

Catholic Estate and Financial Planning

Handout materials are available for download or printing on the **HANDOUT TAB** on the gotowebsinar console. If the tab is not open, click on that tab to open it, and view the materials.

PEAK TRUST COMPANY
Financial Trust & Wealth Management Solutions

InterActive Legal

A KEY ESTATE PLANNING GUIDE

1

Catholic Estate and Financial Planning

By: Salvatore J. LaMendola, Esq.
and Martin Shenkman, Esq.

PEAK TRUST COMPANY
Financial Trust & Wealth Management Solutions

InterActive Legal

Law Easy

2

General Disclaimer

- The information and/or the materials provided as part of this program are intended and provided solely for informational and educational purposes. None of the information and/or materials provided as part of this power point or ancillary materials are intended to be, nor should they be construed to be the basis of any investment, legal, tax or other professional advice. Under no circumstances should the audio, power point or other materials be considered to be, or used as independent legal, tax, investment or other professional advice. The discussions are general in nature and not person specific. Laws vary by state and are subject to constant change. Economic developments could dramatically alter the illustrations or recommendations offered in the program or materials.

3

Additional Disclaimers

- This presentation is meant to educate and assist. It is not meant to give legal advice.
- The PowerPoint and other materials do not speak in the name of the Roman Catholic Church nor in the name of the presenters' or sponsors' firms.
- This presentation is not intended as a substitute for the advice of a qualified estate planning professional or tax specialist.
- For definitive information as to the Roman Catholic Church's views, consult your priest.

4

Additional Comment and Information

- If there are any errors in how the Catholic faith is portrayed please email shenkman@shenkmanlaw.com and I will correct the materials and recirculate them.
- We are planning webinars on many other religions. If you wish to assist on any, please email me and let me know.
- For a recording and materials on planning for Religion and Estate Planning generally, the first installment of our religion and estate planning series, see www.shenkmanlaw.com/webinars.
- For a recording and materials on planning for Christian Estate Planning, the second installment of our religion and estate planning series, see www.shenkmanlaw.com/webinars.

5

Thank you to our sponsors

- InterActive Legal
 - Vanessa Kanaga
 - (321) 252-0100
 - sales@interactivelegal.com



6

Thank you to our sponsors

- Peak Trust Company
 - Brandon Cintula
 - (888) 544-6775
 - bcintula@peaktrust.com




7

Catholic Estate and Financial Planning

Some General Thoughts

8

Catholicism in America - 1

- *"The Catholic Church is larger than any other single religious institution in the United States, with over 17,000 parishes that serve a large and diverse population." "There are roughly 51 million Catholic adults in the U.S., accounting for about one-fifth of the total U.S. adult population, according to Pew Research Center's 2014 Religious Landscape Study. That study found that the share of Americans who are Catholic declined from 24% in 2007 to 21% in 2014."*
- The above statistics make clear why it is important for estate planners to be mindful of how Catholic religious imperatives and views affect financial and estate planning.

9

Catholicism in America - 2

- "...13% of all U.S. adults are former Catholics – people who say they were raised in the faith, but now identify [otherwise]...."
- This is why it may be important to clarify in, for example, a client's living will, what the client's current faith or philosophical perspective is given the large number of former Catholics. Family and others who might be named as agents or concerned about decisions may have misconceptions or may make assumptions, about the client's religious perspectives.
- Source: David Masci And Gregory A. Smith, "7 facts about American Catholics," Oct 10, 2018, <https://www.pewresearch.org/fact-tank/2018/10/10/7-facts-about-american-catholics/>

10

Should an Attorney Address Religious Considerations?

- Many practitioners are reluctant to address religious issues, viewing them as outside of the purview of matters appropriate for an attorney or estate planner. The tremendous impact which religious rituals and traditions can have on each estate planning document, and many of the common estate planning techniques, practically assures that important personal goals of the religious client will be violated if the planner does not address them. No practitioner should knowingly violate a client's religious wishes.
- As you seek out and address client's religious and other personal wishes, you will create a bond with them that will take the relationship beyond that of being as mere scrivener or consultant, to that of being a confidant and family adviser. The rewards of providing that level of personal service, and the strengthened client bonds, will enhance your practice, client retention and more.

