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Focus

Trusts & Estates

Estate Planning Newsletter | Fall 2026

Planning for the future of the family cottage

For many Michiganders, the family cottage is a treasured place filled with lasting memories. What families may not spend much time considering, however, is planning for the future of the property so it can be enjoyed by generations to come.

In 1994, Michigan voters approved what is colloquially known as "Proposal A," which, among other things, capped the annual increase in a property's taxable value to the lesser of 5% or the rate of inflation. This cap is removed, however, when the property is transferred. Upon a transfer, as defined by the statute, the property's taxable value is reset to the state equalized value of the property for the calendar year following the transfer. Family members may hold certain property for years or even decades. Failing to plan for the eventual transfer of the property, even among family members, could result in significant property tax consequences for the future owners.

Intrafamilial Transfer Considerations

Fortunately, Michigan law also provides several exclusions from the definition of property transfer that are relevant to intrafamilial cottages. For example, residential property transferred to the current owner's or the current owner's spouse's mother, father, brother, sister, son, daughter, adopted son, adopted daughter, grandson or granddaughter will not be considered a transfer of property for the purposes of the taxable value uncapping statute, as long as the property is not used for any commercial purpose following the transfer.

Transferring residential property to a trust whose sole present beneficiary or beneficiaries are the settlor's or the settlor's spouse's specific relatives as noted above is also exempt from the definition of a transfer of property, if the property is not used for any commercial purpose following the conveyance. Additionally, the change of the present beneficiaries of a trust will be considered a transfer of the property owned by that trust, unless the change adds or substitutes the settlor's or the settlor's spouse's relatives listed above and the property is not used for any commercial purpose following the change in ownership.

No Commercial Purpose Requirement

It's important to understand that these intrafamilial transfer exemptions are — as noted above — conditioned on the property being used only for residential purposes following the transfer. The law defines this as limiting any rentals to less than 15 days per calendar year. Your family should be prepared to discuss this and ensure that family members who are interested in owning and maintaining the family cottage understand that if they intend to claim one of these taxable value uncapping exemptions, they will be unable to use the property to generate significant rental income.

Other Considerations

Intrafamilial transfers may still be subject to state or local transfer taxes, and there are other estate-related issues, such as shared-use agreements, to take into consideration in the process of planning for the succession of ownership of a family cottage. Warner's team of real estate and estate planning attorneys can help draft shared-use agreements, plan for the future of your cottage and analyze all facets of a potential transfer. Contact your Warner attorney to get started.



Trump Accounts: Understanding the new tax-advantaged account for children



The One Big Beautiful Bill Act was signed into law on July 4, 2025, creating a new type of tax-advantaged account for children younger than 18, known as a "Trump Account." The account is established under Section 530A of the Internal Revenue Code and functions as an individual retirement account (IRA). While an adult must manage the account, the child is the beneficiary and owner.

Trump Accounts became available for funding on July 4, 2026. They are tax-advantaged accounts, but unlike traditional and Roth IRAs, a child does not need earned income to establish an account or to receive contributions.

One of the program's key features is the one-time $1,000 federal contribution for eligible children who are U.S. citizens born between January 1, 2025, and December 31, 2028. Children born before January 1, 2025, are still eligible for an account, but they will not receive the $1,000 contribution.

Eligible beneficiaries include children under age 18 who are U.S. citizens and have a valid Social Security number. As of Oct. 1, 2026, the U.S. Treasury Department automatically enrolled every eligible child in a Trump Account, extending accounts to more than 60 million children nationwide. Parents, legal guardians or other authorized individuals no longer need to establish an account on a child's behalf, but they must still claim it before contributing or receiving the one-time $1,000 federal contribution. To claim an account, a parent or guardian downloads the Trump Accounts app, verifies their identity and relationship to the child, confirms the child's information and accepts the account term.

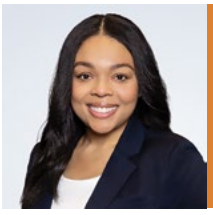
During the account's initial period, referred to as the growth period, the Trump Account is maintained for the benefit of the child and is subject to special contribution, investment and distribution rules. The growth period generally ends on December 31 of the calendar year in which the child turns 17. Families should also understand that beginning January 1 of the calendar year in which the child turns 18, the account generally follows traditional IRA rules, meaning the child may withdraw funds, although distributions may be subject to income tax and an additional tax unless an exception applies.

