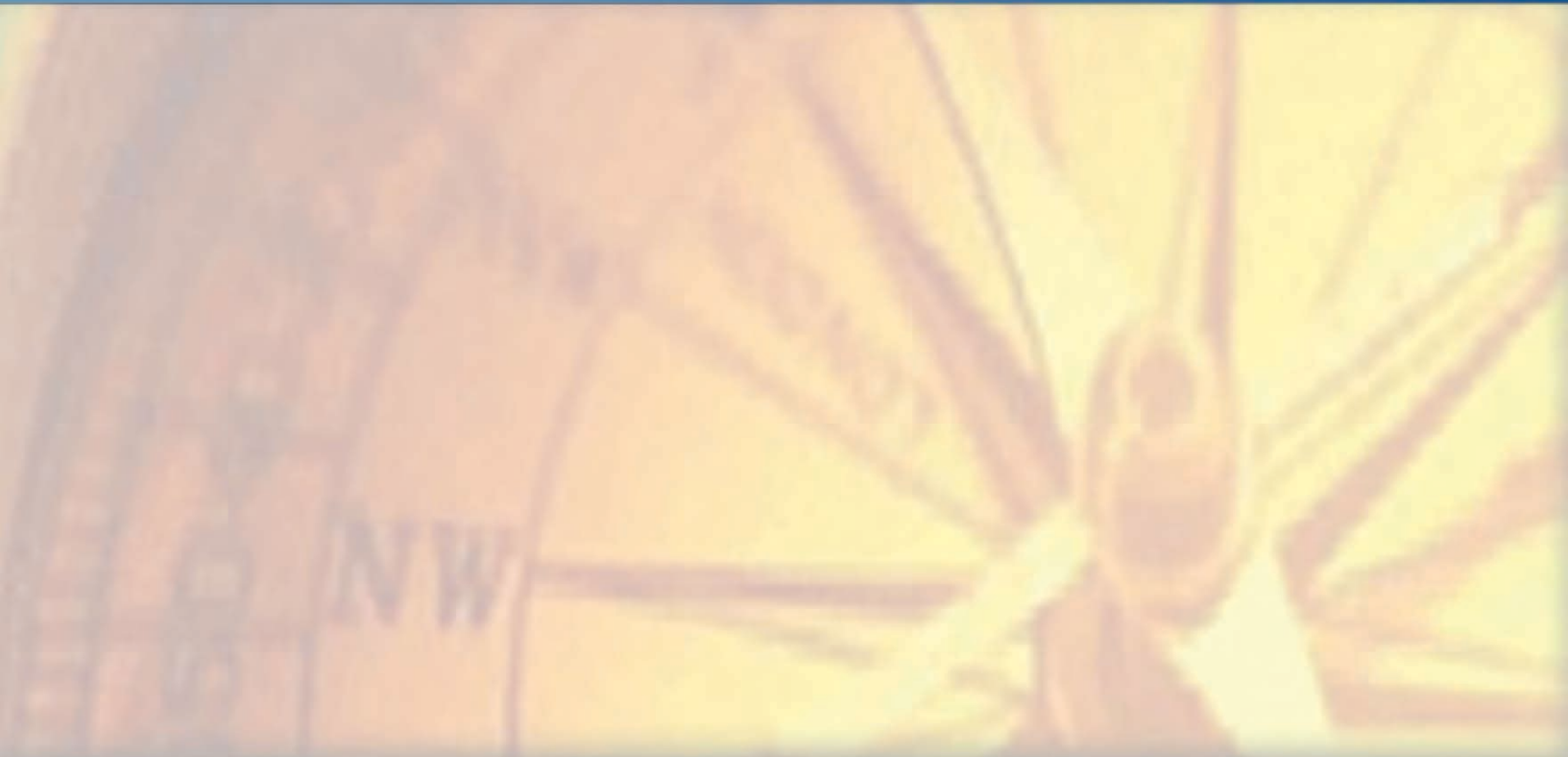


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Philanthropic Planning

Charitable gifting of life insurance.

