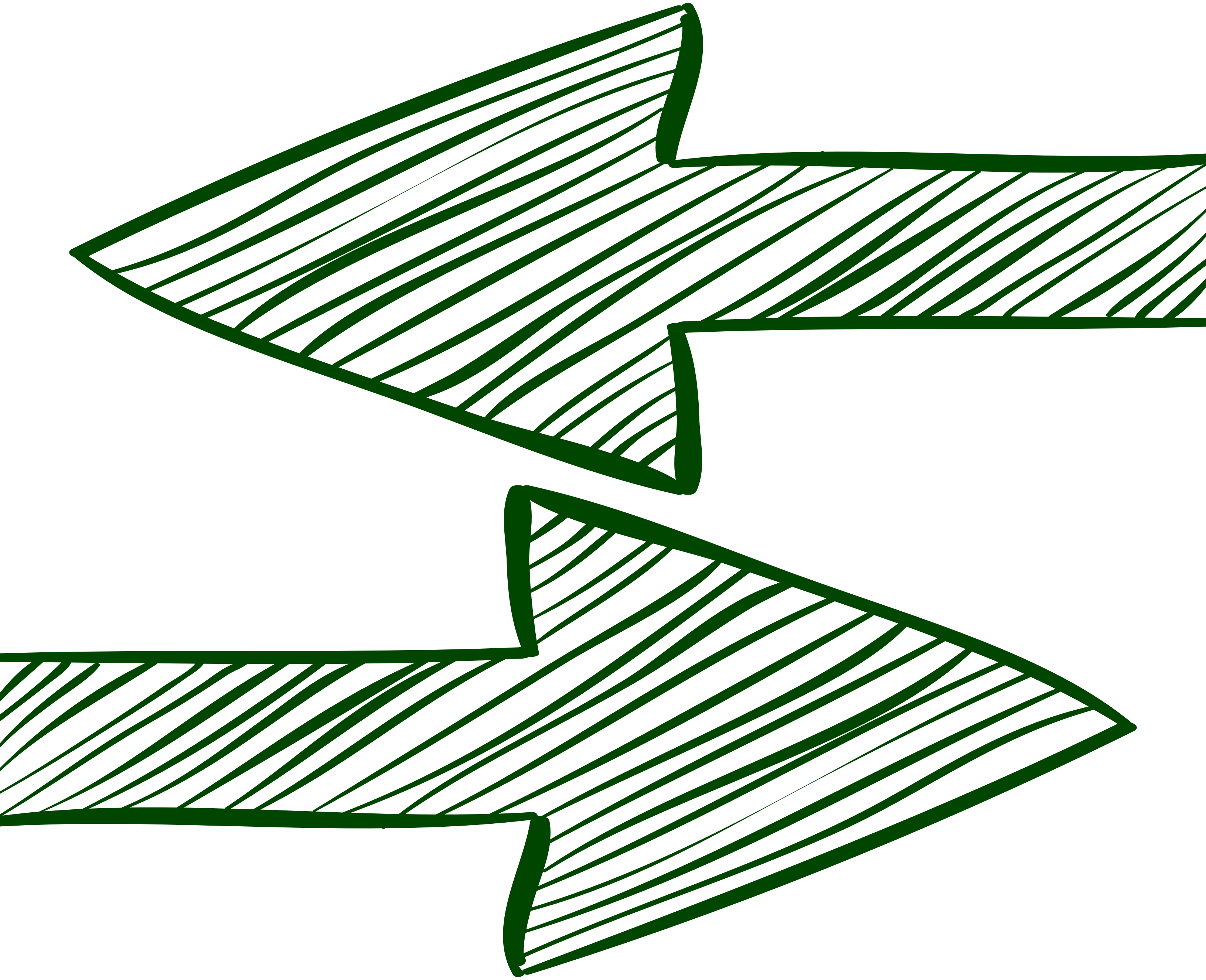

Transferring Values Through Transferring Wealth

TDC LIFE

TRANSFERRING VALUES
THROUGH TRANSFERRING WEALTH

A common concern of my clients is how to transfer their VALUES in the process of transferring their WEALTH. I often hear, “I don’t want my kids to be Trustafarians” or “The journey of growing our wealth was so important, I don’t want my kids to miss it” or “I didn’t have any money starting out, they should start the same way”

Nevertheless, this mindset misses the unique opportunities that the wealth can afford. It is not the wealth that is the problem but under what circumstances and with what conditions it is given. This, of course, is a big deal and one that a well crafted estate plan cannot accomplish alone. In fact, an increasing part of our practice is working through the softer side of estate planning, an area we call Family Governance - the intentional process of bringing the next generation in on the family wealth discussions.

