



Legacy Board Estate Planning 101

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Estate Planning 101 Topics

- Wills
- Trusts
- Alternative Probate Devices
- Charitable Giving
- POA's
- Living Wills
- Corporate Transparency Act Compliance



Wills vs Trusts

○ Wills

- “A document by which a person directs his or her estate to be distributed upon death.”

- Black’s Law Dictionary

○ Trusts

- “A legal entity created by a grantor for the benefit of designated beneficiaries. Essential elements of a trust are a designated beneficiary and trustee, funds sufficiently identified to enable title to pass to trustee, and actual delivery to trustee with the intent to pass title.”

- Black’s Law Dictionary

Features of Wills

1. Administration of a will requires some manner of Probate Process.
 - Sometimes, these are streamlined and relatively cost effective.
 - Other times, they are very litigated, time consuming and expensive propositions.
2. Wills are less expensive at the time of creation when compared to trusts.
3. Wills are less complicated documents to understand than trusts.
4. Wills become public documents filed in a probate court when the probate process is initiated.

Features of Wills

5. Wills do not provide for property or asset management for the maker while the maker is alive.
6. If properties are owned in multiple states by a decedent, there will be multiple probates necessary to administer the total estate.
7. If someone dies without a will (or trust), each state's statute has a plan that substitutes for a will (intestate estate), but that process also requires a probate administration and does not necessarily allow the maker to decide who receives his or her property.



What is the Probate Process?

- **Probate** is the process of law used to administer a will
 1. Filing Will and Dealing With Contested Claims of Will
 2. Appointing an Executor and Issuance of Letters Testamentary
 3. Filing an Inventory
 4. Provision of Notice to Known or Reasonably Ascertainable Creditors
 5. Payment of Claims or Contesting Claims



What is the Probate Process?

- **Probate** is the process of law used to administer a will
 6. Filing Tax Returns
 7. Liquidating Assets
 8. Determining Heirship – Dealing With Contested Claims
 9. Paying Beneficiaries (Receipt and Refunding Agreements)
 10. Closing Estate



Features of Trusts

1. Administration of a properly funded trust requires no probate process.
2. Trusts are more expensive at time of creation when compared to simple wills.
3. Trusts are more complicated documents to understand than wills, but provide for infinitely more planning options than wills. These options necessitate the complication, and the documents themselves provide the authority by which a trust can be administered (essentially emulating the probate code but in a private agreement).

Features of Trusts

4. Trusts *do not* become public documents. Thus, they are private mechanisms which pass property to which only fully vested beneficiaries generally have access.
5. A trust is a contract between creator of the trust (grantor or settlor) and trustee who is appointed to hold, manage and distribute assets to beneficiaries.
6. Until death of grantor(s), a revocable trust is the alter ego of grantors
 - It is ignored for tax purposes and all income and expense associated with assets held in trust are reported on grantor's return and utilize grantor's SSN until relevant death(s) or disabilities occur.

Features of Trusts

7. Pour-over wills are used with trusts as a safety net. They make sure assets not placed in trust can still be run through trust and can receive the benefit of distribution aspects of trusts.
 - This can occur even through goal of probate avoidance may not be met.
8. Upon the incapacity of a grantor, a successor trustee named in a trust can step in and manage the trust estate for benefit of a grantor.
 - Eliminates need for conservatorships in such circumstances.
9. Trusts can assist in planning for special needs beneficiaries. This can be useful for beneficiaries who might otherwise lose public benefits if they inherit or to aid beneficiaries with drug or alcohol problems.
 - Preserves assets for their children's health and maintenance, but not supply them with outright cash to exacerbate their health issues.

Features of Trusts

10. Trusts can provide creditor protection for beneficiaries, as you can permit a trustee to withhold distributions of principal in the event a beneficiary has a creditor waiting in the wings for the inheritance (due to divorce, judgments, tax liens, etc.) while continuing to provide a resource for such beneficiary for their health, education, maintenance, welfare and support (HEMS Standard).
11. Trusts can hold and maintain property for beneficiaries (children and grandchildren, most commonly) until those beneficiaries reach an age or ages at which the grantor believes the assets being conveyed will be properly managed by such beneficiary.
 - Example...



Example:

hold and maintain property for beneficiaries

Mom and Dad have 2 children (18 and 13)

\$3,000,000.00 estate, but they do not want their children to inherit \$1,500,000.00 each outright when they reach the age of majority.

They discuss what ages they want their children to have access to the property and decide that the trust will provide principal distributions:

- $\frac{1}{3}$ at 25
- $\frac{1}{2}$ of the balance at 30
- the balance at 35.




