

Advisers use ethical wills to look beyond client assets

Personalized letters to friends and family can help clients resolve personal issues while also explaining their estate plan

By **Jeff Benjamin** | June 19, 2018 - 2:21 pm EST

Sometimes an inheritance is more about the legacy than the assets being passed down, and sometimes it's a little bit of both.

Enter the [ethical will](#), which is also known as a "legacy letter" or "living legacy" by financial advisers helping their clients navigate [estate and life-planning matters](#).

Unlike a traditional will or estate plan that focuses on the distribution of assets upon a person's death, the ethical will is a document that is often presented to friends and family while the author is still alive to go over details not covered in the will.

"A legacy letter helps [the author] communicate to younger generations, some of whom won't know the donor, the reasons for setting up the will in a certain way, as well as what they hope to accomplish with the estate plan," said Michael Whitty, a partner and estate planning attorney at the law firm of Handler Thayer.

"By writing the letter, the donor is also increasing the probability that the wishes will be followed," Mr. Whitty added.

As a lawyer, Mr. Whitty takes issue with the term ethical will, and prefers to call it a legacy letter, but the purpose is the same.

"I detest that term ethical will because it is not a will, nor is it limited to the subject of ethics," he said. "It is part of the social capital and human capital legacy a donor can leave to his or her family."

As an example of when a legacy letter would have been well served, Mr. Whitty cited the [unusual estate of Wellington Burt](#), a wealthy lumber baron from Saginaw, Mich., who died in 1919 and had most of his assets frozen until 21 years after the death of his youngest living relative at the time of M. Burt's death.

The estate wasn't doled out until 2011, 92 years after Mr. Burt died. The estate's 2011 value of \$110 million was divided among a dozen living relatives of Mr. Burt.

"It must have been a nice windfall," Mr. Whitty said. "If I had been in charge of his estate plan, I would have recommended doing a legacy letter because by the time the estate got distributed, none of the beneficiaries knew who he was."

No matter what it's called, the ethical will is still just a letter, and not a binding legal document, which is why advisers encourage them to be written by the donors without the influence of legal jargon.

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While the letters are often written to accompany a formal will, Danielle Howard, owner of Wealth By Design, has [advised clients to write the personal letters to heirs](#) regardless of the size and status of the estate being passed along.

Shortly after the 2008 financial crisis, Ms. Howard recalls being approached by a distraught couple in their late 60s who had just lost most of their assets, and were devastated about the prospect of not being able to pass along much in the way of an inheritance to their children and grandchildren.

"I helped them uncover their character assets and the values they held dear and shared the idea of an ethical will and explained that what they had to pass on was much more valuable than the financial pieces," she said. "We also worked on the numbers side and got them peace of mind in that their kids wouldn't be taking care of them. When I would see them afterwards, they always commented on the fantastic advice I gave them to see beyond the dollars, and how I helped them to redefine, that their legacy extended well beyond the financial context."

Beyond giving some direction and sharing examples of letters, advisers typically take a hands-off approach to the actual writing of the letter.

As Mr. Whitty said, the letters are designed to be unique and personal, even if they are used to clarify how and why an estate is being allocated in a certain way.

"The goal is to pass along, in their own words, what they're hoping to accomplish with their estate," he said. "I give them examples, but when you've seen one, you've seen one. Everyone personalizes in their own way."

In his experience working with elderly clients, Tom West, a partner at Signature Estate & Investment Advisors, said encouraging people to write ethical will can often trigger memories and help to improve the mental health of people suffering from certain forms of dementia.

"People are often motivated to write these letters because they want to express affection, explain some personal background, apologize to someone, or even tell a family secret," he said.

And for financial advisers, the personalized letters can even be used as a way to nudge clients toward the task of writing a will.

"For people who have been procrastinating about getting their affairs in order, we've found that working on a living legacy letter can get them excited about doing trust and estate plans," Mr. West said. "Nobody wants to do a will, but everybody wants to tell their grandkids how much they love them."

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