Certain contributions are subject to a combined annual limit of $5,000 per child, with inflation adjustments beginning after 2027. However, contributions from certain governmental entities and charitable organizations are not subject to this limit. Likewise, the one-time $1,000 federal contribution does not count toward the annual contribution limit. Further, contributions made during the growth period are generally not tax-deductible for either the contributor or the beneficiary, but investment earnings grow on a tax-deferred basis.

Unlike traditional and Roth IRAs, a child doesn't need earned income to start saving — families can begin from birth.

Investment options are limited to eligible mutual funds and exchange-traded funds (ETFs) that track the S&P 500 or another qualifying equity index, with at least 90% of assets invested in U.S. companies. The funds must also satisfy certain expense limitations, including an expense ratio cap of 0.10%, or 10 basis points.

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Beginning January 1 of the calendar year in which the child turns 18, they have the option to maintain the account as a traditional IRA, roll the funds into another eligible retirement account or consider a Roth conversion, subject to applicable tax rules. As with traditional IRA distribution rules, early distributions before age 59½ may be subject to ordinary income tax and a 10% additional tax, absent an exception.

Trump Accounts offer several benefits for long-term investing. The one-time $1,000 federal contribution for children born between 2025 and 2028 provides eligible children with an initial government-funded contribution. Since no earned income is required, families can begin saving for a child from birth rather than waiting until the child obtains employment. Earnings grow tax-deferred and contributions do not affect a family's ability to contribute to other IRAs, 529 plans or custodial accounts.

Despite these advantages, families should consider the limitations of establishing Trump Accounts. Contributions during the growth period are not tax-deductible; investment options are narrowly restricted to qualifying U.S. equity index funds, which may limit diversification; and funds are generally restricted during the growth period. These limitations make Trump Accounts less flexible than 529 plans, especially for families seeking access to funds for education expenses. Lastly, and most importantly, legislative changes could alter the program rules, resulting in an element of uncertainty.

For families with children born between 2025 and 2028, electing the one-time $1,000 federal contribution may be an attractive opportunity. For other eligible children, the decision to make additional contributions should be evaluated alongside alternatives such as 529 plans, custodial Roth IRAs and UGMA/UTMA accounts, depending on the family's financial and estate planning objectives.

As with any tax-planning decision, clients should consult with a tax professional to determine how a Trump Account may fit within their overall financial and estate planning strategy.

ATTORNEY SPOTLIGHT

Erin Poston





What kind of law do you practice and what do you enjoy about it?

My multifaceted practice is dedicated to helping clients preserve, protect and manage wealth by designing estate plans tailored to their needs and goals. Throughout the estate settlement process, I guide families with compassion following the loss of a loved one. In trust administration, I advise fiduciaries in fulfilling their responsibilities with precision and care. Finally, I assist with tax compliance through the review and preparation of income, gift and estate tax returns to facilitate the efficient transfer of wealth across generations. I enjoy developing lasting client relationships and guiding clients through significant life events.

Tell us about your background and why you decided to become an attorney.

My decision to become an attorney was an extension of my interest in tax law. I was drawn to the process of learning complex rules and applying them to real-life circumstances. Naturally, my nature led me to pursue a career working closely with individuals and families. Becoming an attorney, specifically a trusts and estates attorney, offered the opportunity to combine these interests in a meaningful way.

What do you think people would be surprised to learn about you?

I'm extremely creative and enjoy all things stationery, decorating, calligraphy and home projects. I also love a good football game. Go Green!

Why did you want to work for Warner?

Being an attorney requires long hours, complex work and significant demands. It was important to me to join a firm that makes work enjoyable. Warner is uniquely known for celebrating its people, fostering meaningful connections and honoring its traditions. I quickly learned that "fun, pride + profit" is more than just a slogan, and the firm demonstrates that each and every day. I wanted to work at a firm where I could grow professionally, while also maintaining a fulfilling personal life as a wife, mom, sister and daughter. Warner has been that and more.

What are your hobbies and interests?

