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2024

Trends in Trust and Estate Planning

Produced by:
WealthManagement iQ
A division of WealthManagement.com

TRUSTS & ESTATES

Contents

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Foreword

I am pleased to share with you the 2024 Trends in Trust and Estate Planning. This inaugural study was conducted by Trust & Estates Magazine and sponsored by Bank of America.

With an $84T generational wealth transfer in progress, changing interest rates and potential tax policy revisions – this survey is timely. It helps us see the impact of socio-economic forces on investors' estate planning concerns, and how attorneys and advisors are adjusting their approach to meet clients' goals.

The scope and application of trust and estate plans are changing rapidly. Bank of America has a commitment to foster insight-driven conversations among industry professionals and their clients. By looking ahead to what's next, we are better able to help clients build estate plans that align to their values, address current and future needs, and safeguard their legacies.

Whether you are an individual investor or an estate planning professional, I hope you find this information valuable and share it with colleagues, friends, and family.

Jennifer F. Galvagna

Head of Trust, Estates & Tax
Bank of America Private Bank

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Survey Overview and Highlights

What are the chief estate-planning concerns of clients of attorneys, financial advisors, and other financial professionals? To find out, Trusts & Estates recently surveyed those advice providers to learn what clients are telling them, and what they see as their clients' most pressing issues. The responses to both sets of questions constitute the results of the survey and are presented in this white paper.

The following are highlights of what surveyed professionals are saying:

Interest-rate changes are the #1 reason clients are revisiting their estate plan.

More than three-quarters of those surveyed (76%) say that the current interest-rate environment is driving them to take another look at what they want most from wealth planning: tax mitigation and wealth preservation.

Concerns about possible changes in federal estate taxes are prompting action.

A decisive majority of respondents (86%) are recommending changes in their clients' estates and trust structures, most commonly through increased use of gifting strategies (53%), more emphasis on tax-efficient trust structures (50%) and increased establishment of irrevocable trusts (40%).

Clients want their estate plans to work harder.

Professionals are saying their clients want to ensure that assets are used as intended (noted by 44% of respondents), that their plans include provisions for the incapacity of oneself or a loved one (43%), and that charitable goals (31%) are achieved. Over half (51%) of estate attorneys report that their clients have established an estate plan to avoid family disputes.

Most recommended trust provisions.

Respondents are most likely to recommend tax-planning strategy provisions (73%), followed by trustee discretion to allow flexibility in managing distributions (50%); and beneficiary protections, such as clauses to protect vulnerable beneficiaries (48%).

Effective strategies for preventing estate-related family conflicts.

Respondents believe the top strategy involves transparent communication and updates (75%), followed at a distance by facilitating family meetings and discussions (50%), and appointing a trusted advisor or professional trustee as co-trustee or executor (43%).

Preference for a corporate fiduciary.

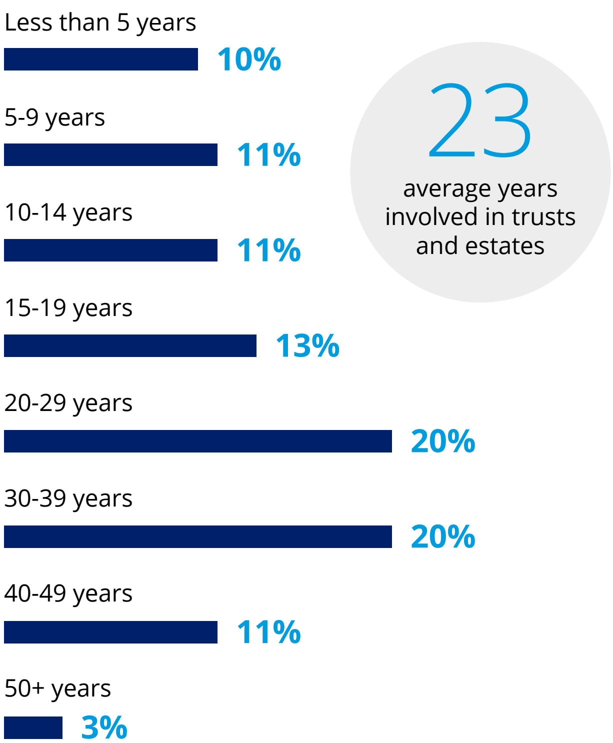
Over a third of respondents (38%) recommend their clients choose a corporate fiduciary, while another 54% do so sometimes. Respondents have several expectations for corporate fiduciaries, most commonly professional management and administration of trust (79%), impartiality and neutrality (71%) and ensuring legal and regulatory compliance (71%).

