

FALL 2026

Welcome Mark Scancarella

Gifts to Minor Beneficiaries

Probate Assets, Non-Probate Assets, Death Taxes & Your Estate: What NJ Families Need to Know

planning matters

PRACTICAL INSIGHTS INTO ESTATE PLANNING & WEALTH PRESERVATION

Compliments of Lindabury's Wills, Trusts & Estates Group

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You're thinking about succession planning, **and so are we.**

Lindabury, McCormick, Estabrook & Cooper has you and your family covered. The attorneys in our Wills, Trusts & Estates group have experience levels ranging from 10 to 40+ years in the field of estate planning and estate administration.

MEET THE PLANNERS



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please welcome Mark J. Scancarella as a Partner in our Wills, Trusts & Estates Group

Mark brings over a decade of experience in estate planning and administration. He guides executors, trustees and beneficiaries through probate and the administration of estates and trusts. He works with clients to prepare wills, plan for incapacity, select guardians for minor children, and provide for loved ones with special needs. The addition of Mark to our team strengthens Lindabury's ability to deliver the personal attention and practical guidance our clients have come to expect.

gifts to minor beneficiaries

by Anne Marie Robbins, Esq.

Clients often ask how best to transfer assets to minor family members. The large federal estate and gift tax exemption ($15 million per person in 2026, or $30 million per married couple) has reduced the need to shrink one's taxable estate through gifts, but many still wish to make lifetime gifts for young family members.

Each available strategy serves a different purpose. The right choice depends on how the donor wants the money used, how long it should be protected, and how much control the donor will surrender.

UTMA Accounts: Simple, Flexible & Irrevocable

A New Jersey Uniform Transfers to Minors Act (UTMA) account lets adult custodians manage assets for a beneficiary until age 21 rather than 18, as most other custody accounts require. N.J.S.A. 46:38A-26. Custodians may invest assets and make distributions for the minor, but the gifts cannot be taken back. When the custodianship ends, the beneficiary receives full control of the remaining assets and may use them for any purpose.

Account income is generally reported under the child's Social Security number and may be subject to the federal "kiddie tax." I.R.C. § 1(g)(2). UTMA assets may be treated less favorably than some parent-owned accounts in college financial-aid calculations and lack the tax deferral of 529 Plans.

529 Plans: Designed for Education

A qualified tuition program can be attractive when the donor's primary goal is education. I.R.C. § 529. Contributions are made with after-tax dollars, but earnings grow free of federal income tax. Withdrawals for qualified education expenses are generally tax-free; nonqualified withdrawals incur income tax and a 10% penalty.

529 Plans can fund elementary and secondary schools, trade and vocational schools, and colleges and graduate schools. Unused funds may be transferred to another eligible family member or rolled into the beneficiary's Roth IRA, subject to federal limits and holding-period requirements.

Unlike UTMA accounts, 529 plans let owners retain control; beneficiaries do not automatically gain access at 18 or 21. The owner generally decides when to distribute funds.

Contributions are ordinarily completed gifts for federal gift tax purposes, but a special election lets a donor spread a larger contribution over five years of annual exclusions. I.R.C. § 529(c)(2)(B).

Trump Accounts: A New Long-Term Savings Option

Trump Accounts are new tax-advantaged, long-term accounts for minors who are U.S. citizens with valid Social Security numbers.

The government currently provides a one-time $1,000 contribution for eligible children born from January 1, 2025, through December 31, 2028. Others may contribute up to an aggregate annual limit, currently $5,000. I.R.C. § 530A(c)(2). Government pilot contributions and certain qualifying general contributions do not count against that limit. The IRS has issued guidance and proposed regulations, but this area is still developing, so families should confirm the operative rules before funding an account.

Irrevocable Trusts: Greater Protection & Flexibility

Gifts to irrevocable trusts may be advisable when donors are concerned about federal estate taxes. Trusts also provide greater control and flexibility: an irrevocable trust can last as long as the grantor sets, including a child's or grandchild's lifetime, and distributions are not limited to educational expenses. Trusts offer professional management and greater protection but require careful drafting and ongoing administration.