I love anything outdoors, including hiking, camping, golfing and winter sports. I'm also a true crime fanatic and love podcasts and shows. Dateline is my favorite.

Michigan 529 plan funds for K–12 education: **What donors should know**



529 education savings plans are no longer limited to covering qualified higher education expenses. Beginning in 2026, 529 account owners may withdraw up to $20,000 per beneficiary per year to pay K–12 qualified education expenses at eligible elementary or secondary schools, including public, private and religious institutions. For Michigan families and donors who have funded or are considering contributing to the Michigan Education Savings Program (MESP), MI 529 Advisor Plan (MAP) or Michigan Education Trust (MET), this expanded use raises important questions about the state and federal tax consequences.

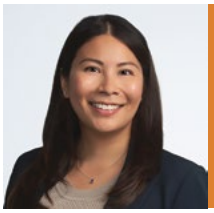
Federal Tax Treatment
At the federal level, contributions to a 529 plan are made with after-tax dollars and are not deductible on your federal income tax return. However, the earnings within the account grow tax-free, and distributions used for K–12 qualified education expenses up to $20,000 per year per beneficiary are excluded from federal gross income.

> **"Before directing Michigan 529 plan assets toward elementary or secondary school tuition, donors and their advisors should carefully model the state tax consequences."**

This means if a donor contributes to a Michigan 529 plan and later uses those funds for a child's or grandchild's private or parochial school tuition, the investment growth on those contributions will not be subject to federal income tax, provided the distribution does not exceed the annual $20,000 limit. Amounts withdrawn in excess of that threshold for K–12 qualified education expenses would be treated as nonqualified distributions, subjecting the earnings portion to ordinary income tax and a 10% penalty.

Michigan Does Not Conform to Federal K–12 Treatment
Michigan's treatment of 529 plan contributions and distributions for K–12 qualified education expenses requires caution. Michigan offers a state income tax deduction for contributions to the MESP,

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MAP and MET. For 2026, the maximum annual deduction is $5,000 per taxpayer or $10,000 for married couples filing jointly. This deduction reduces Michigan taxable income in the year of contribution and is one of the primary incentives for using a Michigan-based plan.

However, Michigan does not conform to the federal provision allowing tax-free 529 distributions for K–12 qualified education expenses. Under Michigan law, a distribution used to pay elementary or secondary school tuition is treated as a nonqualified withdrawal for state income tax purposes. This means the earnings portion of any such distribution is subject to Michigan income tax at the flat rate of 4.25 percent.

Additionally, and critically, if a donor claims the Michigan income tax deduction for contributions and then uses those funds for K–12 qualified education expenses within the same tax year or shortly thereafter, the previously claimed deduction may need to be "recaptured." In effect, the donor would be required to add back the deducted contribution amount to Michigan taxable income in the year of the nonqualified distribution. This recapture provision can significantly diminish or eliminate the state tax benefit that motivated the original contribution.

The ability to use 529 plan funds for K–12 tuition is a welcome expansion of flexibility at the federal level, but Michigan's nonconformity creates a potential tax trap for unwary donors. Before directing Michigan 529 plan assets toward elementary or secondary school tuition, donors and their advisors should carefully model the state tax consequences and evaluate whether alternative savings or gifting strategies may be more appropriate.

Reach out to our Trusts and Estates group with any questions about how these rules may affect your family's education funding strategy.

Planning considerations for donors

Given this disconnect between federal and state treatment, donors using Michigan 529 plans for K–12 qualified education expenses should consider the following:

Timing matters.

If a donor intends to use 529 funds for elementary or secondary expenses in the near term, the Michigan income tax deduction may provide little or no net benefit once recapture is taken into account. Donors with longer time horizons may still benefit from the federal tax-free growth on earnings, even if the Michigan deduction is recaptured.

Efficiency.

Donors should consider whether a Michigan 529 plan is the most efficient vehicle for K–12 expenses specifically, or whether it is better reserved for future higher education expenses where both the federal exclusion and the Michigan deduction apply without limitation.

Alternative strategies:

For families with children attending private or religious schools, alternative planning strategies may offer more straightforward estate and gift planning benefits without triggering the state-level complications described above. One such example is direct tuition payments that qualify for the gift tax exclusion under Internal Revenue Code Section 2503(e).



