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# Legacy Planning, Once Removed

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## Once Removed: **The Educational Dynasty Trust**


## Episode 46 Summary

As part of their estate planning, many clients want to specifically provide sums for the education of their descendants or other beneficiaries. It is easy to understand why — many clients see education as a way to facilitate their beneficiaries' personal and professional development and help them lead productive and fulfilling lives. This episode explores the concept of an Educational Dynasty Trust and examines issues clients should consider for the structure, funding and administration of such a trust over time


### Transcript:

**(0:00):**

Hello and welcome back.  I'm Steve Murphy, a trust and estates attorney with McGuireWoods LLP. And this is Legacy Planning, Once Removed – my podcast on legacy, family, trusts, taxes, and everything else on my clients' minds.

For those of you who are returning again, welcome back.  And for those of you who are new to the podcast, welcome.

From the title of this podcast, you can see that we're going to be talking about planning, legacy planning and estate planning. But we'll talk more than just estate planning documents like a will or advanced medical directive.

This is about legacy planning, broadly speaking.  We like to think about how you affect others and how they affect you.

And then with that in mind, we like to think about how to structure an estate plan and how to take other actions to create, build, and solidify that legacy, both during life and after your passing.

And because we think so much about this approach to your legacy, we have a tagline here: Walk like you leave footprints.

This is an episode about something I get asked about a lot: how to provide for the education of your beneficiaries.

As I was putting together some notes for this episode, I've realized that there is way more to say about funding education that can be put in just one episode.

So, I decided to just start with one specific strategy as a thought exercise, and then maybe we'll do more episodes.

If you have some topics you'd like me to cover, feel free to send me a note.

On this podcast, you'll know that we often approach things through a spectrum, maybe simpler things on one end of the spectrum, more complex strategies on the other.

But in this episode, I'd actually like to start with a more complicated strategy. And it's the kind of thing that clients are often asking about. They want to think about setting up a large educational trust that will fund education for their descendants for years to come.

**(02:10):**

Let's call this an educational dynasty trust. I think titles are important. Educational comes first, right? That's the primary purpose of this trust.

But then that term dynasty comes second. I think that's important to emphasize here too.

The idea is that this trust is designed to benefit multiple people and multiple generations.

I talk about that concept of a dynasty trust on episode 25.

What is a dynasty trust, perpetuity trust or generation skipping trust? That's actually one of our most popular episodes.

So, if you're curious about generally how a dynasty trust works, you might check out that episode.

But the challenge with setting up this educational dynasty trust is there will be lots of questions that come up about how that should be structured or administered over time.

So, forgive me, but in this episode, I'm going to just basically list off a series of questions or different approaches. And these are actually the same exercises that I go through with my clients or when I'm giving a presentation on this topic when my clients or the audience is thinking about this kind of structure.

Okay? So, let's think through the goals and the vision for this trust.

One question is: who are the real beneficiaries here?

Are there certain primary beneficiaries and secondary beneficiaries?

Here's an example. If you're going to think about funding for multiple generations, should generation two get their education fully funded before there's any funds available for generation three and so on?

Or maybe the level of generation is not that important. Maybe it's more of a focus on types of education.

**(03:50):**

Maybe the goal is to provide for all these beneficiaries for certain kinds of education.

Is that college?

Is that graduate school?

Like law school, med school, educational graduate school?

How about secondary school?

How about private elementary school?

What about a profession or trade school?

And then how about how to deal with certain financial constraints?

Should there be a cap on the amount that a beneficiary has available for his or her education?

I've seen some clients focus on giving each beneficiary maybe a certain number of years of education that will be paid for, or maybe only allow payment of education until a certain age.

The idea is setting some time period where the beneficiary has to use the trust, otherwise the beneficiary won't get access to those benefits.

And then how about this?

What about someone who doesn't go to college or doesn't pursue those more traditional educational tracks?

**(04:56):**

Or if this will fund grad school?

What about someone who doesn't go to grad school?  Should those individuals get access to other funds?

Some clients say, no, they shouldn't get access to other funds.

This really is to enable them to go to that kind of school if they want to.

They choose not to; they don't get additional benefits.  But some clients approach it differently.

Some clients approach this in terms of education much more broadly speaking.

Maybe if a beneficiary is interested in on-the-job training or an internship, maybe the trust could help facilitate that.

And with the cost of education, I like to ask clients how they'd like to handle different financial situations.

What if a beneficiary wants to go to a very expensive private school?

Or what if a beneficiary would like to go to a much less expensive public school?

Or how about this?  What if a beneficiary gets a scholarship, an athletic or academic scholarship?

Should that beneficiary be treated differently?

Again, clients think about this in different ways.  Some clients would say that the beneficiary who gets a scholarship should be benefited in some other way.

**(06:08):**

Maybe if they get their school paid for, then they should have some funds set aside for when they graduate.

Or some say they shouldn't get additional benefits from the trust. Maybe this trust is more about financial need. And if you have a scholarship through other sources, that's a, a great opportunity.

And maybe a different way to think about scholarships too.

Keep in mind that often a scholarship is about more than just money. It's about more than just having school paid for.

It's a terrific opportunity, or it comes with a terrific opportunity like playing on a sports team or participating in certain programs through school or through a fellowship.

And the settlor might actually want to encourage someone to pursue that kind of scholarship or maybe not discourage them from, from pursuing that scholarship.

And then for each of these, as you can see, I like to think through the incentives.

To what extent would this structure set up some incentives to choose one path or another?

And how does the settlor feel about that?

And then we're back to this important decision of who will be the trustee of this trust.

That is, who's going to carry out the settlor's wishes?

Who decides and what kind of guidance will you leave for them?

A letter, we sometimes call that a letter of wishes for guidance to that trustee. I talk about that in episode 24 on how to structure a letter of wishes.

**(07:34):**

But then this brings up a related question.

What about information that goes to the beneficiaries?

How and when would you want the trustees to reach out to the beneficiaries to let them know that this is an option?

Again, some sectors would like to communicate that early. Some settlors would like to communicate that much later after the individual has made his or her own decisions.

I talk about some of those tricky issues on episode 35 where I've drawn some lessons from billionaire investor Warren Buffett, about how to talk to your family about your estate plan.

And yes, we do talk about taxes on this podcast.

So, what about tax issues?

You know, a lot of clients ask: how would the trust pay income tax? Or who would be responsible for that income tax liability?

And are there income tax savings available for certain strategies like maybe incorporating 529 plans into this overall trust or strategy?

And yes, there are specific generation-skipping transfer tax or GST tax issues that come with this kind of trust.

So, you want to be very mindful in setting that up during life or upon death.

And maybe we've just gone through it, all these questions to get you thinking.

So perhaps for the thought exercise in closing, it's best to just consider all of those questions I just raised.

**(08:57):**

And then how about these, you know, what kind of trust or structure would you want to put in place to address these various questions I've raised?

What would that trust value?

What would it try to accomplish?

And after all that, as you've, after you've fought through this educational dynasty trust, I'd like you to ask, would a simpler option suit better?

Could you accomplish this same goal by leaving assets to the next generation outright with some just general hopes and wishes in place?

And then lastly, if you have all these goals in mind, then why wait?

Why not start funding that kind of education now maybe through this kind of trust or maybe through just direct gifts or 529 plans.

If you're interested, you could reach out to your financial advisor or tax advisor or legal advisor to talk this through.

There might be ways that you can get started on this important project now and maybe have some really important tax benefits.

I'm Steve Murphy and this has been Legacy Planning, Once Removed my podcast on thoughtful estate planning/

Thanks for listening.

And until next time: Walk like you leave footprints.