Coordinating Gifts with the Estate Plan

Donors should first decide the gift's purpose, then consider the beneficiary's age and maturity, the expected gift amount, income and gift tax consequences, financial-aid requirements, and when the beneficiary should assume control. A coordinated discussion among the estate planning attorney, accountant and financial adviser can help ensure a gift provides for a minor child or grandchild without unintended consequences.

probate assets, non-probate assets, death taxes & your estate... what NJ families need to know

by Mark Scancarella, Esq.

When people think about what happens to their property after death, they often picture a family gathered around a conference table in a lawyer's office for the "reading" of the Last Will and Testament. The reality is quite different. Understanding how assets pass to beneficiaries, and the tax consequences of each method, can save your family time, money, and stress, and help ensure your wishes are carried out as intended.

Assets That Pass Through Probate

Probate is the court-supervised process of settling an estate, handled in New Jersey by the Surrogate's Court of the county where the decedent lived. It covers assets held in your name alone, such as individual bank or brokerage accounts, a car, a home titled only to you, and personal belongings. These pass under your Will or, if you have none, under New Jersey's intestacy laws. Probate is also public, so your Will becomes part of the public record.

Assets that Pass Outside Probate

Other assets pass by beneficiary designation or account title. These are known as non-probate assets, and for many families they include their most valuable property. Common examples include:

- Life insurance and retirement accounts with named beneficiaries
- Jointly owned property with right of survivorship
- Payable-on-death (POD) or transfer-on-death (TOD) accounts
- Assets held in a funded living trust

For these assets, the beneficiary designation or title controls, even if your Will says otherwise. For example, if your Will leaves everything to your children but your IRA still names a former spouse, the former spouse may still receive the IRA. Outdated beneficiary designations are among the most common reasons estate plans fail.

Skipping Probate does not Mean Skipping Taxes

Whether an asset passes through probate and whether it counts toward your taxable estate are two separate questions. For Federal Estate Tax purposes, nearly everything you own or control at death is included. With a 2026 federal exemption of $15 million per person, most New Jersey families will owe no federal estate tax, though larger estates need careful planning.

New Jersey's Inheritance Tax

In addition to the Federal Estate Tax, families also need to be aware of the New Jersey Inheritance Tax. This tax depends on who receives the property rather than the size of the estate. Beneficiaries are divided into specific "classes":

- **Class A** (spouses, partners, children, grandchildren, parents, grandparents): no tax
- **Class C** (siblings, half-siblings, children-in-law): 11% to 16% above a $25,000 exemption



- **Class D** (nieces, nephews, friends, unmarried partners and others): 15% to 16% from the first dollar
- **Class E** (qualified charitable organizations): exempt

Probate status doesn't change exposure to inheritance tax; property passing by Will, joint ownership, or trust can also be taxed. However, certain assets, such as life insurance payable to a named beneficiary, are exempt. For example, a decedent's nephew inheriting $100,000 from a bank account would owe tax; the same amount paid to the nephew form a life insurance policy would not.

Putting it all Together

Every asset raises three separate questions:

- **Probate or non-probate?** This decides how the asset passes: under your Will, or directly by title or beneficiary designation.
- **In your gross estate?** This decides federal estate tax exposure. Nearly everything is counted, but tax applies only above the $15 million exemption (2026).
- **Who receives it?** This decides New Jersey inheritance tax, which turns on the beneficiary's relationship to you.

An asset can skip probate, still be in your gross estate, and still trigger inheritance tax, so it's important to review each one.

Steps You Can Take Now

- **Check your beneficiary forms** after divorce, remarriage, births or deaths.
- **Look at the whole picture.** Your Will controls only part of what you own.
- **Consider who receives what.** The recipient can change the tax owed.
- **Make sure cash is available.** Taxes and expenses can fall on the probate estate even when other assets pass directly.

Avoiding probate can make things easier for your family, but it is not a tax strategy by itself. For a comprehensive review of your estate plan, please contact the estate planning attorneys at Lindabury, McCormick, Estabrook & Cooper.



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