

PODCAST
PRESENTATION

WEALTH TRANSFER FUNDAMENTALS

Host: Hello and welcome. Northern Trust is proud to sponsor this podcast, "Wealth Transfer Fundamentals," based on our book titled "Legacy: Conversations about Wealth Transfer." Today's podcast will be of interest to you if you want to develop a basic understanding of key planning documents and the use of available tax exemptions, exclusions and deductions to decrease your tax liability. We will also spend some time discussing the role that trusts can play in helping you achieve a wide variety of wealth management and transfer objectives.


Joining us today is David Connell. David is Chief Fiduciary Officer for Northern Trust's Southwest region and is responsible for working with clients and their advisors to help implement and administer their wealth transfer plans.

Please understand that this podcast is not intended to be legal advice. As always, you should contact your legal advisors to review any strategy in light of your own specific situation.

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Let's begin.

David, what are the basic planning documents that would benefit most individuals?

David: This is a great way to begin our discussion. Fundamentally, there are three different estate planning documents for individuals: wills, revocable trusts and powers of attorney. While most people would benefit from having all three, the truth is that many individuals do not have any of the three. The most basic and best known of the three is probably a will. What we see over and over again is that many people who have taken the steps to do a will at some point in their lives, created it years ago and have not updated it since – even with changing laws and changing circumstances.

To protect you, your loved ones and your assets while you are alive, you will probably want a durable general power of attorney for your property and a healthcare power of attorney for your health. The former gives the person you name the power to deal with the property held in your name if you should become incapacitated, and the latter enables a trusted friend or family member to speak to health care professionals and to make health care decisions for you in the event you are unable to do so.




Remember, powers of attorney are instruments designed to empower someone to act on behalf of someone else during their lifetime. They cease to be in effect at the time of the death of the person granting that power. After such time, a will or trust agreement will then become operative.

Host: Can you tell me a little more about wills – what they are and what provisions are typically included in them?

David: A will is a document that establishes who are to be the beneficiaries of your estate at the time of your death. It allows you to nominate whom you wish to be the executor and also allows you to nominate whom you wish the court to appoint as guardian for any minor children in the event of your untimely death.

Host: Can I use a will to transfer all of my assets?

David: No, a will usually does not dispose of all of your assets. Some forms of ownership contain their own transfer provisions, and some types of assets can only be transferred by means of beneficiary designations. Property that does not pass under a will includes property held in trust, retirement plans (including IRAs), life insurance, payable-on-death bank accounts, as well as property titled in joint tenancy with rights of survivorship.




Host: We've been talking about wills. On a related topic, what is probate? Is it as lengthy and costly as I've heard?

David: Probate is the court-administered process of transferring assets that are owned in a person's individual name after their death. In most states today, the probate process has become pretty efficient and the process itself, generally inexpensive. The probate process begins with the presentation of the will to the court, asking the court to name as executor, the person or persons nominated by that will. Next, the executor gathers, or marshals, the assets; inventories them; pays debts, expenses and taxes; and distributes the balance to the beneficiaries.

Host: Given the steps you've just outlined for probate, how do I choose an executor?

David: Before nominating someone in your will to be your executor, ask yourself: Will this person have the time, the skills and the energy for the job? I can't emphasize enough the amount of time this responsibility can take – even when that person is assisted by other professionals. Some individuals decide that choosing a professional fiduciary is the best way to keep from burdening one or more of their family members. Some




choose to have a family member work in conjunction with a professional fiduciary as co-executors. This arrangement can allow family members to participate in the estate administration without being overwhelmed by the amount of work, and can sometimes be useful when there is a special asset, like a family business or family farm, which represents a major percentage of the estate.

Host: David, earlier you referred to three basic planning documents. We've talked a little about wills and powers of attorney — when should I use a trust?

David: A trust is a very flexible tool that helps many people achieve a wide variety of wealth management and transfer goals. Among other things, trust arrangements can help reduce taxes, fund charitable gifts as well as provide continuity of management and asset protection during your lifetime and across generations. There are a wide variety of trusts designed to meet specific goals and objectives; your advisors can work with you to determine which type will best meet your needs.


Host: What is involved in setting up a trust? Is it complicated?



David: Setting up a trust is not as complex as you might think, particularly when you work with an experienced estate planning attorney. Once you've had a thorough discussion with your advisors regarding your goals and beneficiaries, your estate planning attorney will be the professional responsible for drafting your trust agreement. You'll probably be asked to review first and second drafts before signing the final version. While there is much language in a trust agreement which is technical and legal in nature, you should ask your attorney to provide a plain language summary to aid in your review. Your review should check for the basics, such as beneficiary names, distribution provisions, and trustee and successor trustee provisions.

