What Your Estate and Trust Plans Say About Your Legacy

With your estate and trust plans, you have the tools to help influence behavior, safeguard assets, preserve and protect financial security, and, ultimately, create your legacy for generations. For perceptions of your legacy to match your intentions, it helps if conversations about family beliefs, values, and relationships are at the forefront of the estate and trust planning process.

Words committed to paper, stories shared in print or video, and family histories portrayed in a personal documentary or revealed in conversation can contribute to your legacy. How can you have confidence that the planning strategies used in estate and trust plans, as well as the fiduciary appointments made to carry them out, accurately capture your legacy goals and objectives? We believe the most effective way is to start with thought-provoking questions that go beyond the numbers.

Your priorities are generally reflected in the choices you make, whether you craft and communicate your family legacy plan with a statement of your mission, vision, and values or rely instinctively on what you feel is best for your family. Estate plans and the various supplements to the formal documents are important tools to help accomplish your goals during life and after your death. The magnitude of these plans and documents can be profound. Proper planning warrants that both financial and legacy-oriented questions are considered to help clarify planning decisions. Further, this approach engenders confidence in the directions you provide to your advisors as they help design a plan that will shape your family’s future while responding to its changing needs.

A key tenant of the Hawthorn, PNC Family Wealth® promise is to help families define success in words as well as in numbers. One way we accomplish this pledge is by facilitating a personal discovery process with families that enables them to discern their wealth transfer plans from a unique perspective, both through a prior generational lens that reveals how they experienced wealth transfer and a multigenerational lens of how they intend to transfer wealth to others now and beyond their lifetimes. By respecting family beliefs and values, and by acknowledging the underlying family dynamics of personal relationships, families have the power to build both wealth that endures and a legacy that lasts.

Wealth and Wisdom—The Legacy Conversation

In our opinion, a focus on the right questions, noting why something or someone is important, will naturally lead to how an estate plan and trust vehicles are crafted to reflect your goals and objectives.
Carolyn Friend and James Weiner, authors of The Legacy Conversation: The Missing Gem in Wealth Planning, refer to family wisdom as the intangible part of one’s life. Estate plans, where individuals spend the bulk of their time articulating their wishes, often only address the tangible, or quantifiable, part of a person’s legacy.

Wisdom is the integration of our family traditions and culture, our guiding principles and beliefs, and our life experiences. By passing on our seeds of wisdom, we strengthen and connect generations.

We fully support the authors’ conclusion that a legacy conversation is a crucial prelude to crafting and updating estate plans. This will help confirm that the most important part of wealth—wisdom—is conveyed.

**Complementary Objectives—Legacy and Estate and Trust Planning**

Family legacy questions that focus on beliefs, values, and relationships and the wisdom they engender may appear to be onerous at first; however, we have found that family legacy goals typically complement estate and trust planning objectives. You want peace of mind that comes from knowing your plans will be carried out as you intended, without disruptions or oversights that could incur unnecessary taxes and expenses or actions that conflict with your goals. Legacy planning helps provide the framework, and estate and trust planning provides the practical implementation.

There are three themes and their related questions that comprise the legacy journey that families hope to reflect in their estate plans—family beliefs, values, and relationships. In order to reveal the true character or wisdom behind each thought and action, how you ask the question is as important as the question itself.

**Family Beliefs**

Beliefs are how you see the world and your role in it. Beliefs are often born of an emotional connection to wealth and how money influences decisions in life, career, and family relationships. Was your first encounter with wealth positioned in a positive light, that is, unifying and liberating? Did it have a strong impact? Or was it the opposite—divisive, controlling, or limiting? We work with families who have experienced wealth transfers in various ways and have found that their personal experiences influence the beliefs that form the foundation of a thoughtful and effective estate plan.

**Beliefs-based Questions**

- What are your core beliefs?
- What do you and your family want to be known for?
- What character qualities are hallmarks of your family?
- What opportunities do you want to create for stewardship of wealth?

