumed by controlled corporation

Limited Losses Liquidations

- Disallow losses or liquidations within group where asset group after liquidation
- Target transaction structured into groups of corporations to recognize loss
 - See [Gran](#)
 - Authorize Treasury deferral, rather

US Global Minimum Tax Rules Revision Aligns with Pillar Two

- **The increased effective tax rate and shift to jurisdiction-by-jurisdiction calculation could qualify the US minimum tax as an Income Inclusion Rule under Pillar Two**
 - Pillar Two deal aims to ensure corporations pay a minimum amount of tax regardless of jurisdiction

	Current Law – GILTI	Proposal – Global Minimum Tax
QBAI	10% QBAI exemption	Eliminated
Section 250 deduction	50%	25%
Corporate tax rate	21%	28%
Effective tax rate	10.5%	21%
Method of calculating losses	Global averaging	Jurisdiction-by-jurisdiction
FTC carryforward	No carryforward of net tested losses	Permits NOL carryforward
FTC haircut	No carryforward of FTCs	Permits 10-year FTC carryforward
	20%	5%

Undertaxed Profits Rule Replaces BEAT in Move to Pill

- **The UTPR would apply to financial reporting groups with global annual revenue of at least €750 million in at least two of the last four years**
- **Would deny US tax deductions to domestic financial reporting group members**
 - Amount would be determined by reference to low-taxed income of foreign group members
 - The disallowance would result in a 15% tax rate in each foreign jurisdiction where the group has a significant presence
 - Would apply pro rata with respect to otherwise allowable deductions and after other deductions
- **Would deny US tax deductions to domestic financial reporting group members with excess UTPR disallowance**
 - Excess UTPR disallowance would be carried forward indefinitely
- **Wouldn't apply to income subject to a qualifying income inclusion rule**
 - Wouldn't apply to income of US-parented MNEs subject to the revised global minimum tax

Biden Expands Taxation of Wealthy, Adds 25% Minimum

- High earners facing increased top marginal rate and expanded brackets

Taxpayer	Proposed 39.6% Income Brackets	2023 37% Income Bracket
Married Filing Jointly/Surviving Spouse	Over \$450,000	Over \$693,750
Married Filing Separately	Over \$225,000	Over \$346,875
Single	Over \$400,000	Over \$578,125
Head of Household	Over \$425,000	Over \$578,100

- **Wealthiest taxpayers would face new levies with 25% minimum tax**
 - Imposed on wealth greater than \$100 million
 - Unrealized capital gains included in "total income"

High-Net-Worth Individuals Targeted by Biden Budget

- **Forced Gain Recognition** Gain on appreciated assets would be recognized at time of transfer by donor or decedent
- **Grantor Trusts & GRATs** Transfers between grantor trusts and deemed owner would result in gain recognition
- **Total Gift Limit** Donor will be limited to \$50,000 in annual gifts, even if annual gift tax exclusion amount isn't exceeded
- **General Transfers** Aggregate gifts above \$50,000 in tax year subject to gift tax
- **Trusts and non-corporate entities** would recognize gain on unrealized appreciation for property without recognition event in prior 90 years
 - Deemed recognition event occurs after 2032
- **Value of remainder interest in GRAT** must equal or exceed 25% of assets transferred to it
 - Term must be between 10 years and 10 years beyond annuitant's life expectancy
- **Beneficiaries** Direct beneficiaries created by Dynasty trusts

Reporting Rules Extended to Crypto, Oil Breaks Nixed

- **Modernize rules for digital assets**
 - Expand securities loan nonrecognition rules to include loans of actively traded digital a
 - Require reporting by certain taxpayers of foreign digital asset accounts
 - Amend mark-to-market rules to include digital assets
- **Require 100% recapture as ordinary income of depreciation deductions ta certain depreciable real property, like buildings or land leaseholds**
 - Excluding noncorporate taxpayers with adjusted taxable income below \$400,000
- **Eliminates tax subsidies for oil and gas, including:**
 - Credit for oil and gas produced from marginal wells
 - Expensing of intangible drilling costs
 - Expensing of exploration and development costs

Greenbook Would Tweak Various Wealth Planning Too

Valuation, Trust Loans & Special Use Property	Tax-Exempt Organizations
<ul style="list-style-type: none">• Valuation Issues – Limit valuation discounts for AFR promissory notes<ul style="list-style-type: none">• Limit valuation discounts for intrafamily transfers of partial interests if family collectively holds at least 25% of property• Trust Loans – Loans to beneficiary would be treated as distribution of income and as distribution for generation-skipping transfer tax purposes• Special Use Valuation Property – Cap would be increased to \$13M	<ul style="list-style-type: none">• Donor Advised Funds – Private distributions to donor advised funds as distributions only if the donor makes distribution in tax year of receipt• Private Foundation 5% Payout – Payments to disqualified persons excluded from payout amount• Limit on Shark-Fin Charitable Lead Trusts – Annual annuity payment amount over trust term; remainder would be at least 10% of property value

