

FEATURE: ESTATE PLANNING & TAXATION

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Estate Planning for **Hispanic** Families

Integrating cultural sensitivity with legal precision

The **Hispanic community** represents one of the fastest growing populations in the United States, with influence permeating virtually every sector of American society. As this demographic expansion continues, the demand for culturally competent estate-planning services has become increasingly critical. Effectively serving Hispanic families transcends mere technical knowledge of statutes and procedures. It requires cultural fluency, empathy and the ability to navigate and bridge two distinct worlds simultaneously.

Understanding the unique dynamics and specific needs of Hispanic families is essential for providing meaningful estate-planning support. Consider, for example, why a grandmother might insist on bequeathing something to every child, even one who's been absent for years. Or why the succession "plan" for a valuable family-owned business might consist of an informal understanding, the proverbial handshake, rather than documented legal instruments.¹ When professional advisors fail to recognize and address these cultural nuances, client families may experience unnecessary conflict rather than unity in legacy. Practitioners who develop sensitivity to these cultural considerations can assist families in nurturing and preserving

strong intergenerational bonds. We'll provide actionable information on many possible cultural and related dynamics so practitioners not familiar with these matters can better serve Hispanic clients. We'll also offer drafting and planning suggestions that may be helpful to all practitioners, even those intimately familiar with these cultural and other concepts.

Demographic/Economic Profile

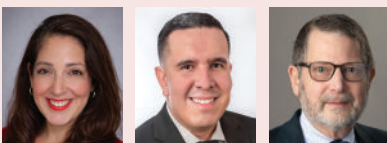
Population characteristics. The Hispanic population in the United States exceeds 65 million individuals, constituting nearly 20% of the total U.S. population according to 2023 U.S. Census Bureau estimates.² Hispanics represent the youngest major racial group in the United States, with a median age of just 31 years, significantly younger than the overall U.S. population median of 39 years. Their demographic presence is particularly pronounced among younger generations:

- 22% of Millennials (born 1981 through 1996)
- 25% of Generation Z (born 1997 through 2012)
- 27% of Generation Alpha (born 2013 and later)³

Diversity of origin. The U.S. Hispanic population is highly diverse, with heritage traced to over 20 countries. According to 2020 Census data, among Hispanic subgroups, Mexicans rank as the largest at 61.6%, followed by Puerto Ricans (9.6%), Central Americans (9.3%), South Americans (6.4%) and Cubans (3.9%).⁴

Economic impact. The Hispanic population has emerged as a growing economic powerhouse in the United States. The annual U.S. Latino gross domestic product (GDP) report found that the total economic output of Latinos in the United States reached

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a record high of \$4.1 trillion in 2023, up from \$3.7 trillion in 2022, representing the fifth largest GDP in the world.⁵ The economic contributions and performance of Latinos from 2019 to 2023 made the U.S. Latino GDP the single fastest growing GDP among the world's 10 largest countries. Despite representing only 19.5% of the U.S. population, Latinos were responsible for 30.6% of the growth in the national GDP during this period.⁶

Educational attainment has shown remarkable improvement, with Hispanic college enrollment rising nearly 10% between 2014 and 2021, reaching 3.3 million students or 24% of all U.S. college students. High school graduation rates improved from 78% in 2014 to 83% in 2022, while household income grew by 29% over the same period—the highest growth rate among all ethnic groups.⁷

Despite these economic gains, approximately 77% of Hispanic Americans don't have estate-planning documents.⁸ This extraordinarily high rate of non-planning may be attributed to misconceptions that estate planning is exclusively for wealthy individuals, as well as cultural discomfort surrounding discussions of death. Practitioners should recognize this planning gap and encourage clients to discuss estate planning with family members.

Financial Planning

Asset preferences and historical context. Research by Morningstar suggests that Hispanic households tend to favor real estate and automobiles over stocks or retirement accounts.⁹ This preference may stem from historical distrust of financial institutions in Latin America, where governments frequently failed to honor financial commitments, and inflation or regulatory changes compromised the security of financial assets. The result is a cultural favoritism toward physical or tangible assets that can be seen and touched.

This perspective may translate into situations in which clients who would benefit from professional financial advisory services don't engage such advisors. Estate-planning attorneys and CPAs should proactively inquire about the client's existing advisory relationships and offer suggestions for advisors with whom the client might be willing to work. When clients emphasize tangible or visible

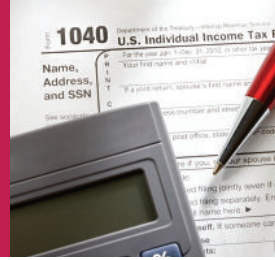
assets, practitioners should evaluate potential liquidity constraints and lack of diversification that might impact estate-planning strategies. These considerations should also inform the analysis of appropriate life insurance coverage levels.

