

National Ice Cream Month: Sweeten Relationships with Estate Planning

Different Flavors of Transferring Money and Property Outside of Probate

Americans love ice cream. Estate planning? Not so much.

The average American eats roughly 19 pounds of ice cream per year,¹ and around 90 percent of households regularly keep ice cream in the freezer.² To celebrate our favorite frozen treat, President Ronald Reagan proclaimed July to be National Ice Cream Month in 1984 following a joint resolution that took less than two months to breeze through Congress.³

If only all decisions were so quick and easy. With countless combinations of brands, flavors, and toppings to choose from—not to mention bar, cone, or tub; dairy or nondairy; at home or at an ice cream shop—choosing ice cream can be hard.

The so-called “ice cream dilemma” has become a metaphor for the difficulty of decision-making when many options exist.⁴ This dilemma could help explain why approximately only one in three American adults has an estate plan⁵: They do not know where to start and are overwhelmed by the available choices.

Advisors encouraging their clients to create an estate plan may want to start small, with relatively easy decisions such as how to transfer money and property outside of probate. Unlike the selection of 31 flavors at Baskin-Robbins, nonprobate transfers come in three basic flavors of passing assets to beneficiaries without going through the formal probate process.

Joint Ownership: A Double Scoop

Assets held jointly with rights of survivorship automatically pass to the surviving owner upon death, bypassing probate.

Joint ownership is like a double scoop on a single cone—great when things are stable and hold up, but if one scoop melts or starts to slip, the whole thing can topple. It can be sweet when both owners are aligned but risky when life gets messy and you are the one stuck holding the cone.

Pros:

¹ *July Is National Ice Cream Month*, Int'l Dairy Foods Ass'n, <https://www.idfa.org/july-is-national-ice-cream-month> (last visited June 23, 2025).

² Linda Rodriguez McRobbie, *How Ice Cream Made America*, Saturday Evening Post (June 19, 2024) <https://www.saturdayeveningpost.com/2024/06/how-ice-cream-made-america>.

³ *Proclamation 5219—National Ice Cream Month and National Ice Cream Day, 1984*, The Am. Presidency Project (July 9, 1984), <https://www.presidency.ucsb.edu/documents/proclamation-5219-national-ice-cream-month-and-national-ice-cream-day-1984>.

⁴ Steven Rudolph, *Solving the Ice Cream Dilemma* (2011).

⁵ Rachel Lustbader, *2023 Wills and Estate Planning Study*, Caring (Apr. 21, 2025), <https://www.caring.com/resources/2023-wills-survey>.

- **Simple setup.** Creating joint ownership typically requires updating a deed or account ownership form at the relevant financial institution. It involves minimal cost and minimal paperwork.
- **Incapacity flexibility.** If one owner becomes *incapacitated* (unable to manage their affairs), the other retains full control of the asset without court intervention (such as a guardianship or conservatorship). This arrangement can be useful for aging couples or an adult child and parent.
- **Automatic transfer.** Upon the death of one owner, the surviving owner automatically and immediately inherits the asset without delay or probate proceedings.

Cons:

- **Shared control and consent.** All owners must agree about decisions regarding the asset, such as selling real estate or, in some cases, liquidating and closing the joint bank account. This requirement can complicate things if there is disagreement or if one owner is incapacitated and has not granted someone the authority to act on their behalf in a financial power of attorney.
- **Mutual liabilities.** The jointly owned asset is exposed to the financial risks of each owner, which could include creditors, lawsuit judgments, or divorce proceedings. (There is an exception for a special form of joint ownership exclusively for married couples, called *tenancy by the entirety*, which provides unique legal protections and differs from other types of joint ownership.) Shared vulnerability puts the entire asset at risk.
- **Tax implications.** Adding a joint owner may be treated as a lifetime gift for gift and estate tax purposes. Depending on the value of the shared asset, adding a joint owner could trigger gift tax consequences (if the asset's value exceeds \$19,000 in 2025) and require a tax filing. This approach may also forfeit a basis adjustment at death, resulting in potentially higher capital gains tax if the asset is later sold by the joint owner and had increased in value since it was originally acquired.

Designations: Estate Planning Sprinkles

Naming a beneficiary or using a transfer-on-death (TOD) or payable-on-death (POD) designation is a straightforward way to transfer assets. These designations are widely available for brokerage accounts, bank accounts, insurance policies, and even real estate in some jurisdictions. Think of them as the sprinkles on an estate plan: They are easy to add but can be the first part to fall off and get scattered if you are not paying attention.

Pros:

- **Easy execution.** Most institutions allow account holders to add or update beneficiary designations by filling out a paper form. Some even allow online updates. No probate, no attorneys, and no costs.
- **Swift access after death.** After the account holder's passing, beneficiaries generally need to present only a death certificate to the financial institution or insurance company to claim the asset, avoiding court delay.

Cons:

- **No help during incapacity.** These designations take effect only when the owner dies. They are of no help to the account owner when they are alive but incapacitated. Additional tools, such as a financial power of attorney, are needed to address this gap.
- **Unprotected inheritance.** The named beneficiary will receive the asset outright, making it vulnerable to the beneficiary's creditors, divorcing spouse, or poor spending habits if not protected by other estate planning tools.
- **One-size-fits-all.** Beneficiary designations offer no built-in flexibility or control over when or how the inheritance is given to beneficiaries. There are no mechanisms to set conditions, stagger distributions, or protect the inheritance from potential mismanagement. Control provisions offered by other estate planning tools allow the client to thoughtfully leave an inheritance to minor children, beneficiaries with special needs, or adult beneficiaries who have trouble managing their finances.

Trusts: A Custom Sundae

Trusts are the custom-made sundae of estate planning. They can be layered, made to order, and individually crafted to detailed specifications.

Pros:

- **Probate-free privacy.** Any assets properly titled in the trust's name or made payable to the trust at the owner's death bypass probate and remain private.
- **Incapacity planning.** A trust can be set up so that a successor trustee can immediately step in to manage trust assets for the client and on the client's behalf without court involvement if they become incapacitated.
- **Customized inheritance.** Forget 31 flavors. Trusts are far more customizable than that. They can contain any number of specific instructions about distributions, such as those for education, healthcare, or reaching certain milestones. Trusts can also provide for long-term management of assets for future generations or beneficiaries with special needs.

Cons:

- **Requires asset retitling.** For a trust to work properly, the client must retitle their assets in the name of the trust or designate the trust as beneficiary of each applicable trust asset. An attorney can help with this process.
- **Administrative costs.** Trust provisions may require ongoing administration fees, so clients can expect to pay more when they go off menu and customize their estate plan order with a trust.

Trusts are best for clients with complex estates, young or special-needs beneficiaries, or a desire for control over asset distribution. They are perfect for prioritizing privacy, incapacity planning, and protecting inheritances from the beneficiaries' creditors or divorcing spouses.

Scoop Up the Opportunity

This July, use the fun of National Ice Cream Month to start client estate planning conversations about which "flavor" of nonprobate transfers may best suit them, their assets, and their priorities.

You might even incorporate a bit of “ice cream psychology”⁶ to get a feel for what their eating style says about their personality and how this can influence planning decisions.

Let’s make clients’ financial futures as sweet as their favorite dessert. Get in touch for assistance with trust setup and other estate plan strategies.

⁶ Jonathan Chadwick, *Bite, Lick or Nibble? What Your Ice Cream Style Says About Your Personality*, Daily Mail (May 12, 2025), <https://www.dailymail.co.uk/sciencetech/article-14702571/Bite-lick-nibble-ice-cream-style-says-personality.html>.