Changes to Distribution, Withholding Affects Employer

- **Requires distributions from retirements accounts (including some employer sponsored plans and IRAs) with aggregated vested balances exceeding \$1 year's end**
 - Limits rollovers and conversions from a distribution into a Roth IRA ("backdoor Roth IRA")
- **Employers must withhold 20% penalty tax on nonqualified deferred compensation plans that don't comply with IRS requirements**
 - Employers must withhold additional interest tax where applicable
- **Includes certain payments to employees paid out under fixed indemnity arrangements as wages subject to employer tax withholding**
 - Applies to payments made without regard to actual costs; employers may still deduct employer's cost
- **Requires post-retirement benefit options to be funded throughout the world covered employees on a level basis or for 10 years, whichever is longer**

Budget Keeps Premium Tax Credit Expansions

- **Makes the changes to the Premium Tax Credit in the American Rescue Plan Inflation Reduction Act permanent**
 - Credit would remain available to families above 400% of the Federal Poverty Level
 - Percentage of income spent on premiums before credit eligibility would stay at lower levels

Percent of Federal Poverty Level	Pre-American Rescue Plan Contribution Threshold	Post Legislative Change Contribution Threshold
Up to 133%	2%	0%
133 – 150%	3 – 4%	0%
150 – 200%	4 – 6.3%	0 – 2%
200 – 250%	6.3 – 8.05%	2 – 4%
250 – 300%	8.05 – 9.5%	4 – 6%
300 – 400%	9.5%	6 – 8.5%
400%+	Not Eligible	8.5%



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WALENTINE O'TOOLE, LLP



Attorneys at Law

DATE: _____

ESTATE PLANNING QUESTIONNAIRE
(CONFIDENTIAL)

SECTION I. GENERAL INFORMATION

A. Personal Information:

Full Name: _____

Any other name(s) used: _____

Date of Birth: _____, 19____

Social Security Number: _____ - _____ - _____

Home Address: _____

County: _____

Home Telephone Number: (_____) _____

Cell Phone Number: (_____) _____

Employer: _____

Occupation: _____

Work Telephone Number: (_____) _____

Email address: _____

For all prior marriages, list the name of your former spouse, the date the marriage ended, and whether the marriage ended by divorce or death: _____

Are you a United States citizen? Yes No

B. Children: (If you have no children, skip to Section II.)
Please complete *whether or not* you intend all or any of your children to receive any portion of your estate. Please complete for each child; if more than three, attach additional pages.

Child 1: Full Name: _____

Child's Spouse's Name: _____

Child's Date of Birth: _____

Child's Address (if different than yours):

Child's Telephone Number: (_____) _____

Child's Social Security Number: _____ - _____ - _____

State the name of the child's other parent: _____

Child 2: Full Name: _____

Child's Spouse's Name: _____

Child's Date of Birth: _____

Child's Address (if different than yours):

Child's Telephone Number: (_____) _____

Child's Social Security Number: _____ - _____ - _____

State the name of the child's other parent: _____

Child 3: Full Name: _____

Child's Spouse's Name: _____

Child's Date of Birth: _____

Child's Address (if different than yours):

Child's Telephone Number: (_____) _____

Child's Social Security Number: _____ - _____ - _____

State the name of the child's other parent: _____

Do you have any deceased children? Yes No

If yes, please give their name(s) and whether or not they had children.

SECTION II. FINANCIAL INFORMATION

A. Please list all property now owned by you, and indicate how title is held. Attach additional pages if necessary OR attach financial statements.

Description of Asset and Account #	Present Value	Amount of Encumbrance, if any	Titleholder

B. Pension, Profit Sharing, IRAs, and Life Insurance

Description and Account/Policy #	Value	Owner	Beneficiary	Contingent Beneficiary

Description and Account/Policy #	Value	Owner	Beneficiary	Contingent Beneficiary

- C. Do you own stock in a corporation?
 Yes No
- D. Are you a partner (either general or limited) in any partnership?
 Yes No
- E. Are you the beneficiary of any trust, whether or not you presently receive any income from the trust? Yes No
- F. What is the total amount of life insurance on your life? \$_____. Are any of the policies “whole life” (that is, do they have cash value which can be borrowed against) as opposed to term insurance? Yes No

SECTION III. CHOICE OF PERSONAL REPRESENTATIVE AND TRUSTEE

A *Personal Representative* is the person you name in your Will to administer your estate.

