

Dr. Bob's Seven Principles of Wealth Planning

INTRODUCTION

Wealth planning – that is, the integration of lifestyle planning, asset protection and wealth transfer issues – can seem a daunting, almost overwhelming task. And the more assets we have, the more complex the task can seem. Some of us approach it by leaving it entirely to the “experts,” often not fully understanding what it is they have recommended we do, while some of us throw up our hands and do nothing. Neither way is very wise. The task is far too important not to understand what our advisors are suggesting and not to tackle the important questions. Keeping in mind a number of basic principles may help make the process more comprehensible and the task less daunting. Out of the many that might pertain, I have selected seven that I believe are especially apposite. Of course, they are not meant to be exclusive, nor should they be seen as obviating the need for good tax and legal counsel. Finally, to determine their usefulness, we should consider each in relation to our own personal and family situations.

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PRINCIPLE 1: THE LONGER YOU WAIT, THE FEWER OPTIONS YOU HAVE.

There are any number of reasons for starting sooner rather than later. Let me just focus on two. From a positive perspective, it makes sense to consider gifting from one's estate as soon as possible, using the annual exclusion gift (in 2013, an individual's ability to gift up to \$14,000 per person free of any federal gift tax). And, depending on one's net worth, it also might make sense to give away part or all of one's lifetime exemption from gift tax (\$5,250,000

in 2013). What is the reason for acting sooner rather than later? What Einstein called the most powerful force in the universe: the miracle of compounding. In other words, by making judicious lifetime gifts, not only do we remove the amount given away, we also remove its appreciation over time. That can be very considerable, especially over longer periods of time. It also makes sense for one to make annual exclusion gifts early in the calendar year rather than at the end of the year, so that the gift and the appreciation during the year are not subject to tax. From a more sobering perspective, it is important to do planning while we are well and able. None of us knows, as Hamlet so eloquently put it, when we will go to the "undiscovered country."¹ Waiting and procrastinating may make it too late to plan at all, or too late to do any planning of real consequence, because time is the source of real leverage. Nothing is better than tackling the issues now — unless, of course, we tackled them yesterday. Either way, we face reconsidering them regularly, as we all do. Given changes in personal and family situations, tax law changes and capital markets developments, there may be no better time than now to review and reconsider what we have done.

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What do you stand for?
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PRINCIPLE 2: DON'T LOSE THE FOREST FOR THE TREES.

Some people suffer from what I would call the paralysis of perfectionism: unless they have every piece of a complex puzzle firmly in place, they cannot act. While it is true that complex holdings can require rather complex, often interlocking strategies, nevertheless that should be no excuse not to cover the "basics." By the word "basics," I mean to include a will (and

living trust, for those living in states or faced with circumstances that make one particularly useful); a liv-

ing will; a durable power of attorney; and a health care proxy. Currently, about 60% of Americans don't have a will.² That means they couldn't direct where \$500 would go upon their death, let alone more substantial sums. It is the first and most basic point from which to start. For those with minor children, the issue of guardianship alone could make having a will of utmost importance. Though sometimes it can be a challenge to decide upon proper guardians for one's children, the challenge is no excuse for waiting. My advice: Make the best choice one can at the moment — and know one can go back and make changes, whenever appropriate. (Should one continue to consider the issue and arrive at a different conclusion, our attorney can make the necessary changes.) At the least, we will increase the chances that our

choice of guardian will be implemented if we should die in the interim while our children are still minors. (Note: A will can help inform a court on guardianship issues, but ultimately, the decision is made by the state/judge. Accompanying documents, such as living wills—that declare whether or not we

wish to have extraordinary measures taken to prolong our life—and powers of attorney, assist those we care about and who care about us in making the decisions we would want during times when we might be incapacitated. We should remember as well to let the individuals chosen know they have been selected to carry out certain tasks, and should give them the requisite document that attests to their right to do so. Those professionals on whom we rely—physicians, attorneys, financial advisors and even clergy—should have copies as well. In addition, consider using a Document Locator—a simple listing of all our important documents and their locations. Should we be incapacitated, this will greatly ease the ability of key persons to execute our wishes expeditiously.

PRINCIPLE 3: "BEGIN WITH THE END IN MIND."