Example:

hold and maintain property for beneficiaries

In the interim, the trust can provide for the HEMS and provide certain other rights like:

- The right to use family homestead to maintain the home for both children as long as the children need the home
- The right to allow distribution of principal up to 20% for any beneficiary looking to purchase their first home
 - Allows them to acquire property with down payment and avoid PMI



Other Probate Avoidance Devices

Joint Tenancy


- Ugh...**just say no** unless you want to stay up at night worrying about your assets (net of between spouses).
- Joint tenants own an undivided interest in the whole of an account or real estate.
- Creditors of a joint tenant can attach joint tenancy accounts (watch divorce, tax liens, judgments from creditors, etc.)
- Another joint tenant can abscond with assets.
- Joint tenancy is limited in its application unless the event of deaths plays out such that the planning party survives the other joint tenant. Further, an assignment to the next generation of heirs on an intervening death is not resolved by alternative probate procedures.



POD & TOD Beneficiary Designations

Kansas and Missouri provide a host of Pay on Death (POD) and Transfer on Death (TOD) beneficiary designation options like:

- **POD** designation on bank accounts
- **TOD** designations on securities accounts
- **TOD** deeds for real estate
- **TOD** registrations for vehicles
- **POD** and **TOD** designations to transfer assets to trusts



Potential Pitfalls of TOD & POD Planning

- If the TOD or POD beneficiary predeceases you.
 - If you do not reset the beneficiaries, you will end up with a probate of the asset. Further, if you wanted a beneficiaries heirs to receive their portion by right of representation these designations can fail.
- If you become incapacitated.
 - Net of POAs (which will be reviewed momentarily), you will have no ability to utilize your assets, and your accounts may become subject to a conservatorship.
- If you're intended TOD or POD beneficiaries are minors.
 - Some UTMA accounts permit this type of transfer, but access to the accounts and planning and accounting for them can be complicated. Also, at 18 the beneficiary will receive the totality of the account.
- If the TOD or POD becomes disabled.
 - This could interfere with a beneficiary receiving disability or other public benefits.

Estate Planning Options



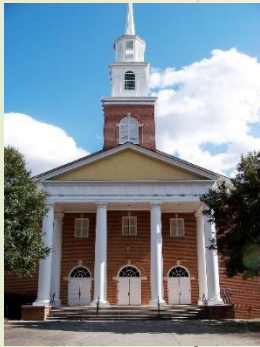
Summary Table For Estate Planning Options	Simple Will	TOD or POD Beneficiary Designation	Trust
Limited Assets	x	x	
Limited Real Property	x	x	
Limited Beneficiaries	x	x	
Charitable Beneficiaries		x	x
Beneficiaries with Special Needs			x
Moderate to Significant Assets in Estate			x
Multiple Parcels of Real Property			x
Multi-State Property Holdings			x
Desire for Privacy of Estate Plan			x
Pure Cost Concerns at Time of Drafting Estate Plan	x	x	
Overall Cost Concerns Post Death		x	x
Desire to Make Estate Process Easy on Heirs		x	x
Multiple Children/Grandchildren or Intended Beneficiaries			x
Tax Planning			x
Probate Avoidance		x	x
Beneficiary Creditor Protection			x
Minor Children and Passing Property Beyond Age of Majority (net of income for health, educational and general support)			x
Planning For Your Own Incapacity			x

Giving to Charity

Why?

“The earth is the Lord’s, and everything in it.”

1 Corinthians 10:26; Psalm 24:1



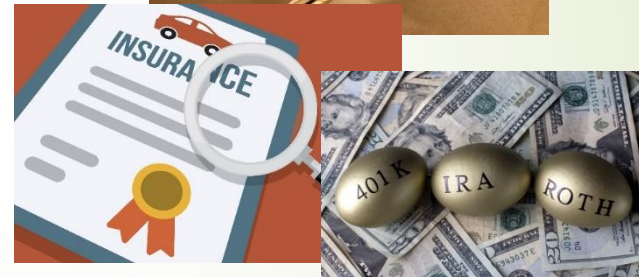
Popular Options for Lifetime Gifts

- Outright Gifts through cash, check, debit or credit card or wire transfer
- Transfers of appreciated stock or mutual funds
- Grants made through a Donor Advised Fund
- Qualified Charitable Distributions from IRAs



Common Techniques for Gifts at Death

- Outright Bequest in a Will or Trust
- Name the charity as the beneficiary of :
 - A life insurance policy
 - An IRA, 401(k) or annuity
 - A bank or brokerage account by POD designation
 - A Health Savings Account (HSA)



Options for Giving to Colonial

Longer Term Gifts

Colonial Legacy Fund



Capital Campaigns



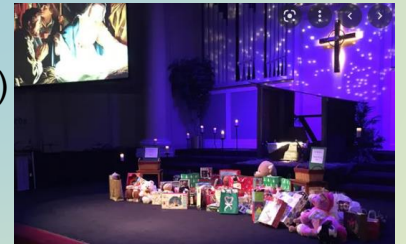
Current Need Gifts

Ministry Operating Fund



Special Missions Offerings
(Designated Funds)

- Missions
- Crisis Funds (Ukraine)
- Food Pantry
- Walk to the Manger
- Be the Light
- Bless Our City
- Etc.