A *Trustee* is the person you appoint to administer assets in your trust (should you and your attorney determine that a trust is necessary).

You should carefully consider who you choose to serve as Personal Representative and Trustee.

1. You should trust him or her completely.
2. He or she should have enough maturity, common sense and business experience to handle your estate.
3. He or she should be of such an age and physical and mental condition that he or she is likely to be alive and able to act when needed.
4. Consider whether he or she will be able to get along with the beneficiaries of your estate and/or trust so that your purposes are most likely to be accomplished.

A. Choice of Personal Representative:

Full Name: _____

Relationship: _____

Home Address: _____

Home Telephone Number: (_____) _____

If the person named above for any reason does not serve or continue to serve, then my choice of successor Personal Representative:

Full Name: _____

Relationship: _____

Home Address: _____

Home Telephone Number: (_____) _____

B. Choice of Trustee:

Full Name: _____

Relationship: _____

Home Address: _____

Home Telephone Number: (_____) _____

If the person named above for any reason does not serve or continue to serve, then my choice of successor Trustee:

Full Name: _____

Relationship: _____

Home Address: _____

Home Telephone Number: (_____) _____

SECTION IV. DESIRED DISTRIBUTION

This section deals with how you want your estate to be distributed upon your death.

Disposition of Estate:

Please describe how you want your estate to be distributed upon your death. *Here are a few things to consider:*

1. Will you want the share that will or may go to any child or grandchild to remain in trust to avoid possible irresponsible spending by a young adult?
2. How old do you think a beneficiary should be before he/she receives all or part of the estate?
3. If one beneficiary (say, a child) dies before distribution to him or her, do you want his or her share to go to his or her children, if any, or to his or her sibling(s)?

Please describe your planned distribution, in your own words:

SECTION V. DURABLE POWER OF ATTORNEY

If you were unable to make financial decisions and manage financial and property affairs for yourself, who would you want to make those decisions and act on your behalf?

First Choice:

Full Name: _____

Relationship: _____

Home Address: _____

Home Telephone Number: (_____) _____

Alternate Choice:

Full Name: _____

Relationship: _____

Home Address: _____

Home Telephone Number: (_____) _____

SECTION VI. HEALTH CARE POWER OF ATTORNEY

If you were unable to make health care decisions for yourself, who would you want to make them for you?

First Choice:

Full Name: _____

Relationship: _____

Home Address: _____

Home Telephone Number: (_____) _____

Alternate Choice:

Full Name: _____

Relationship: _____

Home Address: _____

Home Telephone Number: (_____) _____

SECTION VII. LIVING WILL

We suggest that you consider the execution of a Living Will, in which you express your intentions regarding life-sustaining treatment in the event that you are in a persistent vegetative state. If you are interested in having a Living Will, who would you want to carry out your intentions?

First Choice:

Full Name: _____

Relationship: _____

Home Address: _____

Home Telephone Number: (_____) _____

Alternate Choice:

Full Name: _____

Relationship: _____

Home Address: _____

Home Telephone Number: (_____) _____

SECTION VIII. GUARDIAN/CONSERVATOR FOR MINOR CHILDREN *(if applicable)*

Should both parents die or become incapacitated while a child is under 19 years of age, a Guardian of the child's person and Conservator of the child's estate may be appointed by the Court. Normally, the Court will honor the parents' nomination. The Conservator of the estate may or may not be the same person as the Guardian of the person, and, in turn, may or may not be the same person as the child's trustee.

First Choice for Guardian:

Full Name: _____

Relationship: _____

Home Address: _____

Home Telephone Number: (_____) _____

Alternate Choice for Guardian:

Full Name: _____

Relationship: _____

Home Address: _____

Home Telephone Number: (_____) _____

First Choice for Conservator:

Full Name: _____

Relationship: _____

Home Address: _____

Home Telephone Number: (_____) _____

Alternate Choice for Conservator:

Full Name: _____

Relationship: _____

Home Address: _____

Home Telephone Number: (_____) _____

OUR LAW FIRM URGES YOU TO REVIEW YOUR WILL, TRUST, LIFE INSURANCE AND PENSION AND OTHER EMPLOYER BENEFIT PLANS, BENEFICIARIES AND RELATED ESTATE MATTERS AT LEAST ONCE A YEAR, AND WHENEVER THERE IS A SUBSTANTIAL CHANGE IN YOUR FAMILY OR OTHER BENEFICIARIES, DEATH OF A BENEFICIARY, OR SIMILAR CHANGE OF CIRCUMSTANCES.

