

Planning to leave a legacy doesn't have to be grim

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BY ROBERT DESCHENE

Even though I practice estate planning, I am not very fond of that term. It conjures up negative images of sitting glumly with your lawyer to decide how to divvy up your money when you are gone. Instead of estate planning, I much prefer to use legacy planning to describe the process.

Your legacy involves not only your money and property, but a considered plan of giving which promotes your values and dreams. By using trusts, your legacy plan not only provides for your family, but can leave the world a better place. There are many myths about trusts, including that only the wealthy use them. Of course, we hear a lot about the trusts set up by John Rockefeller or Bill Gates, but anyone can plan by using trusts. You work hard during your life to accumulate a nest egg, and no matter how much or little is left when you are gone, you deserve the right to decide for what purposes it will and will not be used. Trust planning is not only for the rich, but for anyone who wants to make maximum use of what property they leave behind.

So what exactly is a trust? When we make gifts, we surrender all control of our property to another person. No taking back, and no strings attached. Once a gift is made, the recipient owns the property, and can use it as they wish, or lose or waste it. Most wills make outright gifts of our property upon our deaths. With trusts, we don't give property outright, but keep control of it by instructing our trustee - who can be a trusted family member, friend or advisor - to carry out our written instructions after our death or disability as to how our money should be used.

Another myth is that leaving someone property in trust means that you don't trust them. Nothing could be further from the truth. In many cases, your beneficiaries will be able to use the trust money just as if you left it to them outright, but they are protected from losing it if they run up debt, are sued after a car accident, or go through a divorce. Why? Because legally your beneficiaries do not own the property, the trust does.

Better yet, trust planning allows you to do legacy planning, and to leave behind a better and gentler world. For example, more of us now have family members with disabilities or special needs. The family is concerned about how these persons will manage financially, especially once their parents die. If we inadvertently leave them money outright, either by gift or in our will, they likely will be disqualified from receiving government disability benefits because eligibility is based in part on how many assets the special needs person owns. Knowing this, family members sometimes feel they had no choice but to cut

some of their loved ones out of their will. The better solution is for the family to collaborate to create a supplemental needs trust. Each family member can contribute money to the trust, either during their lifetimes or at death. The government will not cut off disability benefits because the trust owns the property, not the person. The trust money can be used to pay for life-enhancing goods and services for which government benefits will not pay, such as education, computers and recreation, and thus improve the overall quality of life.

Another good example of legacy planning is using charitable trusts to promote the causes we have valued. This often presents a win-win situation for you, your family and the charity you choose. If you own any highly appreciated assets - that is, properties that are worth much more now than when you acquired them - you would pay a big capital gains tax if you sold them. Since a charitable trust is normally tax-exempt, however, the trust can sell and reinvest the assets without paying tax. You also get an immediate income tax deduction for donating the property to the trust, and can name individuals who get income from the trust during your lifetime. When you die, the trust property goes to your charity.

Legacy planning is far from a glum experience, but can be a positive and rewarding way to ensure that you leave the world a kinder and gentler place.

Robert Deschene is an attorney who does estate and elder law planning from Deschene Law Office in North Attleboro. The information provided in this column is for informative purposes only. Contact him at 508-316-3853.