11

Should an Attorney Address Religious Considerations?

- "According to many surveys, 95+ percent of Americans believe in God or some type of higher power, yet few estate plans address any aspect of religion, or a particular philosophical attitude. This inadequacy has tremendous personal impact, because no area of the law is more fraught with religious issues than estate planning. If you endeavored to live your life in conformity with your religious beliefs, then your final medical decisions, funeral arrangements, and distributions under your will should be consistent with those beliefs."
- Source: Martin M. Shenkman, Esq., remarks at the 2007 ABA Leadership Conference Outline, "Religion and Estate Planning."

12

Goals for Catholic Estate Planning

- Estate Planning should not be just about the transmission of wealth.
- Estate planning should be about the transmission of a client's Roman Catholic religious values and beliefs.
- For many, their financial planning should also reflect their religious beliefs.
- This can be done by integrating Catholic religious considerations into the estate planning process.

13

Catholic Views of Wealth - 1

- *"Our Catholic Catechism teaches that holiness comes from poverty of the heart. "Jesus enjoins his disciples to prefer him to everything and everyone, and bids them "renounce all that [they have]" for his sake and that of the Gospel. Shortly before his passion, he gave them the example of the poor widow of Jerusalem who, out of her poverty, gave all that she had to live on. The precept of detachment from riches is obligatory for entrance into the Kingdom of heaven. (CCC 2544)."*
- Source: Patti Armstrong, "That Awkward Relationship Between Catholics and Money," National Catholic Register, Jan 2, 2016. <http://www.ncregister.com/blog/armstrong/that-awkward-relationship-between-catholics-and-money>

14

Catholic Views of Wealth - 2

- The chief and most excellent rule for the right use of money is one the heathen philosophers hinted at, but which the Church has traced out clearly, and has not only made known to men's minds, but has impressed upon their lives. It rests on the principle that it is one thing to have the right to the possession of money and another to have a right to use money as one wills. Private ownership, as we have seen, is the natural right of man; and to exercise that right, especially as members of society, is not only lawful, but absolutely necessary. "It is lawful," says St. Thomas of Aquin, "for a man to hold private property; and it is also necessary for the carrying on of human existence." But if the question be asked, How must one's possessions be used? The Church replies without hesitation in the words of the same holy Doctor: "Man should not consider his outward possessions as his own, but as common to all, so as to share them without hesitation when others are in need. Whence the Apostle [St. Paul] saith, command the rich of this world...to offer with no stint, to apportion largely [1 Tim. 8:17,18]."
- Pope Leo XIII, encyclical letter, Rerum Novarum, May 15, 1891

15

Catholic Views of Wealth - 3

- "...there is no Catholic prosperity Gospel. The late Marist priest... Fr. Thomas Dubay, explained the Catholic understanding of the Gospel and money in *Happy are the Poor: The Simple Life and Spiritual Freedom*. The goal is not destitution, he explained, but the love of frugality and loving our neighbors as ourselves so as not to turn away from their poverty. He explained that means sharing what we have as John the Baptist told people: "If anyone has two tunics, he must share with the man who has none..." (Luke 3:11)."
- "Ultimately, the relationship between money and Catholics is awkward because it is supposed to be. We are to be in the world not of the world. It's less about the money and more about the challenge of detachment. Whether we work in and around the Church or not, we should be no less committed to the Gospel."
- Source: Patti Armstrong, "That Awkward Relationship Between Catholics and Money," National Catholic Register, Jan 2, 2016. <http://www.ncregister.com/blog/armstrong/that-awkward-relationship-between-catholics-and-money>