Signature

WALENTINE O'TOOLE, LLP



Attorneys at Law

Date: _____

ESTATE PLANNING QUESTIONNAIRE – MARRIED PERSONS
(CONFIDENTIAL)

SECTION I. GENERAL INFORMATION

A. **Personal Information (First Spouse):**

- 1. Full Name: _____
- 2. Any other name(s) used: _____
- 3. Date of Birth: _____
- 4. Social Security Number: _____
- 5. Street Address: _____
- 6. City, State & Zip: _____
- 7. County of Residence: _____
- 8. Home Telephone Number: _____
- 9. Cell Phone Number: _____
- 10. Employer: _____
- 11. Occupation: _____
- 12. Work Telephone Number: _____
- 13. Preferred e-mail address: _____
- 14. Any prior marriages? If so, state name(s) of former spouse(s), date, county and state of final dissolution of marriage: _____

Are you a U.S. citizen? Yes No

B. **Personal Information (Second Spouse):**

1. Full Name: _____
2. Any other name(s) used: _____
3. Date of Birth: _____
4. Social Security Number: _____
5. Street Address: _____
6. City, State & Zip: _____
7. County of Residence: _____
8. Home Telephone Number: _____
9. Cell Phone Number: _____
10. Employer: _____
11. Occupation: _____
12. Work Telephone Number: _____
13. Preferred e-mail address: _____
14. Any prior marriages? If so, state name(s) of former spouse(s), date, county and state of final dissolution of marriage: _____

Are you a U.S. citizen? Yes No

C. **Children:** (If you have no children, skip to Section II.)

Please complete *whether or not* you intend all or any of your children to receive any portion of your estate. Please complete for each child; if more than three, attach additional pages.

Child 1:

1. Full Name: _____
2. Child's Spouse's Name: _____
3. Child's Date of Birth: _____
4. Child's Address (if different than yours): _____
5. Child's Telephone Number: _____
6. Child's Social Security Number: _____
7. If this child is only your child or your spouse's child, state the name of the child's other parent: _____

Child 2:

1. Full Name: _____
2. Child's Spouse's Name: _____
3. Child's Date of Birth: _____
4. Child's Address (if different than yours): _____
5. Child's Telephone Number: _____
6. Child's Social Security Number: _____
7. If this child is only your child or your spouse's child, state the name of the child's other parent: _____

Child 3:

1. Full Name: _____
2. Child's Spouse's Name: _____
3. Child's Date of Birth: _____
4. Child's Address (if different than yours): _____
5. Child's Telephone Number: _____
6. Child's Social Security Number: _____
7. If this child is only your child or your spouse's child, state the name of the child's other parent: _____

Do you have any deceased children? Yes No

If yes, please give their name(s) and whether or not they had children.

SECTION II. FINANCIAL INFORMATION

A. Please list all property now owned by you and your spouse, and indicate how title is held. Attach additional pages if necessary OR attach financial/account statements. Examples of property to be listed include checking and savings accounts; CDs; non-retirement brokerage accounts; stocks; bonds; real estate; vehicles; boats; ownership interest in a limited liability company, corporation, or sole proprietorship; partnership interest (either general or limited) in a partnership; and any other significant assets you own.

Description of Asset and Account Number (if applicable)	Present Value	Amount of Encumbrance, if any	Titleholder: Joint (J) 1st Spouse (S1) 2nd Spouse (S2) Trust (T)

Description of Asset and Account Number (if applicable)	Present Value	Amount of Encumbrance, if any	Titleholder: Joint (J) 1 st Spouse (S1) 2 nd Spouse (S2) Trust (T)

B. Please list all pension, profit sharing, traditional and Roth IRAs, annuities, life insurance (including a policy you own on the life of another person), 401(k), 403(b), and any other retirement-type accounts.

Description of Account/Policy #	Value	Owner	Beneficiary	Contingent Beneficiary

C. Are you or your spouse the beneficiary of a trust, whether or not you presently receive any income from the trust? Yes No

D. **For First Spouse:** What is the total amount of life insurance on your life? \$_____.

Are any of the policies “whole life” (that is, do they have cash value which can be borrowed against) as opposed to term insurance? Yes No

E. **For Second Spouse:** What is the total amount of life insurance on your life? \$_____.

Are any of the policies “whole life” (that is, do they have cash value which can be borrowed against) as opposed to term insurance? Yes No

SECTION III. CHOICE OF PERSONAL REPRESENTATIVE AND TRUSTEE

A *Personal Representative* is the person you name in your Will to administer your estate.

