

THE MOST MEANINGFUL LEGACY: A GIFT TO GIVER AND RECEIVER

Creating an Ethical Will

Simple, beautiful, valuable. How can an ancient practice—writing an ethical will—work in today’s multigenerational wealth planning?

The first written ethical wills date to the 12th century, when Jewish fathers wrote to their sons on how to live an ethical life. An obligation as a parent, these writings included both practical advice—be careful with your grammar—and timeless words of wisdom don’t quarrel, don’t oppress others in money or word, instruct your children as I have instructed you. Today, with a growing awareness that a legacy is far more than material goods or financial assets, ethical wills can be part family history, part love letter and part self-reflective exercise. But this important document always should conform to what Susan Turnbull, the founder of Personal Legacy Advisors, says is the ethical will’s essential purpose: “Traditional wills involve what you want your loved ones to *have*; ethical wills involve what you want them to *know*. They are the missing piece in estate planning.”

A non-binding document that should complement and mesh with the traditional estate planning documents, an ethical will is fundamentally optimistic and forward-looking, even though it implies a future without the writer. By its nature a “spiritual” exercise, an ethical will can be applied in almost any family context when one generation wants to ask, and answer, the big questions: What have I been about? Who were the most influential people in my life? What is the greatest lesson I learned—and want to pass on? Whose forgiveness do I need—and who needs my forgiveness? And, most critically, for wealthy families: What are the values associated with our financial assets that we want the generations that follow us to know? “The ethical will is an opportunity to put money in a very personal context,” says Turnbull. “For families passing on significant assets, there is often the question whether the money will be helpful or harmful. An ethical will is not intended to be controlling. Rather, it is a very loving expression that gives meaning to money.”

Helping clients with the meaning of wealth across generations goes far beyond managing assets, says Daryl Allen, managing director. “The concept of wealth includes stewardship of family wealth, in all senses of the word, for the benefit of the extended family and its place and role in the larger community. An ethical will can be an important part of the process.”

A Foundation for Discussing Estate Planning

An ethical will can be created by one person or by a couple, and most often is written for children, grandchildren or unborn heirs. It can be as simple as a one-page “love letter” or can be an audio or video recording. Many people create theirs at certain life transition points or to mark an occasion—the golden wedding anniversary, an 80th birthday, a child’s college graduation—but it should be regularly revisited. Beyond its benefit as an exercise in self reflection, the ethical will can be used by parents or grandparents to open the door for a discussion on the other estate planning documents. “Even adult children need a comprehensive discussion of the will, the trusts, the philanthropic vehicles, in order to understand the parents’ intent,” says Turnbull. “But these don’t exist in a vacuum. The ethical will is the place to begin the conversation about why what is in the documents is in there.”

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Judy Barber, a marriage and family therapist who works with wealthy families, says ethical wills or love letters often are created along with guardianship documents. “It allows the parents to say such important things to the potential guardian as: Say yes whenever you can, apologize in front of our children, grant healthy independence or never force religion or politics on them,” says Barber.

An ethical will’s sister document, the letter of guidance for trustees, gives voice to the wishes of a person the trustee may not have known intimately and provides clarity even to trustees who have a close relationship. Judith Saxe, managing director, worked with a couple in their mid-50s—intelligent, successful and extremely thoughtful parents—who wanted to capture in words what was in their hearts: helping the named trustees understand how their backgrounds had helped shape their values about money. “It was extremely important to them that the trustees fully appreciate their views on how the trustees should use discretion in making and withholding distributions of income for the children,” says Saxe. “Their letter of guidance goes into detail far beyond just ‘We want our children to be happy, productive and well cared for.’ It very explicitly describes how they define self-sufficiency, opportunities for happiness and success and the intrinsic reward of achievement. It’s a powerful expression of who they are.”

The expression of donor intent is another companion piece to an ethical will, used by those establishing a charitable bequest or family foundation. “The legal documents simply do not reflect the richness of personal history or the motivation and the vision of a donor,” says Turnbull.

Broadening the Definition of Family Wealth

It’s important that the language in an ethical will be affirming—even if the intent is to communicate to a child why he or she may *not* be granted access to or decisions on assets. Barber offers this example: “Our house is filled with your wonderful artwork and we want you to continue using this extraordinary talent without the need to manage assets complicating your life.” She also points out that a letter of wishes can, and perhaps should, include a parent acknowledging mistakes. “Children, even if they’re 50, are often craving that,” Barber says.

As important as the values and meaning in an ethical will are the family’s history and heritage, a story that grandparents, in particular, might believe would be unappreciated but for which grandchildren often are hungry. “Grandparents often fret over sounding like they’re lecturing when they want to discuss values with their grandchildren,” says Turnbull. “The ethical will is a way to get points across about where this family came from and where they want it to go in a way that’s very personal and natural. It truly broadens the definition of family wealth.” ■

If you are interested in creating an ethical will or letter of guidance for trustees, please talk to your relationship manager.

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