16

Areas of Estate Planning Impacted by Catholic Religious Considerations

- Charitable giving.
- Financial stewardship.
- End of life medical decision making (pain management, pregnancy, etc.).
- Burial, funeral and post death arrangements (rituals, burial vs. cremation etc.)
- Transmitting religious values to children and other heirs.
- Disposition of assets on death.
- Fiduciaries need authority to disburse funds for religious education (e.g. supplemental religious education, or private school), religious travel (pilgrimages to holy sites), charitable giving (to inculcate a core religious value), and other purposes consistent with religious goals.
- Fiduciaries must be selected that have the appropriate knowledge and sensitivity to address Catholic religious issues (e.g., education of children or other heirs).
- Ethical and miscellaneous issues (disinheritance, in-terrorem clauses, mandatory arbitration of certain claims before a religious body, investment standards, etc.)
-and more.

17

Every Aspect of Planning Can be Imbued with Catholic Religious Considerations

- Each aspect of your financial, retirement, insurance, death (dispositive scheme) and post-death (e.g., trusts for heirs) planning can all be imbued, to the extent you wish, with the same Catholic religious values that you live now.
- This process will not require a different type of financial plan, or a unique type of legal document, merely a bit of tailoring, modifications to each step and document in the traditional or typical estate planning process.
- Small changes can make a tremendous impact to you, your faith, organizations you are involved with, causes you believe in, and to your family and other heirs.
- Each change can be planned and implemented to be consistent with your particular Catholic beliefs and wishes.

18

Is there "Catholic" Estate and Financial Planning?

- YES! Catholic estate planning involves most of the same steps and documents as general planning, but...each step can be tailored to infuse your Catholic religious values.
- Budget and Financial Plan – reflect your values in consumption decisions, annual allocation to charity, reflect your role as a steward of God's wealth.
- Power of Attorney - Authorize agent to tithe if you do. Authorize support of people you are helping.
- Will – name a guardian who will raise your children with your Catholic values, charitable bequests with a statement of the importance to educate heirs. Distribute assets to charity and children to achieve your religious as well as personal objectives.
- Living Will/Health Proxy - Selecting health care agents sensitive to your views. Direct your named agents to follow Catholic view in your living will and health proxy.
-these and other points will be explored in more detail.

19

Catholic Estate and Financial Planning

Letter of Instruction

20

Letters of Instruction

- A letter of last instruction should be written to family and loved ones addressing Catholic religious matters.
- A separate letter should be written to any institutional trustee. This will enable you to communicate your feelings in your own words.
- Description of your Catholic religious faith.
- What type of funeral is desired?
- What type of mourning process should be observed?
- Which Catholic religious customs, if any, should govern?
- What about guidance for those that you leave behind? What type of life do you want your children or grandchildren to lead? Do you want them brought up with a Catholic religious value system?

21

Catholic Estate and Financial Planning

Living Wills and Health Proxies

22

Living Wills and Health Proxies – Overview - 1

- Be wary of standard forms that violate your Catholic religious beliefs.
- The agent named in your health care proxy should agree to implement the Catholic religious wishes you outlined in your living will.
- The Catholic Church doesn't mandate that a person be kept alive no matter what. A Catholic can decide to avoid overly invasive and experimental procedures, but not ordinary means of care. "*Ordinary means*" could include feeding someone, assuring they have air to breathe, etc. The Church believes that a patient must continue to receive ordinary care, otherwise you are effectively acting to cause the patient's death. The extraordinary means go beyond this and seek to reverse a process that's already underway. Extraordinary means can be antibiotics or surgery, among others.

23

Living Wills and Health Proxies – Overview - 2

- **Sample Provision Religious Statement:** *"WHEREFORE, God is the creator and preserver of life. Since life is a journey from God and back to God with death as part of that journey, it follows that life is sacred, but not an ultimate value. From this perspective, death is not a failure or an absolute evil, but the culmination of the journey.*
- *WHEREFORE, My Catholic heritage holds that life is the gift of a loving God. I see life as a sacred trust over which I can claim stewardship, but not ownership. Therefore, I believe that euthanasia and suicide constitute an unwarranted destruction of human life and are not morally permissible. I understand, as a Catholic, that I may never choose to cause my death as an end or a means."*
- **Sample Provision Religious Statement:** *"I wish to condition the effectiveness of this directive upon its conforming to Catholic religious doctrines and beliefs to which I subscribe. In order to effectuate my Wishes, if any question arises as to the requirements of my religious beliefs, I authorize my Agent to seek the guidance of Pastor [name or a church from which a pastor can be selected]."*

