



Estate Conservation

Preserving Wealth for Your Heirs

PREVIEW



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Introduction

What Is Estate Conservation and Why Is It Important?

Estate conservation involves the preparations necessary to accomplish two goals:

- 1. Manage assets during your lifetime**
Wealth management is at the heart of a sound financial program
- 2. Distribute assets upon your death**
Making arrangements for the prompt and intended distribution of your assets upon death

Without careful action, the estate you've spent a lifetime building could be significantly less by the time your heirs receive it. You haven't worked hard and saved your money just to turn half of it over to the government.



Estate Lessons

The mistakes made by people with large — and even not-so-large — estates could be significant. This includes the failure to have a will and the importance of shielding an estate from excess tax liability.

When this happens, the settling of an estate could drag on for years at a potentially high financial cost, and the estate would be distributed according to the laws of your state of residence.

Principles of Estate Conservation

These estate conservation principles can help you manage your estate and prepare for the orderly transition of assets to your heirs, avoiding the kind of confusion and discord that some estates may encounter.

- Key fundamentals of estate conservation**
- Challenges when planning for your estate**
- Basic distribution techniques**
- Trust strategies**

Probates of the Rich and Famous

The estate documents for an amazing number of famous people are readily available to anyone who cares to look.

In fact, the wills of some people have even been posted on the Internet. (See Michael Jackson's Last Will and Testament on page 4.)

Introduction



Probate Offers No Privacy

Last Will and Testament of Michael Joseph Jackson

I, MICHAEL JOSEPH JACKSON, a resident of the State of California, declare this to be my last Will, and do hereby revoke all former wills and codicils made by me.

I

I declare that I am not married. My marriage to DEBORAH JEAN ROWE JACKSON has been dissolved. I have three children now living, PRINCE MICHAEL JACKSON, JR., PARIS MICHAEL KATHERINE JACKSON and PRINCE MICHAEL JOSEPH JACKSON, II. I have no other children, living or deceased.

II

It is my intention by this Will to dispose of all property which I am entitled to dispose of by will. I specifically refrain from exercising all powers of appointment that I may possess at the time of my death.

III

I give my entire estate to the Trustee or Trustees then acting under that certain Amended and Restated Declaration of Trust executed on March 22, 2002 by me as Trustee and Trustor which is called the MICHAEL JACKSON FAMILY TRUST, giving effect to any amendments thereto made prior to my death. All such assets shall be held, managed and distributed as a part of said Trust according to its terms and not as a separate testamentary trust.

If for any reason this gift is not operative or is invalid, or if the aforesaid Trust fails or has been revoked, I give my residuary estate to the Trustee or Trustees named to act in the MICHAEL JACKSON FAMILY TRUST, as Amended and Restated on March 22, 2002, and I direct said Trustee or Trustees to divide, administer, hold and distribute the trust estate pursuant to the provisions of said Trust, as hereinabove referred to as such provisions now exist to the same extent and in the same manner as though that certain Amended and Restated Declaration of Trust, were herein set forth in full, but without giving effect to any subsequent amendments after the date of this Will. The Trustee, Trustees, or any successor Trustee named in such Trust Agreement shall serve without bond.

IV

I direct that all federal estate taxes and state inheritance or succession taxes payable upon or resulting from or by reason of my death (herein "Death Taxes") attributable to property which is part of the trust estate of the MICHAEL JACKSON FAMILY TRUST, including property which passes to said trust from my probate estate shall be paid by the Trustee of said trust in accordance with its terms. Death Taxes attributable to property passing outside this Will, other than property constituting the trust estate of the trust mentioned in the preceding sentence, shall be charged against the taker of said property.

V

I appoint JOHN BRANCA, JOHN McCLAIN and BARRY SIEGEL as co-Executors of this Will. In the event of any of their deaths, resignations, inability, failure or refusal to serve or continue to serve as a co-Executor, the other shall Serve and no replacement need be named. The co-Executors serving at any time after my death may name one or more replacements to serve in the event that none of the three named individuals is willing or able to serve at any time.

The term "my executors" as used in this Will shall include any duly acting personal representative or representatives of my estate. No individual acting as such need post a bond.

I hereby give to my Executors, full power and authority at any time or times to sell, lease, mortgage, pledge, exchange or otherwise dispose of the property, whether real or personal comprising my estate, upon such terms as my Executors shall deem best, to continue any business enterprises, to purchase assets from my estate, to continue in force and pay insurance premiums on any insurance policy, including life insurance, owned by my estate, and for any of the foregoing purposes to make, execute and deliver any and all deeds, contracts, mortgages, bills of sale or other instruments necessary or desirable therefor. In addition, I give to my Executors full power to invest and reinvest the estate funds and assets in any kind of property, real, personal or mixed, and every kind of investment, specifically including, but not by way of limitation, corporate obligations of every kind and stocks, preferred or common, and interests in investment trusts and shares in investment companies, and any common trust fund administered by any corporate executor hereunder, which men of prudent discretion and intelligence acquire for their own account.