³ The quote forms "Habit 2" in Stephen Covey's book, *The Seven Habits of Highly Effective Families*, and concerns establishing a family mission statement. For many, the basis for any truly effective planning is not found in the list of their assets but in the understanding and promotion of their values. What gives your life value? What do you stand for? We know it's not about wealth itself. Several thousand years ago, Aristotle taught us that money was "merely useful... and for the sake of something else."⁴ Because many of

us do not wish to be defined by our wealth, what does define our lives? Working out the answers and sharing them with family lead us from

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personal mission statements to family mission statements—a group of shared principles that reflects our values as a family and encapsulates our goals. While not a panacea, and certainly often a difficult thing to accomplish, a family mission statement can serve as a wonderful reminder of what we deem

important and thus can serve as both a compelling vision and a great yardstick for measuring what we might consider doing or for choosing among possibilities. It can be the bedrock from which all good planning springs. Simply put, values inform goals—and goals inform investing. Too many people put the tax “cart” before the horse. Family values and goals should be considered before any plans for tax minimization; and, in any potential conflict, many might choose to give their goals precedence over saving taxes.

PRINCIPLE 4: “FLY FIRST CLASS. YOUR HEIRS WILL.”⁵

This pithy and amusing comment should not be considered an endorsement of the doctrine of “dying broke,” as a recent book recommended. Referring to our first principle, we can’t know the day when the “last fires will wave to us,” as the poet W.S. Merwin writes.⁶ So it’s impossible to guarantee that our assets would expire exactly when we do. But

it does mean that we should start all planning with ourselves and our spouses or life partners. “Lifestyle planning,” as we term it, concerns the amounts we need to live the life we wish—not simply covering monthly expenses but also managing to cover future “liabilities.” By “liabilities,” I include a number of things we’d like to do, apart from the routine. Examples include: spending six months in Europe learning how to cook; taking grandchildren on a trip around the world; spending a year as a volunteer in a community service organization; starting a business; going back to school. Each of these wonderful “goals” has a cost—and that cost must be factored into our “lifestyle planning.” Assuming that one’s needs and goals can sufficiently be handled by one’s income and assets, it is time to consider gifting to family and community. Starting with oneself, at the least, helps ensure that one does not unwittingly become a burden to one’s

family. And estate planning that forces one to suffer a diminished standard of living is poor planning indeed.

PRINCIPLE 5: YOU DON’T REALLY KNOW SOMEONE UNTIL YOU’VE HAD TO SHARE AN INHERITANCE WITH HIM/HER.

This somewhat jocular observation actually hides a sobering truth: The unintended consequences of some estate plans have been to estrange family members rather than unite them. Stories of siblings who no longer speak to one another as a result of actions, or the interpretation of actions, taken by their parents and grandparents litter the field of estate and trust planning. Unfortunately, it is impossible to guarantee family harmony after we are gone; but we can address issues that may inadvertently cause conflict or exacerbate already existing antagonisms.

One important issue concerns the selection of family members as executors and especially trustees. The motives can be

“pure”—typically, the desire to have a family member involved in key decisions. But the results can be terrible. The choice of one sibling or family member over another may cause old hurts to flare up, or may feed longstanding animosities, frustrations and jealousies. Most family fights over money really aren’t about the money—they’re about these human emotions as they play out in the family. In short, they’re often more about our sense of place in the family than about the dollars.

Before choosing a child or family member as the sole executor or trustee, we should understand the scope of the responsibilities we are asking that person to assume. Does the person have the time, inclination and professional knowledge to accomplish the tasks? Especially when selecting a trustee, we should realize that fiduciary responsibility is of a higher order than what is normally required when dealing with one’s own assets. In addition,

trustees often are called on to make decisions about distributions. Such decision-making authority, when it involves the potential receipt of money, can significantly add to resentments, whether real or imagined. It can also place family members in difficult positions and can even create conflicts of interest.

Instead, consider the use of an independent executor and independent trustee. Such a person has the virtue of professional knowledge, objectivity and constant availability. If one must include a family member for the sake of emotional attachment, examine the possibility of using co-trustees, with an independent trustee serving as one of the two. Further, name the independent trustee as having responsibility for making all distribution decisions from the trust.

Finally, given the possibility that disputes may arise in the future, despite the best of plans, one might consider incorporating various provisions designed to protect the plan. These might include indemnifying trustees for actions taken in support of our wishes and including a mechanism that would set aside funds from the trust itself to immediately pay any legal costs incurred as a result of having to defend actions brought by disgruntled family members. The bottom line: Within certain specific guidelines, we could effectively limit the potential for mischievous litigation that seeks to distract us from our plan.

PRINCIPLE 6: “DISCOUNT THE OBVIOUS. BET THE UNEXPECTED.”⁷

The statement by international financier George Soros⁷ reminds us of the necessity of being flexible in all the planning we do. At best, as former Treasury Secretary Robert Rubin writes, “we live in a world of probabilities.”⁸ And sometimes, we need to ponder the possibility of that “rare event” actually happening. Several examples from American economic history illustrate the point about preparing for the unexpected.

