

DEFINING YOUR LEGACY: THE ESTATE PLANNING PROCESS

Key considerations and checklists



People often talk about “leaving wealth” as if it were an accident or afterthought. In defining your legacy, it is important to have goals and purposes for your wealth transfer. The legacy process is simply “planned gifting.” The clearer your plan, the more effective your gift(s) will be in creating your legacy for the future.

WHAT TO THINK ABOUT IN ADVANCE OF THE MEETING WITH YOUR ADVISORS

Before you meet with your advisor(s), consider the purpose behind each transfer of wealth. The specifics of the trust provisions and assuring that all of your gifts are made in a tax-efficient manner are of secondary importance to determining of the objectives for your wealth transfers.

Your advisors, especially your corporate trustee, should be able to help you examine the viability of your wealth transfer plan. Your goals – as well as the law and the dynamics of the potential beneficiaries – can and will change over time. No matter the changes, a successful legacy requires that you correctly and consistently apply the words of Polonius in Shakespeare’s *Hamlet*, “This above all else; to thine own self be true.”

Overarching questions for defining legacy

- What was the primary reason you accumulated your wealth?
- Why are you choosing to transfer your wealth?
- Describe what you hope will happen to the recipients of your wealth once funds have been transferred to them.
 - How confident are you that the envisioned result will become a future reality? Why are you confident or why are you not confident?
 - Will all of the transferred wealth be necessary to accomplish the envisioned result? If not, what should happen to the “excess” wealth?
 - How will you feel if the envisioned result does not occur?
 - Is there any result of the wealth transfer that would cause you to regret having made the transfer?
- Imagine that wealth transfer is essentially an investment and that the accomplishment of your objectives for the transfer is the “return” on the investment. What, then, are the wealth transfer investments that will give you the highest returns? Why?
- Suppose that the goal of your wealth transfer is your personal fulfillment. How does the amount and timing of each proposed gift give you a strong sense of personal satisfaction?



- What is the optimal timing for the proposed wealth transfers? Why?
 - Is there anything that would need to be said or done by you or others to optimize the chances that the transferred wealth will accomplish its purpose?
 - Who would be in the best position to assure that wealth is distributed at the optimal time to accomplish your purpose?

What expenses would you like to see the trustee pay?

- **What should education include?** Up to what level? For how many years? Does it matter if the cost varies radically among children? Does education include athletic training/lessons, fine arts training and lessons, classes for enjoyment of lifestyle activities (e.g., sailing, cooking and technology)? Is travel for enjoyment and learning about other cultures an educational expense, and if so, are there limitations? Should the additional cost of private educational services be supported even if there are less expensive public sources of comparable training and education?
- **Assist with the down payment on a home?** Up to a set amount or a percentage of the available funds? Can the beneficiary spend as much as he/she wants?
- **Help to start a business?** The entire cost? Only a portion? Does the child need to create a business plan (or other requirements) before receiving the funds? Is there a limit to how much of the trust can be devoted to this request?
- **Are there lifestyle expenses that should be included or specifically excluded?** For example, adoption expenses don't fit neatly into the standard distribution language and might not be covered.
- **What about the costs of caring for a minor child by someone named as guardian?** Purchase a new home or add

on to an existing home? Quit his or her job to stay home? Can funds be used for others in the guardian's family too? Is one of the intentions to ensure that there are funds left at that point to assist the guardian and child, or is it appropriate to use all of the funds prior to that point? Are the funds given to the guardian for improvements or a new home essentially deemed payment for their care of the children, or should the trust retain a lien or mortgage to ensure those funds are eventually paid?

- **Can payments be made to a child's spouse or life partner?** If so, are there any restrictions?
- **What if a child gets involved with alcohol, drugs or another addiction?** Should there be some way for the trustee to withhold distributions under these circumstances? Who determines if the child has a problem? How is the determination made? What rehabilitation or substance abuse expenses should the trustee be willing to pay for and for how long and how often?

Does a beneficiary need to work?