FROM THE CHAIR

529-to-Roth IRA Rollovers



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Under the SECURE 2.0 Act, beneficiaries of 529 plans may roll over unused funds into a Roth IRA through a direct trustee-to-trustee transfer, subject to a $35,000 lifetime cap and the applicable annual Roth IRA contribution limit. To qualify, the 529 account must have been maintained for at least 15 years, and any contributions (and associated earnings) from the preceding five years are ineligible for rollover. This provision offers families a valuable opportunity to repurpose unused education savings for retirement without incurring taxes or penalties.

Contact your Warner Trusts and Estates attorney to determine whether this strategy fits your family's plan.



How mediation may reduce legal expenses in probate disputes



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Like all civil litigation, probate litigation is expensive and involves attorney fees and other legal costs. Probate disputes are often particularly fact-intensive, requiring more attorney time on the matter, which can translate into more fees for clients. Depending on the circumstances of the case, a successful mediation may help minimize these legal expenses.

Mediation is a dispute-resolution process in which a neutral mediator (typically an attorney with relevant expertise) attempts to facilitate a mutually acceptable settlement agreement that resolves the parties' dispute. The process is nonbinding, meaning all parties must voluntarily agree to the resolution.

Mediation may occur in one of two contexts: before a lawsuit is filed or while a lawsuit is pending. Pre-litigation mediation has the greatest potential to minimize legal expenses. If the mediation results in a settlement resolving the dispute, then no litigation will be necessary and no litigation-related legal fees will be incurred. The parties will still incur fees for legal counsel during mediation, and it would be imprudent for a disputant to proceed without an attorney.

However, pre-litigation mediation is not always feasible. A party should not mediate until they possess the information necessary to make an informed decision about a potential resolution. For example, if a trustee has misappropriated funds from a trust, the beneficiary needs to know how much was embezzled and how much of the trust's assets remain in order to negotiate a settlement intelligently.

The trustee may or may not be willing to voluntarily disclose the needed information before pre-litigation mediation. Outside of the litigation process, the beneficiary has no ability to compel the trustee to disclose the needed information. In that scenario, the beneficiary would have to file a lawsuit in order to obtain the needed information before participating in mediation.

In the context of probate litigation, Michigan probate courts often (but not always) require the parties to participate in mediation. A distinction is made between early and later mediation, depending on when it occurs in the course of the lawsuit. Early mediation, if successful, will avoid more legal fees than later mediation. However, the key question remains whether the parties possess the information needed to engage in meaningful settlement negotiations. Early mediation should not be held until that information is obtained.

It is not necessary for the parties to discover every single fact before participating in mediation, but it is necessary for them to possess the fundamental facts of the case. What those fundamental facts are will depend on the nature of each case.

The parties should not always rush to participate in mediation. In some cases, a party may believe there are factual and/or legal grounds to file a motion asking the probate court to grant summary disposition where some or all of the claims would be decided immediately. In that case, mediation is often deferred until after the summary disposition stage. If a party has a chance of prevailing on the case by filing such a motion, they will be unlikely to agree to a settlement agreement until they know if the court is willing to grant their motion. This can be a cost-effective strategy.

Mediation can not only resolve a probate dispute but also avoid substantial related legal fees. A disputant should retain experienced probate litigation counsel to advise as to whether and when to engage in mediation.

Stay informed.

Keep up with key Michigan probate litigation cases, legal developments and practical insights from Warner's Probate Litigation team.

Scan the QR code or go to wnj.com↗ to explore our Michigan Probate Litigation Cases & News blog.

NOTEWORTHY

Recognizing the achievements of our trusts and estates team

The Best Lawyers in America® 2027: Daniel Borst, Sean Cook, Carl Dufendach, Mark Harder, Frank Henke, Catherine Jacobs, Laura Jeltema, Jay Kennedy, Susan Gell Meyers, Laura Morris, Sara Nicholson, Jeffrey Power, Jennifer Remondino, David Skidmore, James Steffel and W. Michael Van Haren. Haley Clough, Nina Lucido, Erin Poston and Raquel Sportel were selected to the Ones to Watch list.