Life insurance has many potential uses in charitable gifting, and may be especially suitable for larger gifting. There are several ways to gift various benefits of a life insurance policy to a charitable organization, and the benefit to the charity and the tax treatment of the donation varies with the method used.

Although not meant to be comprehensive, the discussion below highlights some of the methods for gifting life insurance to a charity.

One method involves the donor gifting an [existing life insurance policy](#) to a charity. A donor may consider this option when circumstances have changed his/her need for the death benefit and cash value of the life insurance policy. In order to generate a charitable income tax deduction, the donor must make a completed gift of the policy to the charity during his/her life. To effect a completed gift, he/she must give up all ownership rights in the policy. The contribution of a policy yields a current income tax deduction to the donor for the value of the policy, which is generally its fair market value.

The contribution of a premium-paying policy is more complex than that of a paid up policy, and is only a viable strategy if in the applicable state, the charity is deemed to have an insurable interest in the donor. Furthermore, assuming the charity is not a private non-operating foundation, if the donor contributes additional amounts to the charity to fund ongoing premium payments, the

deduction will be limited to 50% of adjusted gross income (AGI). If the donor pays ongoing premiums directly to the insurance company, the deduction may be limited to 30% of AGI. Any amount in excess of the deduction limits in a single year can be carried forward to offset income tax for five years.

Another gifting method involves [purchasing a new policy](#) for the charity. Under this method, the donor would donate a new policy to the charity, or the charity would purchase a policy on the donor; the donor would make ongoing premium payments by making continued gifts to the charity for that purpose. This option may be suitable for a younger donor since the premium cost would generally be low compared to the ultimate death benefit. The donor retains the option to discontinue the payment of premiums, whereby the charity as owner of the policy may continue paying those premiums, or may choose other options such as surrendering the policy for its cash value, placing the policy in “paid up” status, or seeking a life settlement solution.

A third method is to assign all [annual dividends from an existing policy to charity](#), or use the dividends to purchase a new policy which irrevocably names the charity as owner and beneficiary.

Life insurance also can be used as a [wealth replacement tool](#) for surviving family members to replace other assets donated to a charity during life.

The donor can alternatively [name the charity as the beneficiary](#) of the life insurance policy. Although this will not yield an income tax deduction, it would provide an estate tax deduction at the donor’s death to offset any estate tax liability he/she may have. The amount of the deduction would equal the entire amount of proceeds paid to the charity.

The use of life insurance to benefit a charity may have advantages over other methods. A life insurance policy offers a guaranteed death benefit as the value and the death benefit generally do not fluctuate such as with marketable securities. Life insurance contracts are aleatory, providing a magnified gift for a relatively small amount of premiums, allowing donors of modest means, regardless of economic situation, to fund posthumous projects. A life insurance gift may be very cost effective and is generally not reduced by federal taxes or administration or estate settlement costs. Life insurance also may be easier to administer for the charity as compared to other assets such as real estate, for example. The gift of a life insurance policy also may prevent the loss of an asset that the donor’s heirs may expect to receive.

Preserving your family business.

Preserve the perspective and history of your family business to help the next generation carry your success into the future.

By Todd Fithian

When the time comes to transfer a family business to the next generation, most companies focus on the material aspects of the event. They worry about transfer taxes and whether or not they have the financial resources to survive. But besides the tangible resources of the business, what about all the experience the founding generation takes with them? How do you preserve that?

Experiences accumulated through life create perspective. When someone starts the process of building a business, they experience the challenges firsthand. The ups and downs, the successes and failures, and the fear of scarcity build character in the first generation that helps them manage the reality of having significant wealth. Yet the wisdom, experience, values, attitudes, and preferences a family business is built on usually leave with the founding generations.

For example, if one generation learns how to fish because they're starving, they develop very fine fishing skills. But if they catch so many fish that the next generation doesn't have to catch any, then by the time the fish supply runs out and the third generation

comes along, no one will know how to fish.

The same trend occurs in family businesses. The first generation works hard and struggles to build the business, the next generation enjoys the wealth, and the third loses everything.

If you can preserve those rich experiences, succeeding generations will have a better understanding of the value system that emerged from them, and, therefore, a better potential to succeed with the resources that are passed on to them.