Unique financial obligations. Hispanic community members may face financial obligations that differ from those of the general population. Many Hispanics send remittances to family members in their country of origin, while others incur greater expenses than typical clients in caring for family members, including extended family. These considerations are important to inquire about and address, as they may affect savings rates, wealth accumulation patterns, who will be named as beneficiaries of trusts and distribution standards.

Depending on the amounts and circumstances, these financial obligations might require greater life insurance coverage to backstop them. The gift provisions in durable powers of attorney and revocable trusts must be drafted broadly enough to accommodate these transfers. Such gifts may trigger annual gift tax return filing requirements, and the client may not be aware of these obligations. In some cases, it may prove less complex and more cost-effective to create a discretionary trust for all family members, make a single larger gift and limit gift tax return filing to only the initial gift.

When creating irrevocable trusts, whether for tax minimization or asset protection, practitioners should consider including a broader list of potential beneficiaries. Non-grantor trust planning may be particularly valuable when numerous family members in lower tax brackets receive financial assistance. A non-grantor trust may facilitate shifting the income tax burden from the client/donor to the non-grantor trust and, via the distributable net income (DNI) deduction, to lower income tax bracket donees. The resulting income tax savings might facilitate greater gifting capacity.

These factors may also support upstream basis planning by granting general powers of appointment to supported extended family members in irrevocable trusts to obtain a basis step-up on their passing.¹⁰ For example, a father creates a trust to benefit his spouse, descendants and a specified list of aunts, uncles and cousins. The trust



instrument grants an elderly aunt, with modest means who's being financially supported, the power to appoint trust assets to the creditors of her estate. On her death, the trust assets may be included in her estate and receive a step-up in income tax basis, eliminating all capital gains. If there was a concern that someone might manipulate the elderly aunt to exercise that power, a requirement could be added that a non-adverse person (for example, the family attorney) must approve the exercise of the power. The power granted is often limited to avoid estate taxation on the aunt's death if her estate grows or the estate tax exemption is lowered.

Religion

Religious demographics. Religious considerations are of significant importance in many Hispanic communities. While Catholicism remains the most prominent faith, its prevalence has diminished in recent years. As of 2022, 43% of Hispanic adults identify as Catholic, down from 67% in 2010.¹¹ Meanwhile, the share of Latinos who are religiously unaffiliated (describing themselves as atheist, agnostic or “nothing in particular”) now stands at 30%, up from 10% in 2010.¹² Additionally, approximately 17% identify as Evangelical Protestants and 4% as Mainline Protestants.¹³ Understanding these dynamics may be essential for effective engagement with Hispanic clients and communities.

Adjust planning and documents for clients who aren't religious. A significant and growing segment of the Hispanic population identifies as non-religious. For the approximately 60% of the Hispanic population that's Christian, practitioners should first inquire about the importance of faith-based planning.

Document drafting. When creating estate-planning documents for Christian Hispanic clients who express interest in faith-based planning, consider:

- **Wills:** Name a guardian who will raise children in accordance with the client's values. Include charitable bequests accompanied by statements emphasizing the importance of educating heirs about philanthropy and stewardship principles.

- **Powers of attorney:** Authorize the agent to make donations, contribute to tithing if aligned with the client's beliefs and support individuals the client is assisting.
- **Living wills:** Provide an introductory statement reflecting the client's faith while addressing specific Christian religious issues, such as preferences regarding burial practices and nutrition or hydration. Consider language such as:

Generally, I do not believe that the Bible permits the withdrawal of nutrition and hydration and as such, the presumption for my care should be not to withdraw nutrition or hydration unless that decision and its implementation are both confirmed as within the spectrum of Christian religious beliefs. By way of example and not limitation if I am in a persistent vegetative state, and it is determined that it is acceptable to withdraw tube feeding, efforts should be made to feed me food and fluids by mouth so that withdrawal of the tube feeding is not a per se active step to terminate my life.

Note that there are many different interpretations and beliefs, so view the general suggestion above as an example for a client to consider.

- **Health care proxies:** Select an agent who's sensitive to the client's beliefs, and direct them to adhere to the client's Christian values as outlined in the living will.