Michigan Super Lawyers 2026: Sean Cook, Susan Gell Meyers, Richard Roane and David Skidmore. Chelsea Brown, Haley Clough and Nina Lucido were selected as Rising Stars.

Chambers High Net Worth Guide 2026: Warner's Private Client and Family Office practice was again ranked in Private Wealth Law in Michigan. Mark Harder, Laura Jeltema, Susan Gell Meyers, Beth O'Laughlin, Jennifer Remondino, David Skidmore and W. Michael Van Haren were individually ranked in Private Wealth Law. Richard Roane was ranked in Family/Matrimonial: High Net Worth.

Crain's Grand Rapids Business: Laura Jeltema was recognized among the 2026 Notable Leaders in Accounting, Consulting & Law.

Mark Harder was appointed as a regent for the Great Lakes Fellows Institute, sponsored by the American College of Trust and Estate Counsel. He represents Michigan on the institute's leadership committee and serves on the subcommittee designing its curriculum.

Molly Nicol published "Marriage Across Borders: Estate Planning for Mixed-Citizenship Couples" on Warner's Legacy Matters blog.

Haley Clough and Mark Harder presented "Drafting Trusts for Estate Tax Planning" for ICLE in January.

Sara Nicholson published two client alerts on FinCEN's residential real estate reporting rule: an overview of the requirements scheduled to take effect March 1 and a subsequent update after the rule was vacated.

Juliette Peterson and Molly Nicol presented at ICLE's Estate Planning for Retirement Assets seminar in March. Peterson discussed beneficiary designation decisions, and Nicol addressed required minimum distribution rules (RMD).

Catherine Jacobs released four new episodes of Warner Medicaid Moments addressing estate recovery, durable powers of attorney, the treatment of life insurance policies during the Medicaid spend-down process and why assets designated as separate property in a prenuptial agreement may still count when determining Medicaid eligibility.

Mark Harder and Chris Meyer joined a Western Michigan Estate Planning Council panel on structuring Michigan cottage ownership for the next generation.

David Skidmore published three articles: "How Should the Probate Court Preserve Assets Pending a Final Ruling on the Merits in Probate Litigation?" on Warner's Michigan Probate Litigation Cases & News blog; "Probate Litigation Report: The Testamentary Exception to Attorney-Client Privilege in Joint Representation Situations" in the Michigan Probate & Estate Planning Journal; and "Divorce Meets Death and Disability: The Intersection Between Domestic Relations and Probate/ Estate Planning" in the Michigan Family Law Journal.

Chelsea Brown presented "When Estate Plans Are Challenged: Capacity, Undue Influence and Conflict in Probate Court" for the Great Lakes Bay Estate Planning Council in April.

Danelle Harrington presented on farm succession and farmland issues for the Estate Planning Council of the Grand Traverse Area in May.

Daniel Borst, David Skidmore and Laura Jeltema presented at the 66th Annual Probate & Estate Planning Institute in June. Borst discussed marital agreements in Michigan, Skidmore provided a recent case law update and Jeltema examined trust accountings.

Karen Kayes led a will-planning Lunch & Learn for the Community Foundation for Muskegon County in June.

Mark Harder and retired Warner partner John Martin were cited extensively in the Michigan Supreme Court's July opinion in *In re Estate of Jennifer L. Fowler*. The court relied on Reporter's Comments they wrote for Estates and Protected Individuals Code with Reporters' Commentary.

Sean Cook was appointed to the Michigan Accountancy Foundation board.

Juliette Peterson and Erin Poston will present two sessions at the Michigan Bankers Association Midwest Trust and Wealth Management Conference on Oct. 15: "Directed Trusts and Divided Fiduciary Roles" and "Decanting and Trust Modification: Opportunities and Hidden Concerns."

Laura Jeltema and David Skidmore will host "What Every Accountant Should Know Before Drafting a Trust or Estate Accounting," a Nov. 19 webinar covering legal requirements, common pitfalls and practical strategies for preparing fiduciary accountings.