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Understanding your beliefs and their inherent connection to wealth may provide some clarity on your wealth transfer goals and the constraints or flexibility placed on its use and distribution.

The following scenario illustrates how responses to beliefs-based questions elicit a more emotionally focused discussion on family unity and the opportunities they provide to capture hopes and dreams for their heirs.

**Family Unity as a Core Belief**

A multigenerational family group comprising many diverse individuals and objectives determined that their core belief was family unity. The values represented in the estate and trust plan reflected a desire to care for each other, offering "parental" protection when needed, even if it was perceived as tough love. There was an emphasis on building respect and dignity in relationships with survivors/beneficiaries and representatives appointed to manage and distribute wealth. Legacy letters, ethical wills, and other forms of communications were specifically created to clearly state the hallmarks of the family and provide the rationale behind financial and charitable actions taken, as well as the effects of those actions on the people involved. Subject matters included family culture, spiritual beliefs, and personal expressions of hopes and dreams for generations to come.

Significant wealth often fosters a desire and perceived responsibility to give back to society, encouraging not only ownership of wealth but also stewardship of wealth. When families share philanthropic interests, families often become mission-minded in their actions. Charitable interests become part of the family’s outreach efforts and a way to connect with each other, even across generations. If the contrary occurs, families may become resentful of wealth to which they may feel entitled because they perceive it as benefiting others, lacking a meaningful connection, and being outside of their control. The following is an example of an approach to balance the need to take care of family with charitable interests.

**Stewardship – Pay It Forward**

A family wished to both provide for and protect their heirs, stipulating reserves for their lifestyle expenses and implementing charitable objectives. In order to balance the gifting of assets to family and to charity, a Charitable Remainder Unitrust (CRUT) was created to provide an income stream for life to the first generation and life insurance purchased in an Irrevocable Life Insurance Trust (ILIT) to benefit the second generation. In this case, a single concentration in company stock represented a significant portion of the grantor’s overall wealth, which made funding the CRUT an exceptionally effective tool. Once in the CRUT, concentrated holdings were diversified without immediate capital gains exposure from the sale of the low basis stock. Income
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flowed to the beneficiaries during their lives and a tax deduction for the remainder directed to charity was taken at death. The wealth replacement life insurance policy proceeds payable to the ILIT for the benefit of the second generation kept the value of the insurance proceeds out of the gross federal (taxable) estate, replacing assets designated to charity in a tax-efficient manner.

A generational focus continued with the formation of a foundation in the second generation’s estate plan to provide purposeful employment and to perpetuate the central theme of charitable involvement for the younger generation. This continuum brought about a deeper connection to and understanding of the family’s charitable causes. Early involvement in the family’s philanthropic endeavors created a pay-it-forward attitude of gratitude. Foundation board internship programs jump-started this process by introducing next-generation board members to charitable giving, teaching them the operational and administrative duties of the family foundation as well as the decisions and activities of effective charitable giving.

Active engagement in the family’s philanthropic endeavors, such as a foundation, a charitable trust, or fund-raising events, provides the best opportunity to keep the commitment to giving alive with the same vitality as the patriarch and matriarch of the family. It encourages the spirit in which the gift was intended and is perceived as an opportunity rather than a burden, minimizing the potential for early termination or radical changes to the original intent.

Family Values

Values are the actions behind your beliefs. Personal historians search for the “thread,” or passion, that flows through a family and its individual members to explain behavior, relationships, and traditions. Family values are often shaped by how wealth was created and run the gamut from a rags-to-riches story filled with hard work, discipline, and sacrifice to a fortunate event. By knowing the family’s values, we may identify biases toward wealth and its potential to help or do harm. Here are a few questions to consider when articulating family values.

**Family Values-based Questions:**

- What is the most important thing wealth can provide?
- What values (both growing up and as an adult) have influenced you, positively and negatively, that you want to communicate and capture?
- What is your greatest accomplishment? What, if any, are your regrets?
- What do you want the generation beyond your lifetime to know about you and your family?

