

Why geography matters for your estate plan and your heirs



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USA TODAY

Sept. 6, 2026, 5:04 a.m. ET

Location, location, location is the most famous and widely repeated mantra in the real estate industry, but it could also apply to estate planning.

Since states set their own rules, it's important to consider geography while mapping out your finances, estate planning attorneys say. State laws already vary widely when it comes to estate and inheritance taxes but can grow even more complex if you start adding trusts to your plan, they said.

"Two families with identical assets can face very different bills depending only on which state line they're on," said Kate Teal, assistant general counsel at online digital estate planning platform Trust & Will. "Probate cost and speed vary enormously by state, and that shapes behavior."



How state death taxes can wreck an estate plan

On the most basic level, people should be aware if their state has [estate and inheritance taxes](#). If so, know what they are because they can drastically shrink the amount you intend to leave heirs.

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The estate tax is levied on the things the deceased owns or has certain interests in when they die and is paid by the estate. The inheritance tax is paid by heirs.

Most people don't pass the \$15 million-per-person federal estate tax threshold to have to pay the federal government, but [12 states and the District of Columbia](#) "impose their own estate tax at much lower thresholds," Teal said. "Oregon starts at \$1 million and Massachusetts at \$2 million," levels that can easily be hit if someone owns a home.

Five states charge an inheritance tax, which is what heirs would pay.

Maryland is the only state that taxes both sides, with an estate and inheritance tax.

That's not all to watch out for. New York and Illinois are also "[cliff states](#)" where estate taxes exceeding a specific, relatively low exemption threshold cause the entire estate – not just the

excess amount – to become taxable. Sometimes, a single dollar can trigger hundreds of thousands of dollars in taxes, experts say.

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For example, Illinois doesn't levy any tax for estates up to \$4 million. However, a dollar above \$4 million triggers a progressive tax rate ranging from 0.8% to 16% on the entire estate beginning from the first dollar.

That means a \$4,000,001 estate in Illinois yields a state estate tax bill of more than \$220,000, compared with \$0 in federal tax because the \$15 million threshold isn't hit. A \$15,000,001 estate in Illinois would owe more than \$1 million, while the federal estate tax applied only to the single dollar exceeding the 2026 federal exemption of \$15 million results in a federal tax of just \$0.40.

States govern trusts

To avoid lengthy, public probate, many Americans turn to trusts. Trust & Will's [2026 Estate Planning Report shows 14%, up from 11% in 2025](#), of 5,000 respondents said they have a trust.

"In the West, that figure was 21%, well above every other region, which ranged from 13% to 14%," Teal said. "The difficulty of California's probate process is likely a big part of why."

Revocable and irrevocable are the two broad categories of trusts people usually use, lawyers said. Revocable trusts can be changed, with assets easily added or removed by the person who establishes it. Irrevocable trusts generally can't be changed and are often used to protect assets, minimize estate taxes or manage more complex assets and family situations. Irrevocable trusts remove assets from your estate and are their own entities with their own tax ID.

Generally, "when you have a revocable trust, you're not shopping around for where you create it, but where you live matters," said Michael Chuah at Paxterra Law. Revocable trusts avoid probate but are part of your estate and taxed accordingly.

For irrevocable trusts, though, shopping around could pay off if you have specific needs, lawyers said. People don't have to default to their home state.

States like South Dakota have even "built a deep corporate trustee industry, which is not a small point, because a favorable statute is only useful if there is a fiduciary in the state to administer under it," Teal said. Assets held by South Dakota trust companies reached [\\$814 billion at the end of 2024](#), nearly five times the total a decade earlier.

Different states offer various levels of asset protection, dynasty trust planning, governing law, trust administration and state income tax benefits, lawyers said.

"Taxpayers who want to do planning can pick a jurisdiction for a trust, like a business," said Dana White, partner in Armanino LLP's national estate, gift and trust practice. "How to choose depends on what a person's looking for."

South Dakota, Wyoming, Nevada, and Delaware are among the top places high net worth people, generally \$5 million plus in assets, consider for establishing a trust.

These states are attractive because they:

- Allow trusts to run for centuries or indefinitely rather than expiring after a set period. For comparison, Nevada allows dynasty trusts that last 365 years, Wyoming 1,000 years and South Dakota forever, while New York is 100 years on average, White said.
- Don't tax trust income at the state level. Delaware is the partial exception, exempting income accumulated for out-of-state beneficiaries, Teal said.
- Have long-established domestic asset protection laws with defined creditor lookback windows to challenge transfers into a trust. This is important because if a creditor challenges a transfer within the window, the court can "claw back" the property to pay off debts.
- Permit directed trusts, which let a family split investment, distribution and administrative duties among different parties
- Provide privacy, which matters to families who don't want their terms public

Ultimately, "it's not one size fits all. People need to think about their circumstances" to decide what state suits their needs and addresses their biggest concerns, White said. She also emphasized that "revisiting is key. New laws, IRS or family issues come up, and you may want to think about whether to change your trust."

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