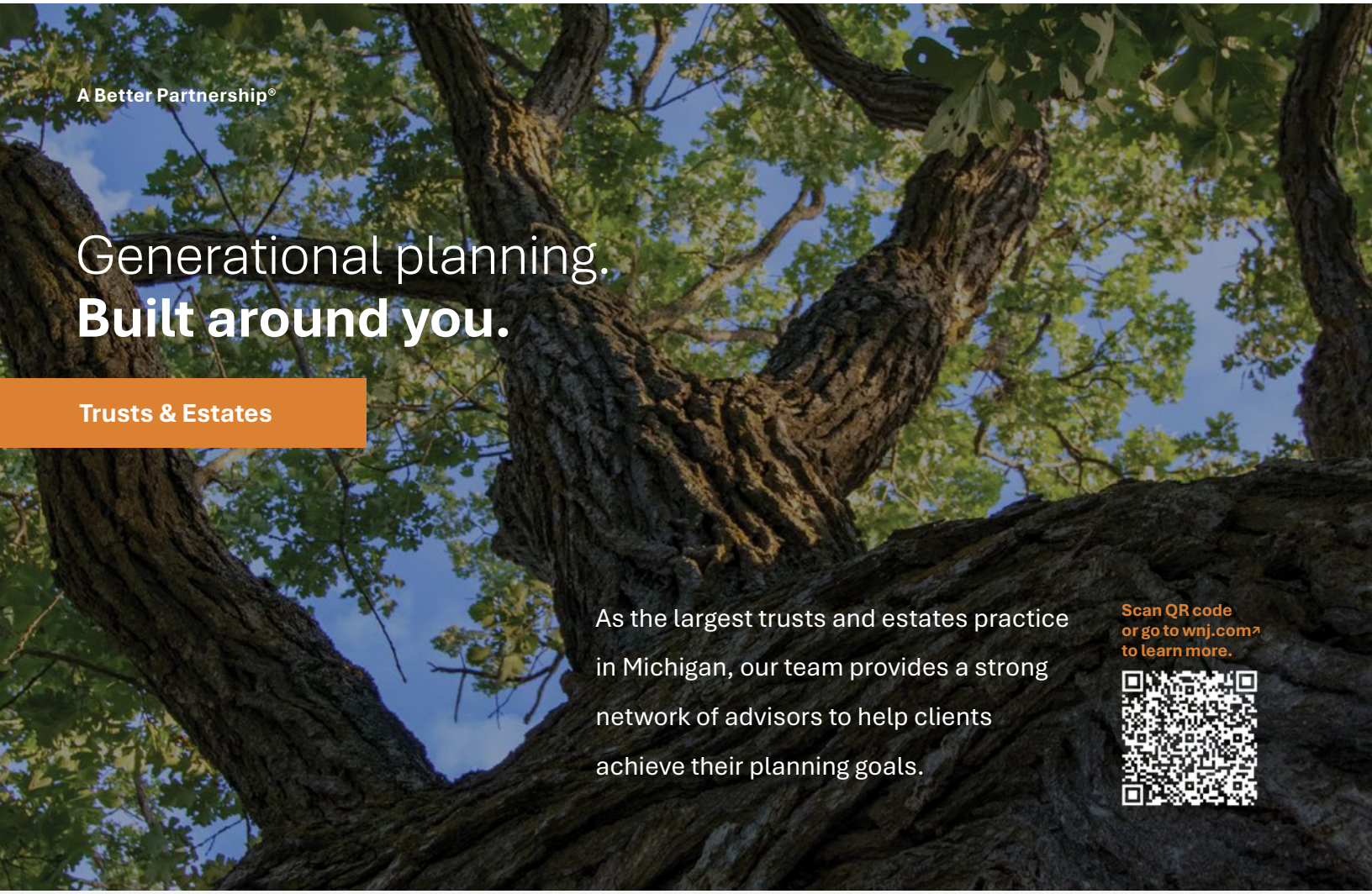
Trusts & Estates

Contact us

To learn more about Warner's trusts and estates services, contact a member of our team or visit our website at **wnj.com**↗.

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Warner is focused on providing the best legal solutions and exceptional client service to organizations throughout the world. With 230+ experienced attorneys practicing law in 70+ specialty areas from nine offices and virtually, we have what it takes to support you — no matter what issues you face. We put your people, issues and goals first, building lasting relationships through collaboration, responsiveness and trust.

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