Wills and revocable living trusts serve as essential tools for reflecting the client's role as a steward of wealth. They may allow distribution of assets to both charitable organizations and family members, helping achieve religious and personal objectives. Appointing trustees who share the client's beliefs ensures that values are upheld. Additionally, a statement of values can provide guidance on how to give support in alignment with Christian principles.

Charitable Planning

When evaluating charitable bequests, practitioners should recognize that under current tax laws, many



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individuals aren't subject to estate tax, which often means limited tax benefits from testamentary charitable transfers. To optimize potential tax advantages, clients might authorize their power of attorney agent to make donations during life, potentially providing income tax deductions while supporting important causes.

To ensure that a lifetime donation is recognized in lieu of a testamentary bequest, the agent should obtain written acknowledgment from the charity confirming this arrangement, often referred to as an "advancement."¹⁴ Charitable bequests not only serve to benefit organizations important to the donor but also provide opportunities to demonstrate values to heirs. By incorporating charitable giving into estate planning, individuals can make meaningful impacts while instilling commitment to philanthropy in future generations.

The biblical story of the talents serves as a valuable framework for understanding Christian financial stewardship. It encourages individuals to reflect on their values in consumption choices and allocate a portion of their finances to charity. This narrative reminds clients of their role as stewards of resources, prompting thoughtful management and aligning budgeting practices with faith and a commitment to generosity. As stated in Timothy 6:7-8: "For we brought nothing into the world, and we can take nothing out of it. But if we have food and clothing, we will be content with that."

Family Dynamics

The centrality of family. In Hispanic households, family isn't merely important—it's everything. Assets are often assumed to "naturally" pass to children or extended relatives. However, what feels natural in conversation doesn't always translate to a legally enforceable transmission. Blended families, stepchildren and multiple generations living under one roof often create complex scenarios that require careful legal documentation. State intestacy laws will almost assuredly result in a different dispositive plan than what the Hispanic client may wish. The high percentage of Hispanics who don't have wills or other estate-planning documents almost assures this undesired result. Educating the community, especially clients, on this point is important.

Hispanic households are more likely than non-Hispanic white households to include extended or blended family members. Approximately 6% to 10% of family households in each Hispanic subgroup are extended, compared with 3% of non-Hispanic white family households.¹⁵ The average number of people per family household among Hispanics is 3.66, according to census estimates, compared to a national average of 3.15 per household.¹⁶ Single parent, unmarried Hispanic family groups with children under 18 are more prevalent than among other racial groups, reflecting higher rates of cohabitation and complex family structures. Opposite-sex unmarried Hispanic couples demonstrate a higher likelihood of living with biological children under age 18, indicating a noteworthy presence of non-traditional and blended family structures within this demographic.

Cultural taboos and reframing the conversation. A cultural taboo exists surrounding discussions about death, often regarded as bad luck or disrespectful. This perspective can lead to delaying essential planning until circumstances become urgent and it's potentially too late. Practitioners can address this challenge by reframing the estate-planning conversation. Rather than viewing it solely as preparation for death, estate planning should be portrayed as a means of protecting family unity and honoring one's legacy. This reframing encourages families to engage in proactive conversations about their futures.

Family meetings: benefits and precautions. A family meeting may prove more effective than private consultations. Bringing everyone together helps avoid surprises and potential conflicts later. However, attorneys must exercise caution with these arrangements due to potential ethical and other issues that might arise.

Ethical issues. Practitioners are required to maintain loyalty to the client, not to family members, and must consider this principle when delineating representation in an engagement letter and handling the engagement. Also, practitioners might protect themselves by documenting these details in a confirmatory letter to the client. The client's wishes must be identified, documented and implemented. All advisors should formally inform other family



members attending a family meeting as to whom the advisor represents and doesn't represent. The attendance of other family members may also adversely affect the attorney-client privilege. That may be discussed at an additional meeting just with the client.

Undue influence concerns. Practitioners should remain alert to risks of undue influence when an heir or other individual manipulates or pressures the client into making decisions that benefit the influencer. Practitioners should make a point of meeting separately with the client to confirm their wishes in preparation for the family meeting. They should ensure that the initial conversation and family meeting plans are made directly with the client. If an heir arranges the meeting, it could give rise to an argument that the beneficiary "procured" the plan and legal representation. Sometimes that will be unavoidable if an elderly or non-English speaking client relies on that other family member for help with legal and financial matters. If that occurs, practitioners should consider what additional steps might be prudent to protect the client, the client's dispositive intent and themselves as advisors. For example, if the meeting is arranged with a child, the parent can attend the first meeting without that child attending and with a translator (see below) if necessary. Notes from the meeting might confirm the relationship and the intent regarding the child and the client/parent's goals.

