Practical Estate Planning

Seminar summary & action plan · September 9 & 11, 2026

Thompson Law
Estate & Business Planning

A complete plan covers seven things

- **Incapacity during life**
- **Asset transfer at death**
- **Tax efficiency**
- **Family protection**
- **Business continuity (if applicable)**
- **Farm succession (if applicable)**
- **Legacy and values**

Not "just a will." Not "just a trust." And not "my kids will know what to do."

Nine assumptions that catch families out

"I have a will, so I avoid probate."	**A will directs probate — it does not avoid it.** Probate is avoided by trusts, joint ownership and beneficiary designations.
"I put a child on my deed, but my will still splits the land three ways."	**Joint tenancy beats your will.** The son on the deed takes 100% — probably followed by a lawsuit from his brothers.
"My revocable living trust protects me from nursing home costs."	**It does not.** You can revoke it, so you still control those assets and they still count.
"Irrevocable means it can never be changed."	**It means the grantor cannot change it alone.** Modification is often still possible.
"The kids will each end up with their own piece of ground."	**They inherit as tenants in common** — undivided interests. Nobody owns a particular quarter.
"They would all have to agree before the land could be sold."	**One owner is enough** to force a sale through a partition action.
"My beneficiary designations match my plan."	**Worth checking this week.** TOD/POD forms supersede your will and your trust.
"A discount inside an LLC or LLLP saves capital gains tax."	**Its purpose is reducing gift and estate tax** by valuing a minority interest below its share of the land.
"My kids know what I want."	**Unwritten wishes are unenforceable** — and they leave your children arguing about what you meant.

Why plans fail

- Poorly drafted or generic documents
- The trust was never funded
- No nursing home protection
- No updates as law and family change
- No remarriage protection
- The family's legacy was never captured

The building blocks — and the numbers

Your documents

- **Property power of attorney** — financial decisions if you are living but incapacitated
- **Health care power of attorney** — medical decisions in the same situation
- **Living will** — your wishes on artificial nutrition and life support
- **Will** — directs property in your name alone and names your personal representative

Trusts

Three roles: the **trustor** creates it, the **trustee** manages it, the **beneficiary** benefits. While you are living, that is usually all you.

Every trust is revocable or irrevocable, in or out of your taxable estate, and grantor or non-grantor for income tax.

THREE THINGS THAT OVERRIDE YOUR WILL AND TRUST

TOD / POD designations

Accounts, IRAs, life insurance, stock and LLC interests, land by TOD deed, and South Dakota vehicles since July 2025.

Joint ownership

Exposed to that child's divorce and creditors, counts as a gift, costs part of the step-up in basis, and the survivor becomes sole owner.

Assets titled in a trust

They follow the trust, not the will — which is why funding matters. An unfunded trust controls nothing.

Probate

- In South Dakota, generally required above **$100,000** of estate assets
- That excludes anything jointly owned, beneficiary designated or in trust
- Public and court supervised — anyone can read the file
- Real estate in another state can mean a second probate there

The numbers for 2026

ESTATE TAX		GIFT TAX	
Exemption per person	$15,000,000	Annual exclusion per recipient	$19,000
Rate above the exemption	40%	Married couple, to one person	$38,000
Spouse and charity	Unlimited	Married couple, to a couple	$76,000
South Dakota estate tax	None	Spouse and charity	Unlimited
Minnesota exemption	$3,000,000	Medical and tuition paid directly	Unlimited

Portability is not automatic: using a late spouse's unused exemption requires filing IRS Form 706.

Cost basis

Basis is what you paid, plus improvements, less depreciation, and at death it obtains half an adjusted basis. Something bought for $100 and now worth $1,000 is a $900 gain if sold during life — and half the gain if sold after the step-up.

Tools and your action plan

What Dean and Rita's Trust did

- **Both living:** business as usual — they are trustors, trustees and beneficiaries.
- **First death:** no estate tax. The trust may split into a revocable Survivor's share and an irrevocable Family share, for tax savings and remarriage protection.
- **A new marriage:** a prenuptial trigger only works if a real prenuptial agreement is signed.
- **Second death:** no probate if assets were titled correctly, and the children inherit in trust rather than outright.

Farm Family considerations

Settle four questions before they settle themselves:

- If the siblings keep the land, how is rent determined?
- Who is going to rent it?
- Can the farming child afford that rent?
- What stops one owner from forcing a partition sale?

Tools we discussed

Sentry Trust	Children inherit in trust, with divorce, creditor and estate tax protection.
Legacy Land or Cabin Trust	Land passes into one trust that sets rent, taxes, purchase options and sale restrictions.
Land Company (LLC or LLLP)	A family entity owning the land: liability protection, restricted transfers, valuation discount.
Charitable Remainder Trust	A deduction now plus income, and the trust can sell an appreciated asset free of capital gains.
Special Spousal Trust	A South Dakota trust that can deliver a full step-up in basis at the first death.

Your eight action items

- ☐ **Schedule an appointment.** Meet with a Thompson Law attorney to discuss your estate planning goals.
- ☐ **Confirm your assets with a Personal Financial Statement.** List them and check how each one is titled.
- ☐ **Tell your fiduciaries.** Successor trustees should know the role and where the originals are kept.
- ☐ **Decide who gets what.** The little things are usually the big things.
- ☐ **Fill in your estate planning letter.** List personal property and who receives it.
- ☐ **Execute your plan.** Sign your documents to meet your estate planning goals and alleviate any concerns.
- ☐ **Hold a family day.** Share the plan while you are here to explain it – we host, in person or by video.
- ☐ **Write personal letters.** The wisdom and memories no legal document carries.

THE NEXT STEP

Knowledge was never the hard part — everyone already knows that diet and exercise work. Return the evaluation form from your folder, or call the office, to schedule your no-cost initial consultation.