A *Trustee* is the person you appoint to administer assets in your trust (should you and your attorney determine that a trust is necessary).

You should carefully consider your choice as Personal Representative and Trustee.

1. You should trust him or her completely.
2. He or she should have enough maturity, common sense and business experience to handle your estate.
3. He or she should be of such an age and physical and mental condition that he or she is likely to be alive and able to act when needed.
4. Consider whether he or she will be able to get along with the beneficiaries of your estate and/or trust so that your purposes are most likely to be accomplished.

A. **Choice of Personal Representative (For First Spouse):**

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

If the person named above for any reason does not serve or continue to serve, then my choice of successor Personal Representative:

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

B. **Choice of Trustee (For First Spouse):**

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____

5. Home Phone Number: _____
6. Alternate Phone Number: _____

If the person named above for any reason does not serve or continue to serve, then my choice of successor Trustee:

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

C. **Choice of Personal Representative (For Second Spouse):**

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

If the person named above for any reason does not serve or continue to serve, then my choice of successor Personal Representative:

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

B. **Choice of Trustee (For Second Spouse):**

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____

4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

If the person named above for any reason does not serve or continue to serve, then my choice of successor Trustee:

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

SECTION IV. DESIRED DISTRIBUTION

This section deals with how you want your estate to be distributed upon your death.

Disposition of Estate:

Please describe how you want your estate to be distributed upon your death. In the case of a married couple who each want the surviving spouse to receive everything on the death of the first spouse, how do you want your estate to be distributed after the death of both of you? *Here are a few things to consider:*

1. Will you want the share that will or may go to any child or grandchild to remain in trust to avoid possible irresponsible spending by a young adult?
2. How old do you think a beneficiary should be before he/she receives all or part of the estate?
3. If one beneficiary (say, a child) dies before distribution to him or her, do you want his or her share to go to his or her children, if any, or to his or her sibling(s)?

Please describe your planned distribution, in your own words:

SECTION V. DURABLE POWER OF ATTORNEY

If you were unable to make financial decisions and manage financial and property affairs for yourself, who would you want to make those decisions and act on your behalf?

A. First Choice (For First Spouse):

- 1. Full Name: _____
- 2. Relationship: _____
- 3. Street Address: _____
- 4. City, State & Zip: _____
- 5. Home Phone Number: _____
- 6. Alternate Phone Number: _____

Alternate Choice (For First Spouse):

- 1. Full Name: _____
- 2. Relationship: _____
- 3. Street Address: _____
- 4. City, State & Zip: _____
- 5. Home Phone Number: _____
- 6. Alternate Phone Number: _____

B. First Choice (For Second Spouse):

- 1. Full Name: _____
- 2. Relationship: _____
- 3. Street Address: _____
- 4. City, State & Zip: _____
- 5. Home Phone Number: _____
- 6. Alternate Phone Number: _____

Alternate Choice (For Second Spouse):

- 1. Full Name: _____
- 2. Relationship: _____
- 3. Street Address: _____
- 4. City, State & Zip: _____
- 5. Home Phone Number: _____
- 6. Alternate Phone Number: _____

SECTION VI. HEALTH CARE POWER OF ATTORNEY

If you were unable to make health care decisions for yourself, who would you want to make them for you?

A. First Choice (For First Spouse):

- 1. Full Name: _____
- 2. Relationship: _____
- 3. Street Address: _____
- 4. City, State & Zip: _____
- 5. Home Phone Number: _____
- 6. Alternate Phone Number: _____

Alternate Choice (For First Spouse):

- 1. Full Name: _____
- 2. Relationship: _____
- 3. Street Address: _____
- 4. City, State & Zip: _____
- 5. Home Phone Number: _____
- 6. Alternate Phone Number: _____

B. First Choice (For Second Spouse):

- 1. Full Name: _____
- 2. Relationship: _____
- 3. Street Address: _____
- 4. City, State & Zip: _____
- 5. Home Phone Number: _____
- 6. Alternate Phone Number: _____

Alternate Choice (For Second Spouse):

- 1. Full Name: _____
- 2. Relationship: _____
- 3. Street Address: _____
- 4. City, State & Zip: _____
- 5. Home Phone Number: _____

6. Alternate Phone Number: _____

SECTION VII. LIVING WILL

We suggest that you consider the execution of a Living Will, in which you express your intentions regarding life-sustaining treatment in the event that you are in a persistent vegetative state. If you are interested in having a Living Will, who would you want to carry out your intentions?