Wealth can generally provide freedom from financial worry. This statement may be interpreted as building a conservative nest egg to satisfy living
expenses, permitting latitude to pursue careers, interests, and charitable endeavors, and the wherewithal to act on dreams some can only hope to achieve. For others, financial freedom signifies everything negative about wealth and conjures up thoughts of when time and energy are wasted commodities and when too much wealth is combined with too little guidance.

The following example emphasizes the value of educating the next generation to address the challenges and opportunities of wealth.

**Accomplishments and Regrets**

A corporate executive shared that his ability to accumulate wealth was one of his greatest accomplishments; his regret was not teaching his heirs how to manage wealth, especially when circumstances challenged financial independence as a result of a divorce. His only child was in the midst of a divorce, and she had little interest or skills to manage assets or spending priorities and needed financial support. Trusts were created for her benefit, which provided protection from creditors and outside influences. A corporate fiduciary was appointed to work constructively with his child to build a portfolio to fund not only her essential needs but also her aspirations, without fear of reprisal. Over time, she learned the discipline required for financial management and built up her confidence in her ability to maintain her financial independence and protection from similar financial events. Family matters may sometimes dictate needs for sophisticated trust instruments to protect individuals from other influences, including themselves.

**Family Relationships**

We believe gaining a historical perspective on your family relationships is as important as the current state of the family's financial affairs. History provides information on the qualitative aspects of wealth beyond the quantitative data, helping to explain the behavioral response to financial decision making that has been passed down based on a family’s beliefs and values. We think how individuals and generations view and assimilate wealth in their daily lives can be understood by looking back and seeing the path each person took in his or her journey. It is important to note how you experienced wealth transfer in your lifetime since it may influence how you direct the people and organizations involved in your own plans. The following family relationship-based questions will help emphasize this approach.

**Family Relationship-based Questions:**

- How much control do you want and why?
- How do you define fair versus equal? Are there ways to offer a balance?
- Should your plans provide incentives or some form of compensation to help achieve a certain standard, preferred career choice, or lifestyle consideration?
Based on the personal talent, education, and family relationships in existence today and which may be forged later, who is in the best position to manage, preserve, and protect your family’s wealth?

- What skill set(s) do the people involved possess to manage, invest, and distribute wealth with objectivity and authority?

- Who do you trust to carry out your wishes based on their personal knowledge of you, your family, and your intentions? Are there family members, advisors, or corporate entities you trust, and why?

We often encounter families who have developed complex arrangements to restrict, control, and otherwise limit access to wealth, largely due to their prior experiences with how wealth was transferred to them or their assessment of the current family dynamics and ability, or lack thereof, to manage wealth. This can cause permanent, sometimes irreparable, divisions among family members.

While it is challenging to confront issues in the present, there is some comfort in discussing decisions directly with the decision maker. Communications after the fact are often misconstrued, especially when delivered over multiple generations. If issues are addressed through a constructive discovery process, estate and trust plans may be crafted and communicated with minimal conflict and misunderstanding.

Specific appointments, legal structure, and the current and ultimate distribution should reflect your intentions and what is important to you and your family. For example, the use of trusts means different things to different people. To some, it simply conveys “You don’t trust me or my judgment,” and to others it provides a safety net, complete with a personal guide and instruction book. In our opinion, creating the best of both may be the answer, especially in a diverse family. Consider the following example.