24

Living Wills and Health Proxies – Last Rites - 3

- The anointing of the sick (last rites) is a sacrament intended to bring spiritual and physical strength during an illness, especially near the time of death. It's a rite performed to convey God's grace to the recipient, through the power of the Holy Spirit. To avoid any confusion given the diversity of today's society, it's advisable to specify in the living will that your client wishes to have this rite.
- Some traditional Catholics still refer to "anointing of the sick" as "extreme unction."
- **Sample Provision for Last Rites:** *"If I fall terminally ill, I request that I be attended by a Catholic priest and be given the opportunity to receive the Last Sacraments [OPTIONAL: in each case according to the older ritual]. I also wish [CHOOSE ONE: the priest //or // Father [NAME], or if he is unavailable, then Father [NAME] to offer the prayers for the dying, and, to impose the apostolic blessing. Finally, I ask that my condition be made known to my Parish so that I may receive their support and prayers."*

25

Living Wills and Health Proxies – No Suicide/Euthanasia - 4

- The following is a sample statement that might be considered.
- **Sample Provision No Suicide/Heroic Measures:** *"I am a Roman Catholic. As a Roman Catholic I elect to make decisions regarding my care and treatment that are morally permissible according to the teachings of my church. I believe that I have been created for eternal life in union with God. The truth that my life is a precious gift from God has profound implications for the question of stewardship over my life. I have a duty to preserve my life and to use it for God's glory, but the duty to preserve my life is not absolute, for I may reject life prolonging procedures that are insufficiently beneficial or excessively burdensome. Suicide and euthanasia are never morally acceptable options. If I should become irreversibly and terminally ill, I request to be fully informed of my condition so I can prepare myself spiritually for death and witness to my belief in Christ's redemption and hope for eternal life."*

26

Living Wills and Health Proxies – Heroic Measures - 5

- Generally, nutrition and hydration will be considered ordinary means and shouldn't be withheld. To withhold nutrition or hydration could be equivalent of starving a person to death.
- If the objective is to actively hasten the onset of death, it's inappropriate to authorize such an action in the Church's view. The Church believes that we are always safe in God's hands because He loves us more than we love ourselves. Therefore, to actively hasten death would be a violation of these fundamental beliefs.
- **Alternative More Detailed Heroic Measures Statement:** *"No Heroic Measures" in accordance with Catholic Traditions and Beliefs. I expressly request that all decisions be made within the moral framework of Catholic traditions. If I have an incurable or irreversible, severe mental or severe physical condition; am in a state of permanent unconsciousness or profound dementia; am severely injured; and in ...any of these cases there is no reasonable expectation of recovering from a severe, permanent condition, and gaining any meaningful quality of life, then in any such event, it is my desire and intent that ..."*

27

Living Wills and Health Proxies – Heroic Measures - 6

- ...heroic life-sustaining procedures and extra-ordinary maintenance or medical treatment as understood in accordance with Catholic moral traditions, may be withheld and withdrawn. It is not my desire to prolong my life through mechanical means where my body is no longer able to perform vital bodily functions on its own, and where there is little likelihood of ever regaining any meaningful quality of life. The condition and degree of permanent illness, injury, disability or accompanied by pain such that the average Catholic person might contemplate, in the moral tradition of the Church, the decisions addressed herein (regardless whether such person would make the decisions I have made herein). In any such event, I direct all physicians and medical facilities in whose care I may be, and my family and all those concerned with my care, to refrain from and cease extraordinary or heroic life-sustaining procedures and artificial maintenance and/or medical treatment, as understood in a manner that is consistent with Catholic moral traditions. The procedures and treatment to be withheld and withdrawn include, without limitation, surgery, antibiotics, cardiac and pulmonary resuscitation, ventilation or other respiratory support."