A. First Choice (For First Spouse):

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

Alternate Choice (For First Spouse):

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

B. First Choice (For Second Spouse):

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

Alternate Choice (For Second Spouse):

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____

4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

SECTION VIII. GUARDIAN/CONSERVATOR FOR MINOR CHILDREN *(if applicable)*

Should both parents die or become incapacitated while a child is under 19 years of age, a Guardian of the child's person and Conservator of the child's estate may be appointed by the Court. Normally, the Court will honor the parent's nomination. The Conservator of the estate may or may not be the same person as the Guardian of the person, and, in turn, may or may not be the same person as the child's trustee.

First Choice for Guardian:

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

Alternate Choice for Guardian:

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

First Choice for Conservator:

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

Alternate Choice for Conservator:

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

IF OUR LAW FIRM REPRESENTS BOTH SPOUSES IN JOINT ESTATE PLANNING, YOUR ATTORNEY WILL DISCUSS POTENTIAL CONFLICTS OF INTEREST WITH YOU.

OUR LAW FIRM URGES YOU TO REVIEW YOUR WILL, TRUST, LIFE INSURANCE AND PENSION AND OTHER EMPLOYER BENEFIT PLANS, BENEFICIARIES AND RELATED ESTATE MATTERS AT LEAST ONCE A YEAR, AND WHENEVER THERE IS A SUBSTANTIAL CHANGE IN YOUR FAMILY OR OTHER BENEFICIARIES, DEATH OF A BENEFICIARY, OR SIMILAR CHANGE OF CIRCUMSTANCES.

Signature of First Spouse

Signature of Second Spouse

WALENTINE O'TOOLE, LLP



Attorneys at Law

Date: _____

ESTATE PLANNING QUESTIONNAIRE – HUSBAND AND WIFE
(CONFIDENTIAL)

SECTION I. GENERAL INFORMATION

A. **Personal Information (Husband):**

- 1. Full Name: _____
- 2. Any other name(s) used: _____
- 3. Date of Birth: _____
- 4. Social Security Number: _____
- 5. Street Address: _____
- 6. City, State & Zip: _____
- 7. County of Residence: _____
- 8. Home Telephone Number: _____
- 9. Cell Phone Number: _____
- 10. Employer: _____
- 11. Occupation: _____
- 12. Work Telephone Number: _____
- 13. Preferred e-mail address: _____
- 14. Any prior marriages? If so, state name(s) of former spouse(s), date, county and state of final dissolution of marriage: _____

Are you a U.S. citizen? Yes No

B. **Personal Information (Wife):**

- 1. Full Name: _____
- 2. Any other name(s) used: _____
- 3. Date of Birth: _____
- 4. Social Security Number: _____

5. Street Address: _____
6. City, State & Zip: _____
7. County of Residence: _____
8. Home Telephone Number: _____
9. Cell Phone Number: _____
10. Employer: _____
11. Occupation: _____
12. Work Telephone Number: _____
13. Preferred e-mail address: _____
14. Any prior marriages? If so, state name(s) of former spouse(s), date, county and state of final dissolution of marriage: _____

Are you a U.S. citizen? Yes No

- C. **Children:** (If you have no children, skip to Section II.)
Please complete *whether or not* you intend all or any of your children to receive any portion of your estate. Please complete for each child; if more than three, attach additional pages.

Child 1:

1. Full Name: _____
2. Child's Spouse's Name: _____
3. Child's Date of Birth: _____
4. Child's Address (if different than yours): _____
5. Child's Telephone Number: _____
6. Child's Social Security Number: _____
7. If this child is only your child or your spouse's child, state the name of the child's other parent: _____

Child 2:

1. Full Name: _____
2. Child's Spouse's Name: _____
3. Child's Date of Birth: _____
4. Child's Address (if different than yours): _____
5. Child's Telephone Number: _____
6. Child's Social Security Number: _____
7. If this child is only your child or your spouse's child, state the name of the child's other parent: _____

Child 3:

1. Full Name: _____
2. Child's Spouse's Name: _____
3. Child's Date of Birth: _____
4. Child's Address (if different than yours): _____
5. Child's Telephone Number: _____
6. Child's Social Security Number: _____
7. If this child is only your child or your spouse's child, state the name of the child's other parent: _____

Do you have any deceased children? Yes No

If yes, please give their name(s) and whether or not they had children.