How can you preserve the experiences that built your family business?

Use the following steps to pass the perspective and wisdom down through the generations.

Reflection

Most people live life, rather than observe it. Even those who have had rich, rewarding lives sometimes fail to recognize the wisdom in their experiences. They believe that they are no different from anyone else and that their past accomplishments don't matter. But the first step of passing perspective through a family business

transfer is to overcome this modesty and reflect on all your experiences.

- Where have you been?
- What mistakes did you make?
- What unique experiences have you had?

Stop, sit down, look back on all your accomplishments, and understand how truly important they are to the future of your business.

Discernment

Once you've reflected on your experiences, you need to look at what your experiences mean.

- What did you learn from your successes?
- What did you learn from your mistakes?
- What wisdom, insight, and perspective have you gained?
- What have you learned about financial management, decision making, and forging business relationships?

These learning experiences have formed the way you conduct your business, and they can help prevent future generations from making the same mistakes you made.

Documentation

Once you see what you have learned through your experiences, document everything.

- For some families, the documentation can be as simple as a letter to the kids or succeeding generation.
- Others use an audio tape or video that talks about their experiences and what's important to them.
- And some produce a documentary on the history of the business.

Regardless of what documentation method you choose, make sure it speaks to the succeeding generation and includes everything you value.

Communication

The next step is to communicate all this information and history to the people who need to know it. Again, this can be as elaborate as you want. You can:

- Gather everyone around the dinner table;
- Plan a special family meeting; or
- Organize a retreat with the purpose of talking through these issues.

Consider a “vision trip” where you create an experience for everyone to do together that will help manifest the family business values.

Whether you plan an outdoor adventure that facilitates teamwork or a series of challenges that stimulate learning, a vision trip can be an exciting way to bring everyone together and communicate your values and wisdom.

Evolution

Once you've successfully worked through this process, you must repeat it throughout the lifetime of your business. If the founding generation takes the time to understand and

talk about where they have been, the current generation lives in those past experiences. Encourage and inspire future generations to participate in the process as well.

This process should become a living document that builds on each generation, because every family member has unique experiences that impact the business. Therefore, each generation should be encouraged to follow this process and contribute their wisdom to the story.

This continuation creates a framework in which the family considers the stewardship of this story just as crucial a component in their wealth transfer plans as they do the financial resources they have accumulated along the way.

Preserving the Past

The stereotypical three-generation lifespan of a family business is rooted in the loss of perspective that occurs in the transfer from one generation to the next.

But your family business can overcome this challenge by preserving its history and creating a context that respects the past while providing liberty to the current generation.

This framework shouldn't bind the current generation to a set of rules, but rather empower them with the lessons learned by previous generations, and show how those past experiences can benefit them. It should inspire future generations to participate and grow the family business, rather than just work there because that's where the money is.

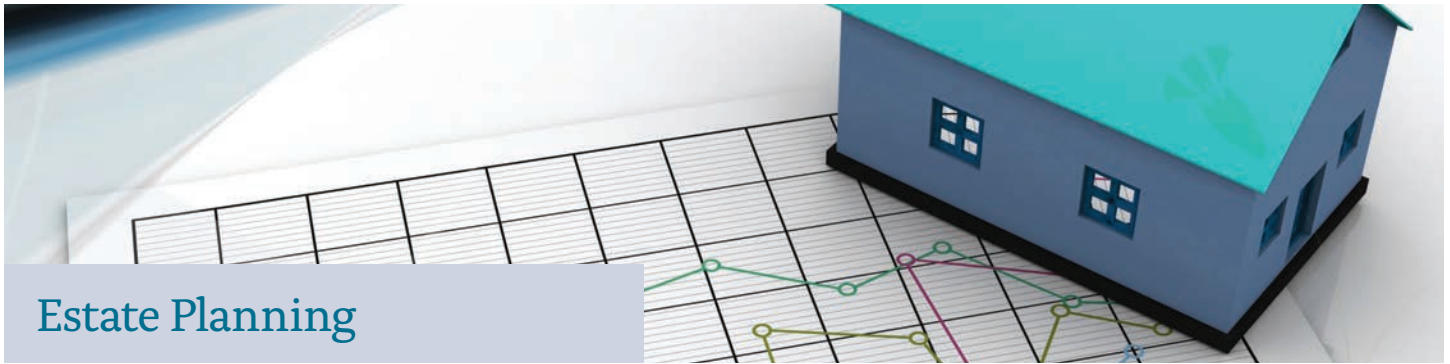
When you use this process to preserve the perspective and history in your transfer plans, future generations will know where the family business came from and all the experiences that made it succeed, which will help them carry the success into the future.