VI

Except as otherwise provided in this Will or in the trust referred to in Article III hereof, I have intentionally omitted to provide for my heirs. I have intentionally omitted to provide for my former wife, DEBORAH JEAN ROWE JACKSON.

VII

If at the time of my death I own or have an interest in property located outside the State of California requiring ancillary administration, I appoint my domiciliary Executors as ancillary Executors for such property. I give to said domiciliary Executors the following additional powers, rights and privileges to be exercised in their sole and absolute discretion, with reference to such property: to cause such ancillary administration to be commenced, carried on and completed; to determine what assets, if any, are to be sold by the ancillary Executors; to pay directly or to advance funds from the California estate to the ancillary Executors for the payment of all claims, taxes, costs and administration expenses, including compensation of the ancillary Executors and attorneys' fees incurred by reason of the ownership of such property and by such ancillary administration; and upon completion of such ancillary administration, I authorize and direct the ancillary Executors to distribute, transfer and deliver the residue of such property to the domiciliary Executors herein, to be administered by them under the terms of this Will, it being my intention that my entire estate shall be administered as a unit and that my domiciliary Executors shall supervise and control, so far as permissible by local law, any ancillary administration proceedings deemed necessary in the settlement of my estate.

VIII

If any of my children are minors at the time of my death, I nominate my mother, KATHERINE JACKSON as guardian of the persons and estates of such minor children. If KATHERINE JACKSON fails to survive me, or is unable or unwilling to act as guardian, I nominate DIANA ROSS as guardian of the persons and estates of such minor children.

I subscribe my name to this Will this 7 day of July, 2002

MICHAEL JOSEPH JACKSON

Fundamentals

What Is an Estate?

Your estate is simply all the wealth you have accumulated during your lifetime — real estate, stocks, bonds, business interests, retirement plans, personal effects, and anything else you own.

Estimating the Net Value of Your Estate

Assets	
Tangible assets (home, furnishings, automobiles, real estate, jewelry, other valuables)	\$ _____
Investments (stocks, bonds, mutual funds, businesses, annuities, retirement accounts)	\$ _____
Cash (savings and checking accounts, money market funds, CDs, cash reserves)	\$ _____
Life insurance benefit	\$ _____
Total assets	\$ _____
Liabilities (mortgages, bank loans, charge-account debt)	\$ _____
Net value of estate (Subtract liabilities from total assets)	\$ _____

For a more comprehensive worksheet, see Figuring Out Your Net Worth on page 19.

Benefits of Estate Conservation

Taking the necessary steps to conserve your estate can help your heirs avoid conflicts, delays, and expenses. Here's a closer look at the many benefits that estate conservation can offer.

- **Select who will receive your assets**
- **Determine distribution of estate —**
If, how, and when your beneficiaries will receive their inheritance
- **Choose individuals to manage your estate —**
Including the executor, trustee, and others
- **Help reduce estate settlement costs —**
Including probate expenses and taxes
- **Choose guardians for minor children**
- **Provide liquid capital —**
To help cover burial, settlement, and income tax costs

Challenges

Dying Without a Will

Pablo Picasso died in 1973 at the age of 91, leaving behind a fortune. Because he died intestate, it took six years to settle his estate at a cost of \$30 million. Eventually, his assets were divided among his six heirs.

Surprisingly, these famous people also died without a will: Abraham Lincoln, Jimi Hendrix, Howard Hughes, Sonny Bono, and Prince.

Source:
LegalZoom.com

Finding a Qualified Attorney

An attorney can be an essential member of your estate team. Finding the appropriate legal professional to handle your estate can make a tremendous difference for you and your family. But using an attorney who has no estate planning experience may not be the wisest choice. Attorneys who don't specialize in estate planning, or who don't have an understanding of federal and state tax laws and elder law, could leave behind unintended consequences.

- **You need a qualified estate attorney**
 - Familiar with all aspects of estate administration
 - Willing to work with other professionals
- **Ask for referrals**
 - Friends
 - Financial professionals
- **Contact your local bar association**

Probate

Probate refers to the court proceedings that conclude all the legal and financial matters of the deceased, and through which estate assets are distributed according to instructions in a will. The probate court acts as a neutral forum in which to settle any disputes that may arise over the estate.

Unfortunately, the probate system is very complex and has some serious drawbacks. Cost is just one of them.

Here are some facts about probate to consider:

- **Probate can be expensive**
 - Costs vary depending on the state
 - Attorney fees add to the cost
- **Probate can take a long time**
 - Often takes a few months to a year or more
- **Probate offers no privacy**
 - In most states, the proceedings of the probate courts are a matter of public record

Challenges

Estate Taxes

Estate taxes are levied by the federal government and numerous states on any property that passes from the dead to the living. Estate taxes are calculated on the net value of your estate. This includes the value of your home, stocks, bonds, life insurance, and anything else of value that you own, less allowable debts, expenses, and deductions.