SECTION II. FINANCIAL INFORMATION

A. Please list all property now owned by you and your spouse, and indicate how title is held. Attach additional pages if necessary OR attach financial/account statements. Examples of property to be listed include checking and savings accounts; CDs; non-retirement brokerage accounts; stocks; bonds; real estate; vehicles; boats; ownership interest in a limited liability company, corporation, or sole proprietorship; partnership interest (either general or limited) in a partnership; and any other significant assets you own.

Description of Asset and Account Number (if applicable)	Present Value	Amount of Encumbrance, if any	Titleholder: Joint (J) Husband (H) Wife (W) Trust (T)

Description of Asset and Account Number (if applicable)	Present Value	Amount of Encumbrance, if any	Titleholder: Joint (J) Husband (H) Wife (W) Trust (T)

B. Please list all pension, profit sharing, traditional and Roth IRAs, annuities, life insurance (including a policy you own on the life of another person), 401(k), 403(b), and any other retirement-type accounts.

Description of Account/Policy #	Value	Owner	Beneficiary	Contingent Beneficiary

C. Are you or your spouse the beneficiary of a trust, whether or not you presently receive any income from the trust? Yes No

D. **For Husband:** What is the total amount of life insurance on your life? \$_____.

Are any of the policies “whole life” (that is, do they have cash value which can be borrowed against) as opposed to term insurance? Yes No

E. **For Wife:** What is the total amount of life insurance on your life? \$_____.

Are any of the policies “whole life” (that is, do they have cash value which can be borrowed against) as opposed to term insurance? Yes No

SECTION III. CHOICE OF PERSONAL REPRESENTATIVE AND TRUSTEE

A *Personal Representative* is the person you name in your Will to administer your estate.

A *Trustee* is the person you appoint to administer assets in your trust (should you and your attorney determine that a trust is necessary).

You should carefully consider your choice as Personal Representative and Trustee.

1. You should trust him or her completely.
2. He or she should have enough maturity, common sense and business experience to handle your estate.
3. He or she should be of such an age and physical and mental condition that he or she is likely to be alive and able to act when needed.
4. Consider whether he or she will be able to get along with the beneficiaries of your estate and/or trust so that your purposes are most likely to be accomplished.

A. **Choice of Personal Representative (For Husband):**

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

If the person named above for any reason does not serve or continue to serve, then my choice of successor Personal Representative:

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

B. **Choice of Trustee (For Husband):**

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

If the person named above for any reason does not serve or continue to serve, then my choice of successor Trustee:

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

C. **Choice of Personal Representative (For Wife):**

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

If the person named above for any reason does not serve or continue to serve, then my choice of successor Personal Representative:

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

B. Choice of Trustee (For Wife):

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

If the person named above for any reason does not serve or continue to serve, then my choice of successor Trustee:

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

SECTION IV. DESIRED DISTRIBUTION

This section deals with how you want your estate to be distributed upon your death.

Disposition of Estate:

Please describe how you want your estate to be distributed upon your death. In the case of a married couple who each want the surviving spouse to receive everything on the death of the first spouse, how do you want your estate to be distributed after the death of both of you? *Here are a few things to consider:*

1. Will you want the share that will or may go to any child or grandchild to remain in trust to avoid possible irresponsible spending by a young adult?
2. How old do you think a beneficiary should be before he/she receives all or part of the estate?
3. If one beneficiary (say, a child) dies before distribution to him or her, do you want his or her share to go to his or her children, if any, or to his or her sibling(s)?

Please describe your planned distribution, in your own words:

SECTION V. DURABLE POWER OF ATTORNEY

If you were unable to make financial decisions and manage financial and property affairs for yourself, who would you want to make those decisions and act on your behalf?

A. First Choice (For Husband):

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

Alternate Choice (For Husband):

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

B. **First Choice (For Wife):**

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

Alternate Choice (For Wife):

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

SECTION VI. HEALTH CARE POWER OF ATTORNEY

If you were unable to make health care decisions for yourself, who would you want to make them for you?

A. **First Choice (For Husband):**

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

Alternate Choice (For Husband):

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

B. **First Choice (For Wife):**

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

Alternate Choice (For Wife):

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

SECTION VII. LIVING WILL

We suggest that you consider the execution of a Living Will, in which you express your intentions regarding life-sustaining treatment in the event that you are in a persistent vegetative state. If you are interested in having a Living Will, who would you want to carry out your intentions?