28

Living Wills and Health Proxies - POLST - 7

- What if you have a terminal illness? Can you instead rely on a POLST – Physician Order for Life Sustaining Treatment? Can that be modified to reflect your Catholic religious wishes or refer/incorporate your living will? Be careful as forms differ by state and do not reflect religious values in many of the questions.

29

Living Wills and Health Proxies – Pain Relief - 8

- **Pain Relief:** Many people and health care providers view the alleviation of all pain to be an essential and critical goal. But how this is handled and how it is worded in legal documents can have important religious implications.
- **Catholic Sample Pain Relief Provision:** Consider: *"I calmly and gladly accept from the hand of God whatever manner of suffering and death it may please Him to send me.*
- **[OPTIONAL, FOR THE MORE HEROIC:** *In order to remain fully lucid and share consciously in the Lord's Passion, I wish to forgo all painkillers and sedatives.]*
- **[OTHERWISE:** *I request that pain relieving medications be administered in sufficient dosages to manage the pain, even if my death should be hastened, so long as the intent is not to hasten my death.]*
- *I unite my death and all the sufferings which will accompany it with the sufferings and death of Jesus Christ, and offer it in acknowledgment of God's supreme dominion and, in satisfaction for my sins. May the Lord accept of this sacrifice for the love of that great Sacrifice which His Divine Son made of Himself upon the altar of the Cross for me.."*

30

Living Wills and Health Proxies – Pain Relief - 9

- **Alternative Catholic Sample Pain Relief Provision:** From a Catholic perspective, how should the provisions of pain relief, a possible desire for mental clarity to participate in end of life decisions or prayer, and these decisions be dealt with? Consider: *"I wish to have pain relief to the extent permissible in accordance with Catholic religious principles. I wish that all treatment and measures for my comfort, and to alleviate my pain, be continued, so long as they do not actively hasten the onset of death. I recognize that the alleviation of suffering is a value in the Bible, but that the Bible also points out suffering's redemptive nature. I request that discretion be used to balance these objectives to the extent feasible."*

31

Living Wills and Health Proxies – Nutrition and Hydration - 10

- **Sample Nutrition Hydration Provision:** *"Food and water are not medical treatment, but basic necessities. I direct my health care provider(s) and patient advocate(s) to provide me with food and fluids, orally, intravenously, by tube, or by other means to the full extent necessary both to preserve my life and to assure me the optimal health possible. I direct that medication to alleviate my pain be provided, as long as (i) the medication is not used in order to cause my death, and (ii) the medication does not prevent my conscious participation in the Last Sacraments. I direct the following be provided: (i) the administration of medication; (ii) cardiopulmonary resuscitation (CPR); and (iii) the performance of all other medical procedures, techniques, and technologies, including surgery, all to the full extent necessary to correct, reverse, or alleviate life-threatening or health impairing conditions or complications arising from those conditions. I also direct that I be provided basic nursing care and procedures to provide comfort care. I reject, however, any treatments that use an unborn or newborn*

32

Living Wills and Health Proxies – Nutrition and Hydration - 11

- *child, or any tissue or organ of an unborn or newborn child, who has been subject to an induced abortion. This rejection does not apply to the use of tissues or organs obtained in the course of removal of an ectopic pregnancy. I also reject any treatments that use an organ or tissue of another person obtained in a manner that causes, contributes to, or hastens that person's death. I request and direct that medical treatment and care be provided to me to preserve my life without discrimination based on my age or physical or mental disability or the "quality" of my life. I reject any action or omission that is intended to cause or hasten my death. I direct my health care provider(s) and patient advocate(s) to follow the policy above, even if I am judged to be incompetent. If it would be beneficial to me or my agent, the counsel of a Priest or moral theologian may be obtained to assist in understanding the acceptability of terminating any medically assisted life support."*
- Sample Provision based on NRLC Will to Live (<https://www.nrlc.org/medethics/willtolive/states/>);
- Additional resources: <https://www.catholicendoflife.org/resources/>