The importance of estate planning for business owners.

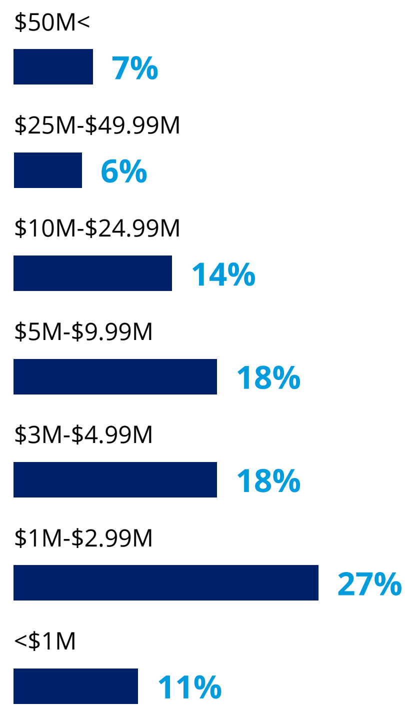
Because family business clients are most likely to pass business assets on to the next generation (54%) rather than exiting the business through a sale (40%), selling to employees (3%) or going public (1%), respondents note the importance of succession planning in an estate plan. Half of respondents (49%) frequently recommend trusts as a strategy to facilitate the division of estate assets among family members involved in the business and those who aren't, while another 42% do so occasionally, based on specific client needs.