Trust Management

The “same” family does not imply the “same” philosophical thinking. For one family, factors such as employment, marital and social status, career choices, family size, and wealth potential affected their perceptions of their needs and desires. The family struggled with how to use trusts to treat families equally when the respective individuals’ wherewithal and interests differed. The family decided to use a combination of corporate and independent co-trustees to provide a more harmonious existence among siblings and family factions. Due to the differences in family composition and overall objectives in the family groups, incentive language was included to compensate individuals who wished to pursue a life of mission-oriented work, as well as those who wished to continue their education. The co-trustees monitored the parties’ actions so that the terms were met but not abused.
Objective but not impersonal corporate fiduciary appointments generally help to maintain adherence to the trust instrument and to provide asset management. This can help prevent family discord when it may not be prudent to place individual family members in a position of authority. Decisions regarding trustee appointments are best discussed with the family in advance rather than selecting individuals who may not be in the best position to serve. While some may feel that being selected as an executor and trustee is a place of honor, it is also work, complete with fiduciary responsibilities and decision-making power.

Honest evaluation of the relevant talents, along with the time required to fulfill the duties and obligations of a trustee, should play a major role in who is selected. An objective and empathetic decision maker, one who is not burdened with family dynamics, may be a better choice when making key decisions on how to best administer the trust for family members.

One such example of a trust management-related decision encapsulates this scenario.

*A family patriarch wished to name his successful business professional daughter as a trustee after his death, whereby she would oversee large trusts for the benefit of her unemployed brother. In this particular case, the daughter was deemed to be more capable than her brother to make financial judgments, though they were both beneficiaries of the parents’ trust. Further discussion revealed the plan to be impractical and awkward considering that one sibling would then effectively control the flow of funds to the other sibling. The concern was that the situation would damage the sibling relationship, depending on how the sister would need to act in her representation as trustee rather than her personal capacity. Our client concluded that PNC/Hawthorn should therefore serve as trustee to provide objective, professional, and balanced decision making.*

Families who are entrepreneurs possess a unique perspective on wealth derived from business ownership. Whether they are the founder or are in successive leadership roles, the entrepreneurs’ experience with risk, volatility, management challenges, and interpretation of successes and failures color their view on how a family business affects the business of a family.

**Entrepreneurial Spirit**

In a successful business ownership situation, we have found that the creative, coordinated use of trusts and business entities may be used by clients to spark entrepreneurial spirit in current and later generations. Initial gifts of cash, securities, or interests in ongoing business concerns can often be put into family trusts which, in turn, own or fund family investment entities, including limited liability companies (LLC). The entities or LLCs are then used as vehicles to help teach successive generations the importance of and means to continue with entrepreneurial business ideas begun by the patriarch or matriarch of a family.
In one particular example we experienced, a portion of the trust assets would be managed by a professional fiduciary (the protected piece) and a portion of the trust assets would be used, through the family investment vehicles, to contribute a share of the seed money to fund new ventures and/or participate in funding the ongoing growth and subsequent sale of existing family companies. All of this could be accomplished without additional gifting. Family members may participate in management and investment-related decisions of these entities. Proper provisions discussed and included in the document may allow for discretionary investment in ventures with defined risk parameters. Various control agreement provisions within the entity structure can provide for the ultimate transfer of ownership based on attainment of the required experience.

We have observed that families in similar situations may favor different courses of action. Individuals who have taken risk throughout their lives may prefer trust instruments that limit the ability to invest in business ventures. Permission to assume risk while parents are available for guidance and support may be withdrawn when they are absent. Corporate fiduciary representatives may limit the business sale or acquisition in favor of a conservative and long-term investment plan to meet the needs of the beneficiary.

A plan that fosters entrepreneurial acumen is as important as a plan that captures the wherewithal to invest. Beyond the plan itself, we also see the value of coordinating other means of encouraging these entrepreneurial skills. For example, introductions to like-minded people in a peer network may help provide objective feedback and counsel. Similarly, board leadership opportunities help to strengthen skills and management succession.

**Wisdom Is the Application of Knowledge**

In estate planning, wisdom is the application of knowledge gained from meaningful conversations about family beliefs, values, and relationships. Crafting a plan that reflects multigenerational concerns typically requires long-term thinking to consider challenges and opportunities for family members and organizations. Plan objectives can differ based on individuals’ professions, education, and historical perspectives on wealth: was it earned, inherited, or simply good fortune? Business owners often encourage entrepreneurship, whereas families who have witnessed a roller coaster of wealth—some high and some very low—may encourage sustainability. Also, we believe philanthropists encourage the benefits of doing well by doing good for others, even at the price of personal sacrifice.