33

Living Wills and Health Proxies – Nutrition and Hydration - 12

- **Alternative Catholic Sample Nutrition Hydration Provision:**
"Generally I do not believe that the Bible permits the withdrawal of nutrition and hydration and as such, the presumption for my care should be not to withdraw nutrition or hydration unless that decision and its implementation are both confirmed as within the spectrum of Catholic religious beliefs. By way of example and not limitation if I am in a persistent vegetative state, and it is determined that it is acceptable to withdraw tube feeding, efforts should be made to feed me food and fluids by mouth so that withdrawal of the tube feeding is not a per se active step to terminate my life."

34

Living Wills and Health Proxies – Pregnancy - 13

- Catholic women should consider Catholic religious issues concerning pregnancy in their living wills. If there's a health challenge the mother faces and if to treat her, the unborn child, incidentally and by accident dies, that may be permissible. But you can't take any affirmative action that would likely cause the death of the unborn child. You can't choose the life of the mother over the life of the unborn child. This issue is important to address since it can differ from what many people might assume if uninformed.
- **Sample Provision:** "If I am with child, I wish that, regardless of my physical or mental condition, every means be taken to sustain and nurture my life and the life of my unborn child until birth, or at least until my child's viability, including medically assisted nutrition and hydration and all other life sustaining procedures. If my child is in danger of death, I request that he or she be baptized and confirmed by a Catholic priest."

35

Living Wills and Health Proxies – Organ Donations - 14

- *"Organ donation after death is a noble and meritorious act and is to be encouraged as an expression of generous solidarity. It is not morally acceptable if the donor or his proxy has not given explicit consent. Moreover, it is not morally admissible to bring about the disabling mutilation or death of a human being, even in order to delay the death of other persons."* Catechism of the Catholic Church #2296.
- How should the issue of organ donations be addressed? One article of faith is the resurrection of the body. In Catholic theology the body as well as the soul is sanctified through the reception of the sacraments and with the soul will be glorified in the resurrection.
- **Sample Provision:** *"In the hope I may help others, upon my death, I wish to donate organs, and tissues, for transplantation, and this is my explicit consent to same. However, organ and tissue donations may only be made for ethically legitimate purposes as determined by the Catholic Church."*
- Be certain to review these issues with your Priest, and modify your document accordingly. If you believe it is acceptable to be an organ donor also sign an organ donor card.

36

Living Wills and Health Proxies – Funeral/Burial - 15

- While some Catholics have dispensed with a religious service and use a funeral chapel's service instead, the religious service is the traditional approach. The service at the Parish Church for a funeral mass, which is very important, is thus missed. This service is important, not only for the deceased who can gain from the prayers of the congregation and the grace of the sacramental action, but also for consoling the deceased's family and friends. When the bereaved pray together they can experience their own grace-filled strength and the support of the others who pray with them. This experience is so important for the solace of the survivors. For Catholics, the Mass in church is the appropriate way to say farewell to a loved one. Clients should consider including an express request for such a service in their living will.
- Consider the following as one of several provisions that you might add to your living will: *"I do not wish my family to incur exorbitant costs on my funeral. My belief is that following my death I will be with the Lord and therefore my family should take whatever measures for my funeral, burial and other arrangements that provide them the most solace, including a religiously appropriate funeral ceremony, that are financially reasonable."*

37

Catholic Estate and Financial Planning

Powers of Attorney

38

Powers of Attorney - 1

- Catholic values encourage and promote charitable giving. If you have been charitable during your lifetime and would wish such charitable giving to continue, or even if you have not but would like charitable giving to be a factor considered in your last days, enabling an agent under a durable power of attorney to make charitable gifts on your behalf in the event of your disability or incapacitation is essential. Otherwise, no one may have access to your funds to do so.
- *"My agent may consider continuing my historical pattern of charitable giving to charities I have previously made gifts to, and in amounts not in excess of those I have previously given. I suggest, but do not require, that the agent endeavor to continue annual gifts that have been part of my regular charitable donations."*
- *"While I have traditionally tithed 10% of earnings to [List charities], I suggest that my agent continue to do so if feasible, but that in making such determinations my agent also consider the financial impact of continuing such donations in light of my changed financial condition if I am incapacitated."*