Respondents at a Glance

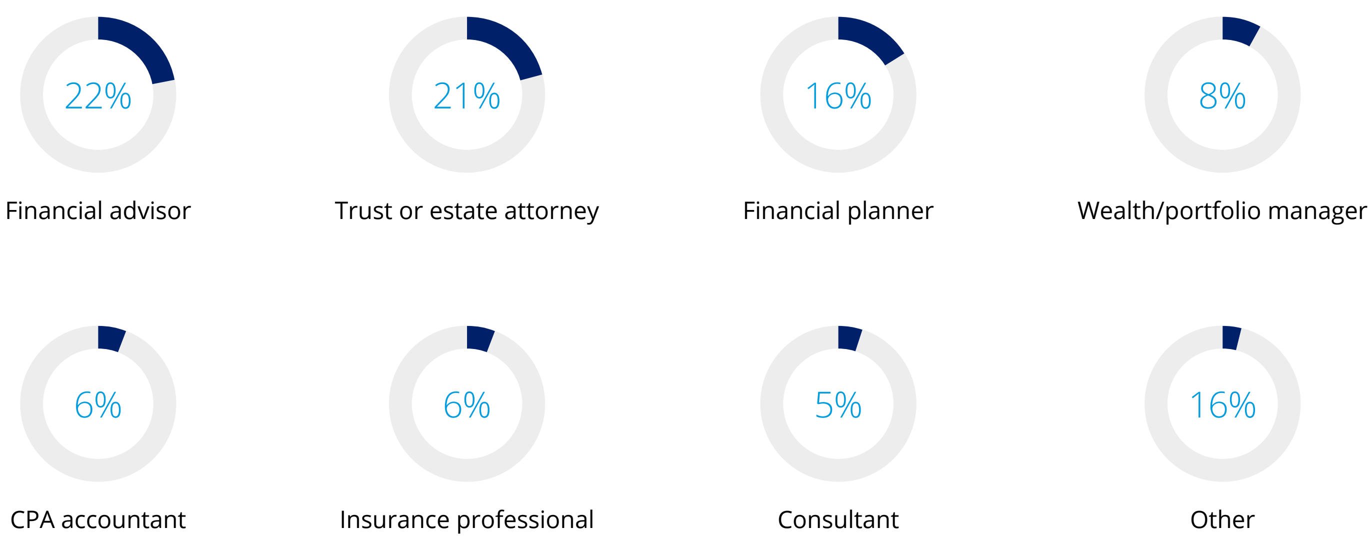
Professional Tenure in Trusts & Estates



Average Size of Clients' Estates



Primary Job Function



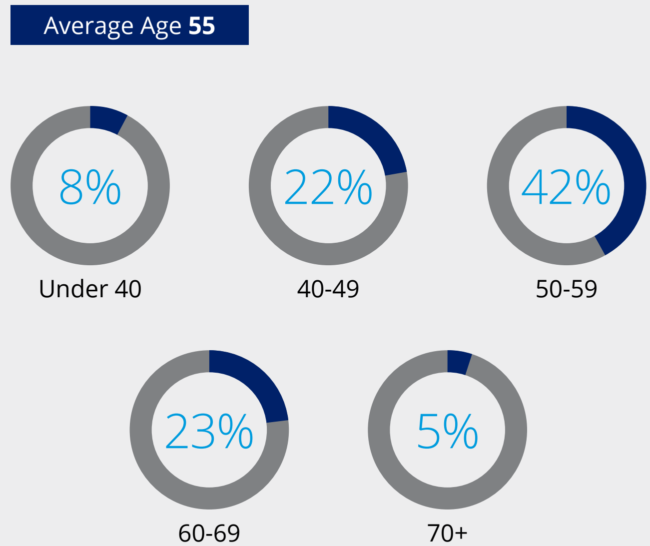
Trends in Estate Planning: Anticipating Change

When asked at what age their clients engaged, trusts and estates professionals, respondents said that clients in their 50s constituted the largest age cohort of first-time estate-planning clients (42%), followed by those in their 40s and 60s in almost equal measure (22% and 23%, respectively).

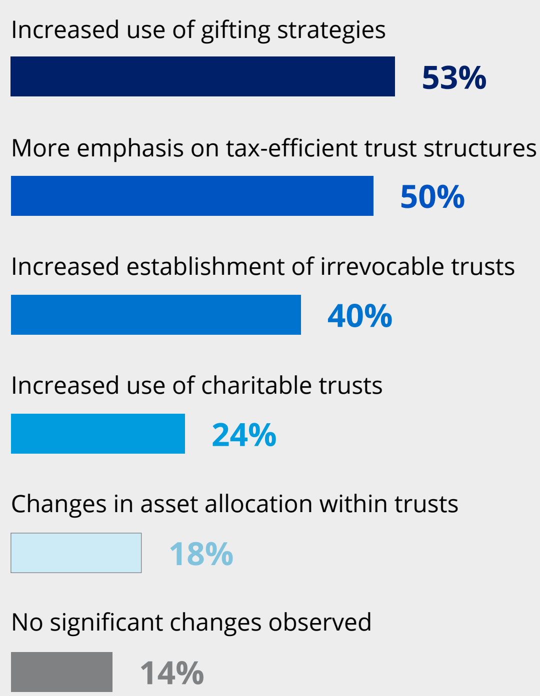
Since 2021, most respondents (74%) have noticed an increase in estate-planning activity among all age groups, driven primarily by Boomers (64%), the youngest of whom are 60, and Gen X (52%), those now between the ages of 44 and 59.

What's driving the greater-than-expected interest in estate planning? Most respondents (76%) say interest-rate changes have affected their clients' estate planning strategies. Perhaps more significant has been the possibility of changes in federal estate taxes. Most respondents (70%) say that their high-net-worth clients are more willing to make estate planning decisions now because of the uncertainty over those possible changes resulting from the scheduled sunset of provisions in the 2017 Tax Cuts and Jobs Act. As a result of what may be coming, a decisive majority of respondents (86%) are recommending changes in their clients' estates and trust structures, most commonly through increased use of gifting strategies (53%) and more emphasis on tax-efficient trust structures (50%).