- **What if the work is for a nonprofit that pays very little?**
 - The amount earned may not be sufficient for support, but it may be worthwhile work. Does that matter? Who decides if it is worthwhile?
 - Is it fair to allow or have a situation where only some of the beneficiaries are receiving funds to care for children?
 - What is "very little?" At what point should a child's income be supplemented? What counts as work? Is it fair if one child receives a supplement, but others do not?
- **What if the child's chosen calling pays minimal income (musician, artist, clergy, etc.)?** Can distributions be made to support the activity? When the activity is considered simply a hobby, a part-time endeavor rather than a vocation, does it matter?

- **What if the child is staying home to care for children?** Can both a son and a daughter choose to stay home? Both a child and his/her spouse? Can they stay home only until the children reach a certain age?
- **What if the child does not work, but volunteers?** Is there a minimum number of hours required? A child who is committed to volunteering may feel it is work and want to see it treated as such. Do you agree?
- **What if the child is unemployed and makes no effort to find a job, instead looking to the trust for support?** The standard distribution language would allow the trustee to pay for a beneficiary's typical expenses: mortgage, food, entertainment, utilities, insurance, etc. Is that your intent?

When should a beneficiary learn about the scope of their inheritance?

- At a certain age? After reaching a certain milestone?
- How much information should be provided?
- What information should be shared with a beneficiary's spouse?
- What role should the beneficiary have in how the funds are invested and/or distributed? The beneficiary's behavior and expectations may shift significantly upon learning of the inheritance. On the other hand, most states require notice to current beneficiaries (and some require notice to future beneficiaries) advising them of their interests and rights. Do you agree with those provisions? Can they be overridden by the terms of the document? Should they be?

What role can/should philanthropy play?

- Should the child donate funds to charity?
- Do you want funds to pass to charity, now or in the future?
- Who picks the charities? Does it matter if the child may give to charities that you do not like? If it does, you may want to include restrictions.

What about grandchildren or more remote generations?

- Do you want to keep assets in trust for their benefit?
- How much flexibility do you want your children to have in changing the provisions for their children/grandchildren?
- How restrictive can you be for beneficiaries who you may never know?
 - There is a trend in estate planning to allow trustees, trust protectors and/or the beneficiaries to make significant changes to trust documents. Should there be any restrictions?
 - There is a potential conflict of interest between generations, absent specific language. The current generation may want to use all of the funds, leaving nothing for grandchildren. If you feel strongly as to limits on distributions to the senior generation, or alternatively feel there should be no limits, it is best to say so.

Who should be treated as part of the "family?"

Does "equal treatment" matter?

- What if needs are unequal?
- What if desires are unequal?
- What if means outside of the trust are unequal?
- What if the number of descendants is unequal?

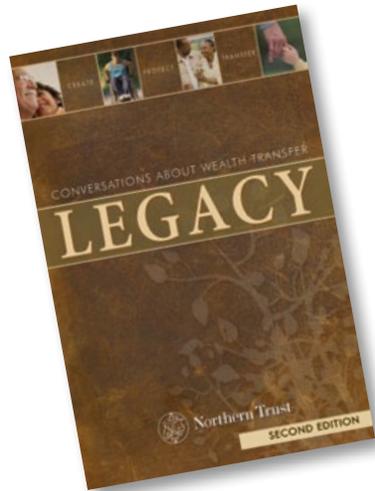
Are there other issues that matter to you that need to be reflected in how funds are distributed from the trust? The issues might include lifestyle choices, religion, location, level of responsibility, level of education, etc.

What else do you want your children to know?

- What is important to you?
- What do you wish for your children?
- Any "words to live by?"

FOR MORE INFORMATION

These questions can help you think about what you want to accomplish and about the values that you want your estate plan to embody. ***Legacy: Conversations About Wealth Transfer*** was created to help individuals and families engage in meaningful dialogue about their wealth – and key considerations for defining one’s legacy – both during their lifetimes and for generations to come. Visit northerntrust.com/legacy to download the e-book or to request a complimentary copy.



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