39

Powers of Attorney - 2

- Alternative **Sample Provision:** "I authorize my agent/trustee to make charitable gifts as my agent/trustee believes I would make if I were able. I specifically give my agent/trustee the authority (1) to make qualified charitable distributions from one or more of my traditional IRAs to one or more qualified charitable organizations and (2) to accelerate testamentary charitable bequests (including testamentary charitable trusts or gift annuity arrangements) if this acceleration would be of greater benefit to me or my heirs. The authority granted in the preceding sentence shall only be used to benefit those charitable organizations that I have supported during the ____-year period ending on the date that I was first determined to be incapacitated."

Powers of Attorney - 3

- Consider a statement of values concerning the manner in which support should be provided consistent with your Catholic value system.
- Similar provisions should be included in a revocable trust if you use that document in your plan.
- If children or grandchildren are to be aided with a Catholic religious education you may wish to expressly provide your agent with the authority under your power of attorney to pay such expenses. Addressing this in your will is important, but may alone may not suffice in many situations. If paying for grandchildren's religious education is an important objective, then specifying the authority for such gifts and expenditures in your power of attorney is likely to be advisable as well.

Catholic Estate and Financial Planning

Catholic Values and Your Will

Will - 1

- Consider a statement of faith in your will.
- **Sample Provision:** *"In the name of the Very Holy Trinity, Father, Son and Holy Ghost, I leave my soul to God, my creator, I pray Him to receive it in His mercy, not to judge it according to its merits but according to those of Our-Lord Jesus Christ who has offered Himself as a sacrifice to God His Father for us other men, no matter how hardened, and for me first. I die in communion with our Holy Mother, the Catholic, Apostolic, Roman Church, which holds authority by an uninterrupted succession, from St. Peter, to whom Jesus Christ entrusted it; I believe firmly and I confess all that is contained in the creed and the commandments of God and the Church, the sacraments and the mysteries, those which the Catholic Church teaches and has always taught. I pity with all my heart our brothers who may be in error but I do not claim to judge them, and I do not love them less in Christ, as our Christian charity teaches us, and I pray to God to pardon all my sins."*
- Model language from Will of Louis XVII
<https://www.andrewcusack.com/2006/the-last-will-and-testament-of-louis-xvii/>

43

Will – Guardian Appointments - 2

- **Sample Provision:** *"Subject to the condition described below, I appoint the following, in the order listed, as guardian of my minor children: (1) my spouse (if living), or if my spouse is not living and has failed to appoint guardians for our minor children, (2) _____, (3) _____. Each appointment made in the preceding sentence (other than that of my spouse) is on condition that the appointee promise that, to the best of his or her ability, he or she will ensure that my children will be well instructed in the Catholic religion, trained up as early as possible to a pious and virtuous life, guarded from being led into sinful or dangerous courses, and corrected with Christian charity."*

44

Will - 3

- To the extent you can make your estate plan charitable, just, fair among heirs and consistent with the many Catholic doctrines.
- It is often common for many people to provide for some type of continued remembrance in their will through a donation or contribution to perpetuate their memory. This might include payments for perpetual grave site maintenance, donation to a Catholic religious organization for annual or other periodic rites in your memory to be carried out.
- If you create trusts for heirs (which is often advisable) be certain to name trustees that also share your Catholic views of wealth and consumption. Consider including the right for the trustees to distribute money to your heirs so that the heirs can make charitable gifts. If this is not expressly provided for it may not be feasible for the trustees to do so.
- If you have family, friends or others you have helped financially you might continue to provide for them after your death by creating what is often referred to as a sprinkle or "spray" trust. This is a trust with various beneficiaries and the trustees are authorized to make distributions among the class of beneficiaries in their discretion. This class of beneficiaries perhaps should also include charities.