**Perception Equals Intention**

There is an old saying: Say what you mean and mean what you say. When perception equals intention, there is generally harmony—not necessarily agreement. When perception does not equal intention, there is usually conflict.
We believe estate and trust plans will be perceived as intended if the family’s core beliefs are at the forefront of the conversation. Are the plans a source of help or a hindrance? An encouragement or an obstacle? Protection or restraint? A blessing or a burden? As in the many situations described throughout this paper, addressing family dynamics and understanding how a family’s needs would be met can likely help a family to accept the design of its estate plan, even though it may not necessarily provide equal distribution in all circumstances.

The way your plans are perceived is as important as how they are intended. Plans memorialize the legacy you want to perpetuate, the values you want to preserve, and the areas of society you want to promote, both in the present and the future. We think estate and trust plans can and should reflect your views on personal family goals by identifying unique situations, specific resources for financial and personal security, beneficial tax planning strategies, asset protection, and charitable intent.

For perception to equal intention, we have found that focusing on strategic thinking, a hallmark of the personal discovery process, and tactical implementation is critical. By having clearly defined goals with respect to your mission, vision, and values, you will be able to communicate clearly to your advisory team. Plans will reflect the wishes of the family and promote understanding of why and how the plans were intended.

Hawthorn’s promise to keep wealthy families wealthy acknowledges the complexities of managing financial capital and the challenges of developing human, intellectual, and social capital. We believe the gift of true wealth and wisdom requires a personal discovery process that guides your decisions in your estate and trust plans.

Creating a Bridge from Thought to Action

The estate and trust planning conversation that focuses narrowly on financial wealth may miss an opportunity to capture the legacy lived today and redefined through generations. In our opinion, conversations should include strategic matters such as your personal inspiration and motivation, embracing who you are, where you have come from, and how you want to be remembered. Action-oriented tactical insights will become apparent and guide the implementation of your plans, creating a bridge from thought to action.

Families often avoid discussing their estate and trust plans openly. After a death, heirs may be surprised to learn the terms of the estate plan, that assets were left in trust, and that others are named in a fiduciary capacity such as executor and trustee. The element of surprise can upset even the best-laid plans, possibly leading to resentment, litigation, or costly mistakes.

By asking the right questions that focus on your beliefs, values, and relationships, resources will typically be allocated at the right time, to the right people, in the right amount, and in the right manner, providing peace of mind now and connections to future generations.

A personal discovery process generally enhances the inheritance of true wealth, which we define as wealth that goes beyond the numbers. Provisions presented in your estate and trust plans become your “voice,” a way to communicate lessons.
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learned, and a living account of your intentions to the individuals and organizations in your plans. The thinking behind those decisions may be shared during life or reflected solely by your written words and left to interpretation. Your estate and trust plans become your enduring legacy.

Connecting the theoretical with the practical and intention with application produces a win/win situation for the family and the respective advisory team. Do your estate and trust plans say what you mean and mean what you say?

Ask the right questions to test what your plans say about your legacy.
Contact us at 1.888.947.3762

Philadelphia - National Headquarters
1600 Market Street
Philadelphia, Pennsylvania 19103

Baltimore
One East Pratt Street
Baltimore, Maryland 21202

Cincinnati
201 East Fifth Street
Cincinnati, Ohio 45202

Cleveland
3550 Lander Road
Pepper Pike, Ohio 44124

Detroit
755 West Big Beaver Road
Troy, Michigan 48084

Pittsburgh
249 Fifth Avenue
Pittsburgh, Pennsylvania 15222

Washington, DC
800 17th Street NW
Washington, D.C. 20006

Wilmington
300 Delaware Avenue
Wilmington, Delaware 19801