A. **First Choice (For Husband):**

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

Alternate Choice (For Husband):

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____

5. Home Phone Number: _____
6. Alternate Phone Number: _____

B. First Choice (For Wife):

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

Alternate Choice (For Wife):

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

SECTION VIII. GUARDIAN/CONSERVATOR FOR MINOR CHILDREN *(if applicable)*

Should both parents die or become incapacitated while a child is under 19 years of age, a Guardian of the child's person and Conservator of the child's estate may be appointed by the Court. Normally, the Court will honor the parent's nomination. The Conservator of the estate may or may not be the same person as the Guardian of the person, and, in turn, may or may not be the same person as the child's trustee.

First Choice for Guardian:

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

Alternate Choice for Guardian:

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

First Choice for Conservator:

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

Alternate Choice for Conservator:

1. Full Name: _____
2. Relationship: _____
3. Street Address: _____
4. City, State & Zip: _____
5. Home Phone Number: _____
6. Alternate Phone Number: _____

IF OUR LAW FIRM REPRESENTS BOTH HUSBAND AND WIFE IN JOINT ESTATE PLANNING, YOUR ATTORNEY WILL DISCUSS POTENTIAL CONFLICTS OF INTEREST WITH YOU.

OUR LAW FIRM URGES YOU TO REVIEW YOUR WILL, TRUST, LIFE INSURANCE AND PENSION AND OTHER EMPLOYER BENEFIT PLANS, BENEFICIARIES AND RELATED ESTATE MATTERS AT LEAST ONCE A YEAR, AND WHENEVER THERE IS A SUBSTANTIAL CHANGE IN YOUR FAMILY OR OTHER BENEFICIARIES, DEATH OF A BENEFICIARY, OR SIMILAR CHANGE OF CIRCUMSTANCES.

Signature of Husband


Signature of Wife



Medicaid Eligibility

Apply for Medicaid

There are many ways to apply:

- Fill out an application online at [iServe](#) 
- Call one of the numbers below to apply over the phone or to request a paper application. Phone lines are open from 8:00 a.m. to 5:00 p.m. Monday through Friday.
 - (855) 632-7633
 - In Lincoln: (402) 473-7000
 - In Omaha: (402) 595-1178
- Visit a local DHHS office

Am I eligible for Medicaid?

You may be eligible if you are:

- 65 years of age or older

- An individual under 65 years of age who has a disability, or is visually impaired according to Social Security guidelines
- An individual 18 years of age or younger
- An adult age 19-64
- A pregnant woman
- A parent or caretaker
- A former foster care youth

People with Medicare can qualify for Medicaid in various ways, but not through [Heritage Health Adult](#).

Individuals with disabilities who apply for Medicaid may also have to apply for disability benefits. For more information, see the page below:

- [How to apply for Medicaid coverage if you have a disability](#) □

What resources may I have and be eligible for Medicaid?

Some individuals have their income and resources taken into account when they apply for Medicaid. Some resources are not counted, such as:

- Your home
- One motor vehicle
- Property you use to operate a trade or business (such as machinery and equipment)
- Irrevocable burial fund
- Resources, in addition to the above, which do not exceed:
 - \$4,000 for one-member family

- \$6,000 for two-member family
- \$25 for each additional family member
- Children age 18 and younger and eligible pregnant women are not subject to a resource test.

For income guidelines, see the following chart:

- [Federal Poverty Level and Program Eligibility](#) □

Enable Accounts - Save Money

Enable accounts offer checking, savings, and investment accounts for people who are blind or have a disability who became blind or disabled before age 26. These accounts give participants the ability to save money without it affecting their benefits (up to \$100,000).

- [Enable Website](#) □
- [Eligibility Graphic](#) □

What type of care is available under Nebraska Medicaid?

For more information, see our list of covered services:

[Medicaid Services](#)

What is CHIP?

The Children's Health Insurance Program, or CHIP, is an expansion of Medicaid for certain children who are without other health insurance and who do not


qualify for Medicaid. It provides the same services covered under Medicaid in Nebraska.

CHIP has several benefits, namely:


- Improved access and continuity of care for children age 18 years and younger
- Consistent, preventive care
- Simplify eligibility
- Improves Medicaid's goal of easier and faster enrollment

599 CHIP

The 599 CHIP program is designed for unborn children of pregnant women who are otherwise ineligible for coverage under Medicaid or CHIP.

For more information, see our [599 CHIP one-pager](#) .

What if I'm determined ineligible for Medicaid?

If you are determined ineligible for Medicaid, your application is sent to the Federal Marketplace (healthcare.gov ). The Marketplace can assist you with private insurance coverage.

[Back to Medicaid Clients](#)

More

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[Medicaid Behavioral Health Services](#)

[Home and Community Based Services](#)

[Services Coordination](#)

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