Planned Giving – The Colonial Legacy Fund

Why give to charity through your estate plan?

Planning an estate gift allows you to strategically accomplish both financial and charitable objectives. These may include preserving your family name, honoring loved ones, providing for heirs, minimizing taxes, and supporting your church/community. Bequests to the Colonial Legacy Fund are exempt from estate taxes.



What is the vision of the Colonial Legacy Fund?

The vision of the Colonial Legacy Fund is to create a legacy of advancing God's kingdom through joyful stewardship and generational generosity. There are four pillars that the Colonial Legacy Fund supports:

- o Ministry Incubator – Support developing ministries
- o Capital Needs – Support Colonial's capital budget needs
- o Bless Our City – Funding that will bless those in need within our community
- o The Great Commission – Funding that builds God's Kingdom



How can I donate?

You will typically hear about giving to charity through your will or trust, but there are a variety of ways to remember the Colonial Legacy Fund in your planned giving. Making the Colonial Legacy Fund the designated beneficiary of your life insurance policies, 401(k), IRA and brokerage accounts is a simple and inexpensive way to achieve your charitable goals. Gift types vary and the Colonial Legacy Fund is equipped to accept all forms of assets, such as, real estate, personal property and direct stock transfers.

You can also print out the Wills Estates Form and have it included in your estate plan. The form can be found at www.colonialkc.org/legacy. If interested, you can let the Colonial Legacy Fund team know of your charitable desires. The current Legacy Board chair is Jay Pestinger. He can be reached via email at jaypestinger@gmail.com or by phone at 913.484.6627.






What if I change my mind?

Until the gift is made (assets transferred), it is only a declaration of intent. If your intent changes at any time, you can modify the gift. The Colonial Legacy Fund recognizes that donor intent can change over time.

Is there a tax benefit to donating to the Colonial Legacy Fund?


Yes. Similar to the tax benefits from annual giving to the Colonial Operating Ministry fund and other charities, you will realize a tax savings based on your giving. The Colonial Legacy Fund is a 501(c)(3) entity qualifying for deductibility. We encourage you to consult your estate planning attorney and financial planner for your specific situation.



What if I need help during my life with finances or healthcare?

It is often necessary, or just convenient, to have someone act for you or on your behalf. The same painstaking process discussed above relating to probate can apply if you do not have someone already in a legal position to help you with your affairs in what would be a guardianship or conservatorship proceeding.

Fortunately, you can give someone the legal authority to act for you with a Power of Attorney.



General Durable Powers of Attorney

- A document providing a broad array of powers to an individual you name to act on your behalf for non-health care related issues like:
 - Check writing and making deposits (buy and sell things for you)
 - Assistance with securing public benefits (Medicaid, Medicare, Social Security)
 - Finance transactions (invest your monies)
 - Business transactions (manage your business)
 - Real estate transactions (pay your taxes, insurance, mortgages or sell you home)
 - Insurance transactions
 - Settling claims (sue or defend on your behalf)



Health Care Powers of Attorney

- A grant of authority to your named agent to assist in making medical decisions for you if you become unconscious, incompetent or are otherwise unable to make medical decisions.



Living Wills – Advanced Directives

- Living wills serve several functions:
 - They generally describe your directives in the event you cannot provide feedback to medical providers in circumstances involving preservation of life.
 - A living will provides you with an opportunity to determine in advance whether you want to be preserved on life sustaining systems, like feeding tubes, ventilators or other life support systems in perpetuity, or whether you want those procedures withdrawn if you will not be able to survive without such ongoing measures.
 - They provide an opportunity to direct that your organs be donated in the event of death.



Corporate Transparency Act

- ▶ For those of you who own any corporation (S or C), LLC or other business entities as a component of your estate not only should you plan for the entity from an estate planning standpoint in favor of your heirs or business partners, you also need to be aware of and compliant with the Corporate Transparency Act (CTA) which went into effect on January 1, 2024.
- ▶ Brief CTA Summary
- ▶ We have provided a handout for purposes of explaining the finer points of the CTA which is beyond the scope of this presentation but I am happy to talk to you about the CTA after the presentation and Q&A on estate planning.

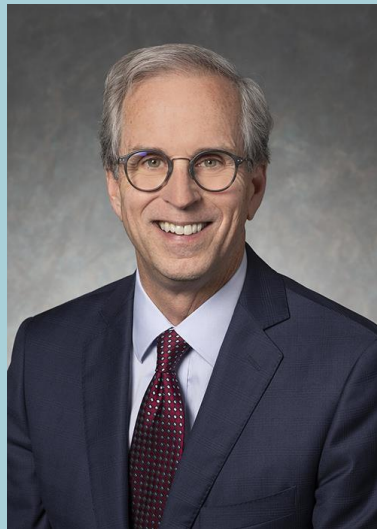
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