Language and Communication

Language is deeply tied to trust. Even clients who speak fluent English often prefer to discuss sensitive issues, for example, incapacity, guardianship and death, in Spanish. For many, Spanish is the language of emotion, family and comfort. When providing legal services, the practitioner or a member of their firm needs to be fluent in Spanish. If such fluency isn't available, obtaining the services of a qualified translator becomes necessary.

Translator requirements. The translator should possess expertise in legal matters, particularly in translating estate-planning documents, to ensure that the nuances and complexities of legal language are accurately conveyed. A qualified translator is often a member of a recognized trade organization,

such as the American Translators Association, which ensures adherence to professional standards. Some jurisdictions may require the translation to include a signed statement from the translator detailing their qualifications and the accuracy of the translation. Additionally, the translation or accompanying statement may need to be notarized to verify its authenticity and compliance with legal requirements.

Legal terminology challenges. Legal documents in most U.S. jurisdictions must be in English, creating potential disconnects and misunderstandings. The translation must preserve the legal meaning of estate-

SPOTLIGHT



Marine Green

Radiolaria I by John Armleder sold for £30,960 at Phillips New Now: Modern & Contemporary Art auction in London on Dec. 3, 2025. The Geneva-born Armleder is not only a painter but also a sculptor, performance artist and curator. He's known for creating installations that juxtapose pieces of furniture against monochrome or abstract paintings.



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planning documents, which may not be simple with complexities such as generation-skipping transfer (GST) planning, powers of appointment and newer techniques like swap powers.

Terms like “probate” or “trust,” and other complex legal or tax jargon, don’t always translate neatly into Spanish, and clients may erroneously assume these concepts work identically to similar ones in Latin America (they often don’t). Some countries don’t even have Surrogates or Probate courts, making these concepts particularly foreign to some Hispanic clients and difficult to translate accurately.

Best practices. While legal documents may necessarily include some technical jargon and complexity, practitioners should supplement formal documents with understandable, plain language letters and explanatory memoranda. Using examples through storytelling can clarify concepts effectively. Practitioners should mirror or periodically check with the client what was explained to confirm understanding, rather than rely on the client simply nodding in apparent agreement. A smile or nod may mask the client’s lack of understanding of key concepts.

Informal Arrangements

It’s not uncommon to hear statements such as: “Mi hijo se queda con la casa”—“my son will keep the house.” Unfortunately, oral promises aren’t enforceable in probate court. Without properly executed deeds or written transfer documents, well-intentioned informal arrangements often transform into expensive disputes among family members.

Family-owned businesses face similar risks. Without a formal succession plan documented in appropriate legal instruments, many businesses collapse after the founder’s death. In cash-heavy households, undocumented assets make probate proceedings even more complex and contentious. Practitioners should explain to the client that cash could be identified by the Internal Revenue Service and trigger audits with costly tax, interest and penalty charges. If there’s a post-death dispute involving cash, bringing it to the probate court may ensure scrutiny. Practitioners need to be careful in how they handle unreported income to protect the client and themselves. The practitioner’s role is to gently but

firmly bring these informal arrangements into the legal framework before they become legal battles. This requires sensitivity to the client’s perspective, while clearly explaining the legal requirements and potential consequences of failing to formalize arrangements.

Cultural Values

Cultural values hold significant importance within the Hispanic community, often influencing various aspects of life, including family traditions and charitable practices. Many families feel a strong connection to their faith and may choose to leave gifts or donations to their church to express gratitude and support. This practice not only reflects devotion but also strengthens community ties.

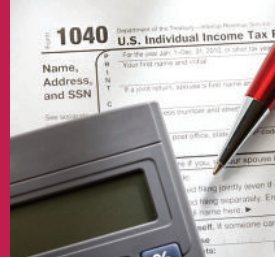
An elderly parent may designate one child, often a daughter, as a primary caretaker. These expectations and responsibilities need to be reflected in planning documents. The legal tools that will assist the caretaker daughter should also be created to make her responsibilities more manageable and to ease the parents’ transition (for example, health care directives and durable powers of attorney).