Age at Which Clients Initially Engage T&E Professionals



Recommended Estate Plan Changes



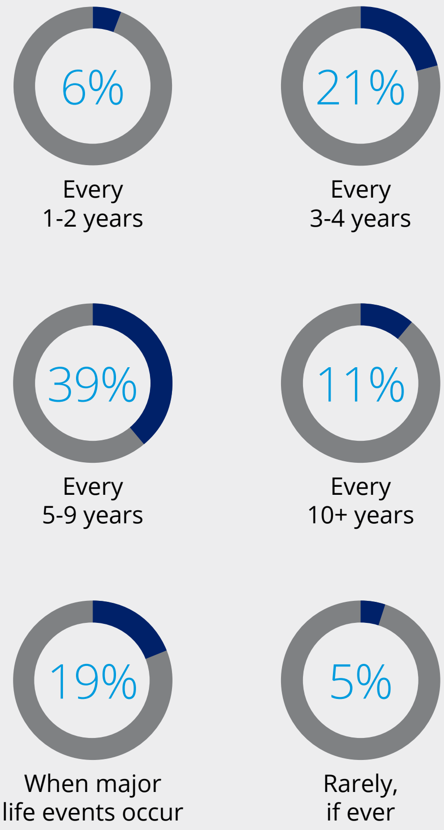
What Clients Want from Estate Planning

Given that possible tax law changes are driving greater interest in estate planning, it's logical that clients' top-two estate-planning objectives, as cited by survey respondents, are mitigating taxes (63%) and preserving wealth (63%). These are followed by safeguarding assets for future generations (55%), protecting assets (54%) and avoiding family disputes (51%). Other objectives are ensuring that assets are used as intended (44%), planning for the incapacity of oneself or a loved one (43%), and achieving charitable goals (31%).

While respondents report a wide variance in the frequency of clients updating their estate plans, the most-often cited frequency is every five to nine years. The top-reported reason for clients' changes to their estate plans is transferring to the next generation (65%), followed by a wealth transfer event (41%) and a change in family dynamics (38%).

When asked about their clients' trustee preferences, 58% of respondents say their clients are more likely to use individual trustees than corporate trustees, while 35% say their clients use corporate and individual trustees, and just 7% say they use corporate trustees exclusively. Most respondents (52%) say they see no change in trustee usage trends, with 28% saying they see an increase in the use of individual trustees and 20% seeing a rise in corporate trustee usage.

Frequency of Client Updates to Their Estate Plans



What Professionals Are Delivering

The attorneys and financial professionals surveyed touched on four areas when asked about specific trust and estate advice or services they deliver to their clients.

Recommended trust provisions

Respondents are most likely to recommend tax-planning strategy provisions (73%), followed by trustee discretion to allow flexibility in managing distributions (50%); beneficiary protections, such as clauses to protect vulnerable beneficiaries (48%); spendthrift clauses to protect beneficiaries from creditors (46%); an incapacity provision (45%); age-specific distributions (45%); charitable giving, including provisions for charitable donations (38%); special-needs provisions for beneficiaries with disabilities (33%); equalization clauses to ensure fair distribution for beneficiaries (29%); and incentive clauses to encourage certain behaviors or achievements (16%).

Effective strategies for preventing estate-related family conflicts

Respondents believe the top strategy involves transparent communication and updates (75%). That is followed at a distance by facilitating family meetings and discussions (50%), appointing a trusted advisor or professional trustee as co-trustee or executor (43%), having grantors write a letter of wishes/intentions to supplement their trust/estate documents (41%), educational sessions about trust and estate management (31%), encouraging joint decision-making (30%), and offering mediation services to resolve conflicts (7%).

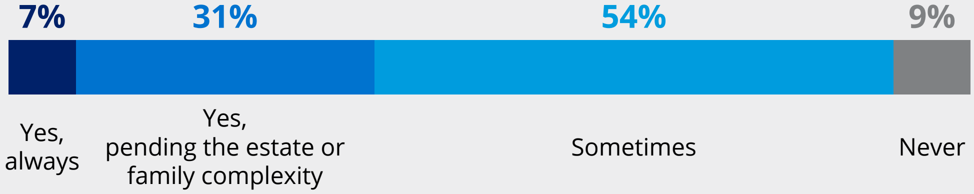
Selecting the type of fiduciary

Over a third of respondents (38%) recommend their clients choose a corporate fiduciary, while another 54% do so sometimes. Respondents have several expectations of corporate fiduciaries, most commonly the professional management and administration of trusts (79%), impartiality and neutrality (71%), and ensuring legal and regulatory compliance (71%).