Todd Fithian

Todd Fithian is the co-founder and managing partner of The Legacy Companies, LLC, a training and education company that works directly with financial advisors to help them discover their clients' vision, values and goals, to build the right client relationships, every time.

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Estate Planning

Are electronic wills on the way?

Over the past decade, we have seen an increasing volume of documents being created and stored in electronic form, and in electronic form only. Today, it is not unusual to execute contracts electronically, file tax returns electronically, or to own a library of books, photographs or recipes in electronic form only. So when can we expect electronic documents in estate planning? Are electronic wills on the way?

Electronic will execution could offer many advantages. An electronic document may be more conveniently executed as it does not require travel, the prospect of which may prevent certain groups—such as individuals with disabilities or the elderly—from executing or updating a will altogether. Electronic documents can be easily located and may be accessed from anywhere with just a few clicks, which is significantly more convenient than attempting to locate estate planning documents in a decedent's home or safety deposit box.

Electronic wills also raise significant concerns. How can we safeguard against fraud in the execution of electronic wills through the use of remote technology? How do we ensure that an electronically stored document has not been altered? What if the company storing the electronic will goes out of existence or experiences a server failure, loss of backups or a cyber attack? With few to no legal precedents, legal uncertainty is another important consideration.

Nevada was the first state to enact an electronic will statute which provides

that a valid electronic will has the same force and effect as if formally executed. The statute provides that an electronic will under the statute is written, created and stored in an electronic record and contains the date, the electronic signature of the testator, and one "authentication characteristic" that is capable of being identified in the electronic record as a biological aspect of a person or a physical act performed by a person. An authentication characteristic must be unique to the person such as a fingerprint, a retinal scan, voice recognition, facial recognition, digitized signature or other authentication using a unique characteristic of the person. The statute also requires that only one "authoritative copy" of the will can exist and it must be original, unique, identifiable and unalterable. To date, no other state has enacted a statute authorizing electronic wills.

While a law permitting the electronic execution and storage of wills recently passed the Florida legislature, it was vetoed by Governor Rick Scott. The bill authorized the creation of electronic wills and authorized the use of remote technology to witness the execution of electronic wills under the statute. Specifically, the bill required that an electronic will be electronically signed by the testator "in the presence of" at least two attesting witnesses. The attesting witnesses were also required to sign the will "in the presence of" the testator and of one another. If two individuals were in different physical locations, the bill deemed the individuals to be "in the presence of" one another

if the individuals could communicate with each other by means of live video conference. The persons communicating were required to establish the identity of the testator through personal knowledge or through the presentation of certain forms of identification. At least one of the persons communicating was required to be a licensed attorney or a notary public. To be self-proving, the bill additionally required that the electronic will designate a "qualified custodian" to maintain custody of the electronic record by regularly employing and storing records in a system that detects changes in the electronic record and protects the electronic record from destruction, alteration or unauthorized access.

In vetoing the bill, Governor Scott cited the bill's failure to adequately ensure authentication of the identity of the parties under the notary provisions of Florida law, the delayed implementation of the remote witnessing and notarization provisions, and the fact that the bill would have made Florida a venue for the probate of nonresident wills based on the qualified custodian's location (which could have burdened Florida courts) as reasons for his veto.

Just as in Florida, electronic wills are likely to become a debated issue in many states, and many additional states may introduce legislation.

For states considering electronic wills, the greatest challenge will be balancing testamentary formalities designed to protect against fraud and incorporating new technologies that make the estate planning process easier.