You don’t have to go it alone. There are experts that do this work and can help guide the process. They know what to say and when, they use examples, and they have experience, which is all really valuable in making your unique value transfer event a successful one.

One tool we use in this process is building incentive provisions into estate planning vehicles. These provisions (a sampling below) provide a structure to help ensure that the wealth you have spent a lifetime building encourages the values on which you have built your life.

It is my hope this list can help inspire you to think about the values that are important to you and how those values can be integrated in your legacy planning.

PROVISIONS REGARDING ENTREPRENEURIAL VENTURES

To enable beneficiaries to engage in an entrepreneurial venture, the Trustee may be authorized to distribute income and principal as follows:

- For the beneficiary’s reasonable living expenses while he or she is endeavoring to establish his or her business, and for up to 6 months after the termination of the venture (if such venture should fail).

To provide capital to allow the beneficiary to enter into or engage in a business or profession in which the Trustee believes the beneficiary has a reasonable prospect of success, subject to the following limitations:

- The total amount of all such distributions to a beneficiary in any calendar year may not exceed 10% of the beneficiary’s trust estate; and
- Such distributions are available in the first calendar year of the venture and in alternate years thereafter during the continuance of such venture.

INCENTIVE PROVISIONS REGARDING EMPLOYMENT AND EDUCATION

Before making distributions to a beneficiary, the Trustee would be required to determine that the beneficiary is:

- Working (including self-employment) on a full-time basis (or making sufficient efforts to obtain such work), at least until the beneficiary reaches normal retirement age, defined as age 60;
- Obtaining an education and making sufficient progress toward a degree; or
- Engaged in one or more of the following activities on a full-time basis:
  - Caring for his or her children,
  - Caring for his or her disabled family members, or
  - Performing volunteer work for one or more charities.

Additional Requirements regarding Education. Please note that the above provisions regarding education may be modified to include restrictions and/or requirements, such as:

- A requirement that the beneficiary be working toward a bachelor's degree from a fully accredited four-year college or university;
- A direction that distributions be withheld if the beneficiary is not demonstrating academic progress to the satisfaction of the Trustee.
- Bonus for Advanced Degree. In addition, you may include provisions (1) authorizing additional distributions to a beneficiary who is obtaining an advanced degree beyond his or her undergraduate degree, or (2) specifying a predetermined "bonus" amount to be paid to a beneficiary upon graduation.

PROVISIONS REGARDING FUNDS FOR A PRIMARY RESIDENCE

The Trustee may also be authorized to distribute income and principal to enable a beneficiary to make a reasonable down payment on a primary residence for such beneficiary.

PROVISIONS DESIGNED TO ENCOURAGE BENEFICIARIES TO BE SELF-SUFFICIENT

The Trustee may be directed to make distributions sparingly so as to encourage self-sufficiency and avoid the development of unambitious beneficiaries. This type of provision could:

- Articulate your belief that the initiative and ambition of young beneficiaries can be impaired if such beneficiaries do not experience financial responsibility and accountability;
- Provide that a purpose of the trust is to avoid use of the trust property in a manner that would impair the desire of the child or other descendant to be self-sufficient; and
- Direct the Trustee to make distributions on a selected and considered basis.

PROVISIONS REGARDING DISTRIBUTIONS OF TRUST FUNDS TO “MATCH” EARNED INCOME

The Trustee may be directed to make distributions to a beneficiary to “match” the other income earned by the beneficiary and/or his or her spouse. The amount “matched” could be anywhere up to 100%, and could be limited so as not to exceed a set dollar amount.

PROVISIONS REGARDING SUBSTANCE ABUSE

The Trustee may be directed to limit or suspend distributions in the event the Trustee believes or suspects a beneficiary is alcohol dependent or abusing drugs. In such case, the Trustee may be permitted to make distributions as may be necessary for the beneficiary’s health, including treatment programs.

PROVISION REGARDING GRANTOR’S INTENT

Finally, you can include a customized statement expressing your intents on how you wish to leave assets to your children and more remote descendants.

These provisions could apply to any trusts created for the benefit of your child(ren), grandchildren and other descendants.