Trust situs, governing laws, and tax implications

Relatively few respondents recommend Delaware trusts, which may offer tax advantages over trusts created in other states. Only 6% of respondents recommend them frequently, and another 31% do so occasionally. Sixteen percent of respondents say they preferred other jurisdictions; those most frequently mentioned were Nevada, Wyoming, South Dakota and Tennessee.

Do you recommend using a corporate fiduciary?



Trends for Clients with Family Businesses

Most respondents (84%) count owners of family-owned businesses as clients. These business owners are often among the respondents' wealthiest and most highly valued clients. Regarding succession planning for those businesses, respondents' family business clients are most likely to pass business assets on to the next generation (54%), or, as a secondary option, exit the business through a sale (40%). In approaching succession planning, business owners are largely divided when dividing estate assets among family members involved in the business and those who aren't. Slightly more than a third (35%) of respondents say their clients use separate trusts or other structures for business and non-business assets, while just slightly fewer (33%) use a proportionate division based on involvement and contributions to the business and a similar 29% divide assets equally among all family members.

Half of respondents (49%) frequently recommend trusts as a strategy to facilitate the division of estate assets among family members involved in the business and those who aren't, while another 42% do so occasionally, based on specific client needs.

Only 9% consider trusts to facilitate the division of estate assets among family members, whether or not they're involved in the family business.

Of clients who hold their family business in a trust, the chief reason is to ensure family ownership and control (62%).

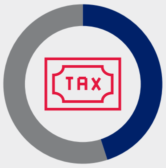
Additional reasons to hold a family business in trust are: provide asset protection (58%), better continuity of the business rather than distribution ownership among multiple heirs (57%), and to reduce taxes (45%).

Client Rational for Holding Family Business in a Trust

62%
To ensure family ownership and control

58%
To provide asset protection

57%
To provide better continuity of the business rather than distributing ownership among multiple heirs



45%
To reduce taxes

28%
To ward off liability for the business's actions or inactions

21%
To ensure the business has qualified oversight

Takeaways

Help allay clients' concerns about possible estate tax changes.

Given today's political uncertainty, it's impossible to forecast what, if any, changes will be made to current estate tax rates and exclusion levels. This is a time to review current plans and get ahead of potential tax changes by making sure your clients are prepared.

Don't ignore two important age groups.

While the prime age cohort for those who seriously think about estate planning for the first time is 50-59, roughly a quarter of those who initiate a discussion about estate planning are in their 40s, while another quarter are in their 60s. Those in their 40s may be overlooked because some advisors perceive them to be too young to be interested in estate planning, while those in their 60s may be written off for already having plans in place. When it comes to first-time estate planning, avoid assuming that clients under 50 have no interest in estate planning or that those over 60 already have a plan in place.

Help clients who own family businesses with proactive succession planning.

Our survey results indicate only about a third of business-owning clients have implemented a formal succession plan for transferring ownership to the next generation. By helping clients align their estate plans and formalize their business succession plan they can minimize family conflict.

Don't forget planning for incapacity.

Many clients tend to avoid or minimize concerns about incapacity. For the sake of such clients' spouses, adult children and family-owned businesses, estate planning discussions Incorporating incapacity provisions can be extremely valuable.

Research Methodology

Methodology, data collection and analysis by Trusts & Estates in cooperation with Bank of America. Data was collected from July 18 through July 30, 2024. Methodology conforms to accepted marketing research methods, practices and procedures.

Beginning on July 18, 2024, Trusts & Estates emailed invitations to participate in an online survey to active users. By July 30, 2024, Trusts & Estates had received 513 completed responses.

To encourage prompt response and increase the response rate overall, email invitations and survey materials were branded with the Trusts & Estates name and logo to capitalize on user affinity. Each respondent was allowed to enter a drawing for one of two $200 Amazon gift cards.

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