Recent Changes to Federal Estate Tax Law

The American Taxpayer Relief Act of 2012 law made permanent most of the temporary federal estate provisions that were implemented by the 2010 Tax Relief Act. However, the 2012 tax law increased the federal estate tax rate permanently from 35 percent to 40 percent on assets exceeding the applicable exclusion amount.

The Tax Cuts and Jobs Act of 2017 doubled the federal estate tax exclusion to \$11.18 million in 2018 (indexed annually for inflation). In 2020, the exclusion rose to \$11.58 million, but after 2025 it is scheduled to revert to its pre-2018 level and be cut by about one-half.

The federal estate tax exclusion is “portable” between spouses. If an executor makes the appropriate election on the deceased spouse’s estate tax return (and meets the filing deadline), the surviving spouse may be able to use the deceased spouse’s unused estate tax exclusion in addition to his or her own applicable exclusion amount. However, this opportunity cannot be carried over again if the survivor remarries.

How Do Federal Estate Taxes Work?

If, upon your death, the total value of your estate is less than the applicable federal estate tax exclusion amount, no federal estate taxes will be due on your estate. This simple illustration shows how federal estate taxes are calculated.

	Example	You
1. Gross value of estate	\$ 13,380,000	\$ _____
2. Allowable debts, expenses, and deductions	– \$ 800,000	\$ _____
3. Net value of estate	\$ 12,580,000	\$ _____
4. Federal estate tax exclusion	– \$ 11,580,000	\$ _____
5. Taxable value of estate	\$ 1,000,000	\$ _____
6. Federal estate tax rate	x 40 %	_____ %
7. Total federal estate tax due	\$ 400,000	\$ _____

This hypothetical example is used for illustrative purposes only.

Ins and Outs

The estate tax was first established in 1797 to help fund a naval buildup. Since then it has been abolished and reinstated five times.

Source:
Joint Committee on
Taxation

Federal Estate Tax Exclusion

The federal estate tax exclusion essentially shelters a portion of an estate from federal estate taxes. Because of the high exclusion amount, very few estates are subject to the federal estate tax.

The full amount of the applicable estate tax exclusion is available at death only if there have been no prior taxable gifts.

Challenges



Potential Need for Long-Term Care

What would happen to your estate and intended legacy if you or your spouse needed long-term care for an extended period?

Currently, capital gains could reach 20% for high-income taxpayers, plus 3.8% if they are subject to the net investment income tax on unearned income, which affects taxpayers with modified adjusted gross incomes exceeding \$200,000 (single filers) or \$250,000 (joint filers).

Annual and Lifetime Gift Tax Exclusion

The annual gift tax exclusion enables individuals to transfer up to \$15,000 a year (\$30,000 for married couples) to any number of individuals free of the federal gift tax. Generally, amounts that exceed this annual exclusion would be subject to the gift tax and would be applied toward the taxpayer's \$11.58 million lifetime gift tax exclusion (in 2020). Gifts could be outright gifts of cash or income-producing assets.

Unlimited Marital Deduction

One notable exception to federal estate taxes is the unlimited marital deduction. Transfers of wealth between spouses are exempt from federal estate and gift taxes. This means that, regardless of the size of an estate, there will be no federal taxes levied when one spouse dies and leaves his or her wealth to the surviving spouse. (*The surviving spouse must be a U.S. citizen to qualify for the deduction.*) Of course, when the surviving spouse dies, the remaining estate assets will be subject to estate taxes.

Step-Up in Basis vs. Carryover Basis Rules

The step-up in basis refers to the way in which some inherited assets are valued for tax purposes. The step-up raises the owner's basis in appreciated assets (such as property or shares of stock) to their full market value as of the date of death.

Here's an example. If you purchased a piece of property (not a primary residence) for \$100,000 and 20 years later sold it for \$500,000, you would owe capital gains tax on the \$400,000 of appreciation. However, if you held the property until death, your basis in the property would be stepped up to \$500,000, its full market value.

Gifts are subject to the carryover basis rules. Using the previous example, if you gave the property to your heirs during your lifetime, the basis of the property would be your original \$100,000 purchase price. If your heirs sold the property for \$500,000, they would owe capital gains tax on \$400,000 of appreciation.

Thus, you might consider whether to keep appreciated assets rather than gift them to your family outright. Upon your death, appreciated assets would be stepped up to their full market value, and your heirs could potentially avoid a large capital gains tax bill if they later sell the assets.

Note: Some inherited assets (such as cash, variable annuities, and tax-deferred retirement accounts) do not receive a step-up in basis.