Depending on where you live and the type of trust, certain formalities, such as witnesses and notarization, may be required to make your arrangements legally correct. Typically, your attorney will retain an original copy for his or her files and provide you with either a duplicate original or photocopy for you to keep in safekeeping. I might mention that if you have named a corporate fiduciary as trustee or successor trustee, a copy should also be provided to them for their files.

At this point, you are ready to fund your trust by transferring assets to it. Only asset that are titled




in the name of the trust will be subject to its terms, although some trusts are designed to only receive assets at the time of a death. It is an all too common mistake that people take the steps to have their trust agreement drafted and executed, only to then fail to transfer and re-title assets which were intended to be used to fund the trust – thus rendering the trust useless in the management, protection or transfer of assets. You should work with your advisors to ensure that assets are properly transferred and titled after you have established your trust.

Host: You mentioned that trusts can help reduce taxes. Can you explain a little about transfer taxes to our listeners?

David: I'd be happy to. There are three kinds of transfer tax – the gift tax, the estate tax and the generation-skipping transfer tax – all of which impose a tax on transfers of assets made during life or at death. One or more of these taxes potentially applies to your wealth transfer.

The gift tax is a tax on transfers made during life and is generally paid by the giver.




The estate tax is a tax on transfers made at your death. The beneficiaries of your estate receive their distributions after the payment of any estate tax due.

And lastly, the generation-skipping transfer tax applies to transfers that “skip a generation,” whether made during life or at death. For example, a transfer “skips” a generation if made to grandchildren or to a non-family member more than 37½ years younger than the transferor. Who is liable for this tax depends on the specific circumstances of the transfer.

The skillful use of available exemptions, exclusions and deductions, however, can reduce your transfer tax bill while helping you achieve your wealth transfer goals.

Host: I'd like to hear more about how I can reduce my taxes – can you elaborate?


David: Without going into a lot of detail, the law currently provides that an individual can give up to \$1 million during their lifetime without the actual payment of any gift taxes. And, although making gifts up to the \$1 million can affect it, an individual can currently transfer at death an amount equal to \$2 million without the payment of any estate tax and will be, under current law, rising to \$3.5 million for deaths that occur in 2009. This means that a couple today, with proper planning,



can transfer to their beneficiaries, estate tax fee, a combined estate of \$4 million. However, with improper planning, that same couple could end up paying estate tax on everything over \$2 million at the death of the surviving spouse. This shows the importance of proper planning and unnecessary payment of taxes that could occur by failing to do so.

Further opportunities to minimize your tax burden are available by taking advantage of the unlimited gift tax deductions for transfers to a spouse or to charity.

You will also want to take advantage of annual exclusion gifts. The annual gift tax exclusion is limited to a fixed dollar amount per donor, per year, which is \$12,000 for 2008 and rising to \$13,000 in 2009. Married couples can give *combined* annual gifts to individuals without incurring a gift tax – up to \$24,000 per recipient in 2008 and again, rising to \$26,000 per recipient in 2009. Annual exclusion gifts may be made outright, to an account established under your state's version of the Uniform Transfers to Minors Act or to a carefully designed trust. Additionally, one can increase the amount of gifts excluded from gift tax made each year to an individual by making direct payments of tuition and medical care for their benefit.



Obviously, I've only just skimmed the surface and you will want to consult with your estate planning attorney and other advisors to learn how you can transfer your wealth in the most tax efficient manner.

Host: This discussion has been very informative, David. Do you have any final words of advice for our listeners?

David: Yes – be responsible in planning your estate.


Remember to:

- Periodically review and update your existing documents as well as beneficiary designations on retirement plans and life insurance;
- If using a trust in your estate plan, don't neglect to fund your trusts and properly title your assets;
- Consider lifetime gifting; and finally
- Solicit competent and professional advice and analyze the impact of transfer taxes – before making significant transfers to family members or other friends.

Host: Thank you for joining us, David.

David: You're very welcome – it's been my pleasure.

Host: For our listeners, we hope that after spending this time together, you're more comfortable with the building blocks of wealth transfer planning.



Since 1889, Northern Trust has worked with clients and their advisors to help craft wealth transfer plans that not only reflect their financial goals, but also their personal values. And as a professional fiduciary and trusted advisor, we help ensure that as the circumstances of your family, the financial markets or the tax environment change, your plans continue to reflect your objectives.

If you have enjoyed this podcast, please join us for future podcasts where we will discuss specific solutions and strategies that can make your wealth transfer plan truly effective. For a comprehensive listing of our podcasts, please visit northerntrust.com/podcasts. On behalf of David Connell and Northern Trust, thank you for listening.