The unexpected does occur, despite improbable odds.

Stocks had historically always paid higher dividends than the interest on investment grade bonds—that is, at least until the 1950s, which turned 80 years of investment history on its head. Likewise, since the Civil War, long-term interest rates had never gone above 5%—until the early 1970s, when they surged into double digits! The examples from economic history ought to serve as valuable guideposts for our personal histories: The unexpected does occur, despite improbable odds. Flexibility enables us to change course, if need be, to add strategies to the ones we already have in place. Together with a dynamic planning process that fosters reconsideration of actions based on changes in our lives, flexibility lets us plan for today, as we must do, and also try to manage the future.

PRINCIPLE 7: “WE MAKE A LIVING BY WHAT WE GET. WE MAKE A LIFE BY WHAT WE GIVE.”⁹

This statement, attributed to Winston Spencer Churchill, is charged with insight. Philanthropy offers a wonderful avenue for self-expression and self-actualization. It may seem odd that giving of our time and assets could actually serve to help us realize our best hopes. But numerous people have attested to this enough times to make it a “fact.” Indeed, philanthropy is fundamentally important in creating a legacy for oneself and one’s family. In his book, *Through the Looking Glass*, Lewis Carroll wrote, “It’s a poor sort of memory that only works backwards.” I don’t think there’s a better definition of legacy than a “memory” that also works forward! Philanthropy also always reminds us that acts of single individuals can still have momentous importance for good in this world. These can be modest in size or delivery but can have effects that reverberate through time. In his essay,

“The Modesty of History,” the Argentine novelist and poet Jorge Luis Borges mused upon the day, in ancient Greece, when the dramatist Aeschylus introduced the second actor—and there was dialogue! From such a “modest” event, look at the extraordinary history of plays and performances which have streamed forth in its wake! In 1826, another such “modest” event occurred: An Englishman named James Smithson died, willing all his assets to a land he had never seen—the United States—for the founding of an establishment dedicated to the increase of knowledge. Twenty years later, those funds were used to found the Smithsonian Institute, a place that has played a delightful and captivating role in the education of millions of Americans.

But philanthropy also offers another personal and familial benefit: It teaches children responsibility and service and so helps to protect against the twin afflictions of overindulgence and entitlement.

Many people begin educating children in the basics of philanthropy at seven or eight years old, as part of a program in values-based financial literacy. The basics include the conviction that philanthropy is not just about giving money, it’s about giving through our words and actions. As with so many areas of children’s education, mentoring is critical: Children respond to what the adults in their lives actually do. So, the best way to teach charitable giving is by doing, and explaining to children what and why we do what we do.

In essence, Churchill’s mellifluous phrase reminds us that, of the three things we can do with our wealth—we can spend it; we can save or invest it; and we can give it away—the third is at least as important as the other two, and, in some ways, perhaps the most important of all.

In any case, successful planning involves doing everything we do with our wealth wisely. Hopefully, one or several of these principles will have helped bring us closer to that wisdom; or, at the very least, helped make wealth planning less daunting and somewhat more intelligible. In another of Lewis Carroll’s famous works, *Alice’s Adventures in Wonderland*, Alice asked that fundamental question, “Which way ought I to go from here?” The Cat answered most intelligently: “That depends on where you want to get to.” When Alice retorted that she didn’t much care, the Cat told her, “Then it doesn’t matter which way you go.”

The problem is, when it comes to wealth planning, we all do very much care. We may seem indecisive at times, overwhelmed with the complexities at others, exasperated with family members sometimes, even afraid on occasion to contemplate our own demise. But we do care very much. Following certain of these principles may offer ways to demonstrate the reality of that caring. ■

¹ William Shakespeare, *Hamlet*, Act III, Scene 1.

² FindLaw.com, 2008.

³ Stephen R. Covey, *The Seven Habits of Highly Effective Families* (New York: Franklin Covey Co.), 1997, p. 70 ff.

⁴ Aristotle, *Nicomachean Ethics*.

⁵ A needlepoint sampler on an attorney’s wall, as cited in Eileen and Jon Gallo, *Silver Spoon Kids* (NY: Contemporary Books, 2002), 54.

⁶ W.S. Merwin, *For the Anniversary of My Death*, 1967.

⁷ George Soros, quoted in *The Wit and Wisdom of Wall Street*.

⁸ Robert Rubin, *In an Uncertain World* (NY: Random House), 2003, passim.

⁹ Sir Winston Churchill, British Prime Minister, historian and orator (1874–1965).