Considerations for family legacy planning

These steps can help you create a legacy plan that both reflects your values and incorporates tax-efficient ways to transfer your assets.

Managing family wealth over the long-term requires careful thought and a well-structured estate plan.

Yet when it comes to legacy planning, if you're like many people, you may fall into one of two categories:

- You've done some basic planning, such as creating a will or naming beneficiaries on key retirement and investment accounts.
- You've put together an extensive estate plan, but much of the emphasis has been on identifying tax-efficient ways to transfer assets before or after your death.

Either approach can fall short of the goals you want to accomplish that go beyond the scope of covering the basics or reducing your tax burden.

The following steps can help you build a legacy plan that combines your vision for the future of your assets with responsible tax management.

1. Set your vision

Thinking about the future of your money, particularly about the time when you may no longer be in the picture, isn't easy to do. But before you make specific decisions about what's best for your wealth, it's wise to spend time considering what it is you really want to see happen with it.

For example, outline acceptable ways for your heirs to spend money, rather than focus on what you don't want them to spend money on. Or, take into account that a primary area of conflict is often over the sentimental value heirs place on items rather than the monetary value.

Talk to advisors to learn what your options may be and evaluate the strategies that you feel make the most sense for you. Remember that tax avoidance is not the only objective of your legacy strategy and may be less important than other objectives.

2. Prioritize financial security for your family

When it comes to the long-term disbursement of your assets, the financial interests of family members are generally a main concern. Specific strategies can be put into place to ensure

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your wealth is passed on to your surviving spouse, children, grandchildren and subsequent generations.

As an example, let's say your beneficiaries will need to share in the management of a particular asset, such as a business or real estate. It's important to consider potential conflicts that could develop long after you're gone, such as one of the beneficiaries wanting to sell their ownership stake in the future. You can specify terms of how a sale can occur so that it's fair to all parties while not putting the entity at risk.

Providing this level of guidance in advance is a way to foster long-term family harmony and avoid potential legal entanglements between beneficiaries.

3. Maintain control over your assets

There are actions you can take now that allow you to maintain control over how your assets are distributed even after your death.

For example, trusts can be structured to make payments to beneficiaries only when they've attained certain milestones that you specify in the trust, such as reaching a specific age or graduating from college. Likewise, you can provide detailed guidance for your trustee on how to manage distributions from your estate.

Limiting the amount of control beneficiaries will have over assets can help prevent those who are less experienced with managing money from making major financial mistakes. However, retaining too much control after your death could have a negative impact and limit their development. It could also lead to resentment and conflict.

Balancing control through specific language in your estate documents with education and empowerment for your beneficiaries can have long-term rewards.

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4. Protect your assets from creditors

Depending on your circumstances, you may want to take steps to protect your assets from others. Whether it's claims during your life or claims against your heirs during theirs, certain trust provisions may prevent creditors from laying claim to those assets and can be structured in a way that will continue to generate income throughout your life.

5. Leverage tax free gifts

Current gift and estate tax laws provide flexibility in managing your estate. The lifetime gift and estate tax exemption in 2021 is $11.7 million per individual or $23.4 million per married couple of value that may pass tax free (the number is adjusted annually to reflect inflation).

This is in addition to the $15,000 (individual)/$30,000 (married couple) per recipient you can gift annually without tax consequence. You can also annually gift an unlimited amount paid to healthcare providers and for tuition. Good planning techniques can increase this amount.

6. Name a trustee

One of the critical decisions you

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need to make when creating a trust is naming a trustee or trustees. A trustee is responsible for ensuring that decisions about the timing and distribution amounts to your beneficiaries are consistent with your intentions. Selecting an individual or entity (or both) whom you trust and can handle the duties is essential.

Although you can include specific directions in trust documents, there can be advantages to allowing the trustee to retain more flexibility. For example, if there are changes in circumstances surrounding the investment environment, the economy or individual beneficiaries, a trustee with more control can make the necessary adjustments.

7. Assess your charitable intentions

Think about the reasons you make charitable contributions. Many organizations seeking donations emphasize their tax-deductible nature, and there can be strategic financial reasons for making charitable gifts. However, charitable giving still means a financial sacrifice on your part.

The purpose of your philanthropy should be to fulfill your charitable intentions, with tax savings a valuable benefit. Charitable giving strategies can play an important role in your overall legacy plans but be sure you're making them for the right reasons.

8. Consider your options with existing trusts

If you already have trust documents in place and want to make changes, many states permit significant modifications. For example, certain states have "decanting" laws that allow for the creation of a new trust without going to court. The new trust can contain updated terms that may better reflect your desires. Assets of the old trust are "poured" into the new trust that will now govern the disposition of assets.

If you live in a state that does not allow this level of flexibility, an alternative option is to move the trust to another state to accomplish the desired changes.

9. Prepare your family

Depending on your circumstances, a child or grandchild may stand to receive a significant sum through gifts, trusts or an inheritance. No matter how much you respect the judgment of a beneficiary or trust his or her ability to handle finances, the fact is that money can change people.

Talk to those who will be on the receiving end of your wealth transfer. Explain your values about money to them and consider engaging in activities to discover and align your family's shared core values.

Taking the time to help your family prepare for what's ahead creates the best opportunity for a positive outcome.

Covering the basics is important. Tax planning is great. But, thoughtful planning with an experienced team of professionals that addresses your unique asset mix and family structure can create a true and lasting family legacy.

Learn how Ascent Private Capital Management® of U.S. Bank can help guide your legacy planning process.