Institutional Distrust

Distrust of lawyers and government institutions is a reality that practitioners should understand to represent many Hispanic clients effectively. Many clients have experienced corruption or inefficiency in their home countries, making them understandably wary of legal and governmental systems. Even clients born in the United States or living here for a long time may have similar feelings. Consequently, referrals through churches, community leaders and family networks often carry substantially more weight than traditional marketing strategies for this audience. Building trust through relationships and community connections is essential; competency may be assumed once one identifies as an attorney, but trust must be earned through demonstrated cultural sensitivity and respect.

Trust Drafting

Family dynamics often necessitate careful attention to trust terminology. It’s essential to carefully consider



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the definitions of terms such as “descendants” or “issue” as conventional legal interpretations may inadvertently exclude individuals whom a Hispanic client wishes to benefit. For example, the client might have a niece who’s lived with them or been treated as a child and may not realize that the formal language of their will wouldn’t cover someone they view as a child because the child isn’t biologically the client’s. Clarifying these terms with the client ahead of time to establish the goals and relationships ensures that the trust accurately reflects the client’s intentions and provides for all intended beneficiaries.

Alternatives to standard QTIP planning. When estate taxes aren’t a concern, it’s common in spousal estate planning to distribute all assets of the deceased spouse to a qualified terminable interest property (QTIP) marital trust benefiting the surviving spouse. This approach provides asset protection for the surviving spouse from creditors and other claimants, permits allocation of GST tax exemption to the trust (through a reverse QTIP election) and provides for a basis step-up (adjustment) on the surviving spouse’s death.

However, this standard approach may conflict with a Hispanic family’s intended disposition. If members of the broader “family,” such as a grandparent, aunt or other relative, are receiving financial assistance, the typical QTIP plan won’t suffice. Instead, the estate planner may allocate all or part of the estate of the first spouse to die to a credit shelter trust with sprinkle provisions, enabling all desired beneficiaries to be included.

Recognizing that assets in a credit shelter trust won’t receive a basis step-up on the surviving spouse’s death, practitioners should consider strategies such as harvesting gains and losses, making distributions of DNI to lower bracket beneficiaries and implementing asset location strategies to dampen growth that won’t benefit from a basis step-up. While using a credit shelter trust (unless advantageous because the client lives in a decoupled state with a low estate tax exemption) isn’t a perfect solution, it may more closely align with the family’s objective of ensuring that all individuals they wish to protect are provided for.

Sprinkle trusts for extended families. A common trust drafting approach for families with

young children is to create a sprinkle or pot trust on the death of the last parent, benefiting all children. This structure is typically employed so that the needs of all children, especially those remaining minors, can be met from a single trust without requiring allocation among individual shares. This approach may facilitate payment of household expenses for the children and allows for additional distributions to a child requiring extra care before funds are divided at the youngest child attaining the age of majority.

In the context of a Hispanic family seeking to benefit several family members beyond descendants, this approach may be adapted to fit their specific dispositive wishes. If there are children, the sprinkle trust might not terminate and divide into separate trusts for each child at a later date than the typical application of this trust illustrated above. The trust might be divided at the later of: (1) the death of each other specified (for example, non-descendant) family beneficiary; or (2) the youngest child attaining a specified age (such as 18 or 21).

Multijurisdictional Challenges

Many Hispanic families navigate the complexities of living across borders, and their assets reflect this reality. This situation presents unique challenges, including:

- Foreign nationals inheriting property in the United States;
- Potential conflicts between forced heirship laws in other countries and U.S. estate-planning practices;
- Heirs residing overseas, creating complications involving apostilles, individual taxpayer identification numbers, translations of legal documents and international notarizations; and
- Requirements for coordinating with foreign legal systems and complying with multiple jurisdictions’ requirements.

Addressing misconceptions. Widespread misinformation exists regarding the requirements for establishing trusts and other estate-planning vehicles. A common misconception is that one must be a U.S. citizen to create a trust. Early coordination



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in estate planning can significantly impact outcomes. By anticipating potential hurdles and aligning U.S. estate plans with foreign laws from the outset, practitioners can help clients avoid delays that often extend for months or even years. Practitioners should be alert to the implications of a tax treaty if one exists. ■

Endnotes

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SPOTLIGHT



Hope and Envy

Esperanza / Envidia by Inès Longevial sold for £7,740 at Phillips New Now: Modern & Contemporary Art auction in London on Dec. 3, 2025. Longevial, who started painting when she was age seven, primarily focuses on two themes: nature and femininity. She tends to create minimal scenes of female bodies with subtle facial expressions and various postures.