45

Will - 4

- Some hope for their descendants to follow in their Catholic lifestyle. How far you wish to go to assist them can be reflected in your will. For example, you could specifically authorize the payment of private school education, if and only if it is for a Catholic religious denomination for grandchildren.
- Some people have gone so far to have even tied bequests to a descendant marrying within their faith. Great care, however, must be exercised in this type of planning. If you are seeking to encourage someone to follow a particular religious path, this stick is not always the best approach. If descendants stray from the path hoped for, threatening them with disinheritance may only encourage their never returning. A more effective long-term approach might be to instead bequeath the descendant a full inheritance in trust, with a trustee who is sensitive to the parent's Catholic religious feelings, and the child's situation, to distribute funds in a positive way. For example, paying the child's expenses to attend family functions, holiday celebrations and the like may heal strained family relations.

46

Will - 5

- **Example:** Add to your will a bequest to an organization that has been instrumental in your life, or which embodies the values you hold dear. *"I give and bequeath \$10,000 to ABC Church."* Making a charitable bequest to a Catholic organization is a wonderful way to demonstrate the importance of charitable giving, Catholic values, priorities and more for your heirs. But, with a modicum of additional effort you can perhaps emphasize those values even more. What if the will included the bequest written in the following manner: *"I give and bequeath \$10,000 to ABC Church to demonstrate to my children the importance of the Catholic value of charity, and the importance of the Church in my life, with the hopes that each of my children establish a similar bond with the Church."*
- Write a letter of final instructions, often referred to as an ethical will, to your heirs. Explain to them your connection with the Church, how the Catholic concept of stewardship over assets is carried out by making a bequest in your will to compliment the philanthropy during your lifetime. An ethical will can complement and expand on a simple bequest in your will to create a profound educational point for your heirs. See above.

47

Catholic Estate and Financial Planning

Use of Trusts

48

Use of Trusts – Modify HEMS - 1

- Trusts formed often limit distributions to a ascertainable standard, so-called "health education maintenance and support" or "HEMS." Consider modifying the standard HEMS language to incorporate Catholic religious considerations.
- **Sample Provision:** *"For purposes of this instrument, "health" does not include the costs of a direct abortion; artificial insemination/fertilization/surrogate motherhood; contraception; vasectomy, tubal ligation, and any other form of direct sterilization; gender change; nontherapeutic plastic surgery; tattoos or body piercing; and any other practice condemned as sinful by the Catholic church. For purposes of this instrument, "education" does not include any costs associated with studies that are contrary to Roman Catholic faith and morals. Conversely, generosity shall be shown where the following items are concerned, provided that they are authentically Catholic: pilgrimages, retreats, missions, seminary classes, home study courses, home education for children, online courses, Bibles, catechisms, other books (especially those written by or about the fathers of the Church and/or the Saints), newspapers, magazines, audios, and videos."*

49

Use of Trusts - 2

- As a general rule any asset that can be given or bequeathed should be gifted or bequeathed in trust to provide creditor and predator protection, income tax planning opportunities and transfer tax avoidance. But is there a biblical view of the use of trusts? Perhaps.
- Consider the Parable of the Prodigal Son, which provides a caution about unfettered gifts (or bequests) of wealth:
- 11 Jesus continued: *"There was a man who had two sons. 12 The younger one said to his father, 'Father, give me my share of the estate.' So he divided his property between them. 13 "Not long after that, the younger son got together all he had, set off for a distant country and there squandered his wealth in wild living. 14 After he had spent everything, there was a severe famine in that whole country, and he began to be in need. 15 So he went and hired himself out to a citizen of that country, who sent him to his fields to feed pigs. 16 He longed to fill his stomach with the pods that the pigs were eating, but no one gave him anything..." Luke 15:11-32*

50

Use of Trusts - 3

- No one can be sure which child (or other heir) will squander funds to his or her detriment. Not all stories of squandered wealth end with a reunion. In the worst of cases the excess wealth can be directed to fund alcohol or drug abuse, and result in the child winding up in prison or worse. A trust, with checks and balances on distributions and use of funds, can not only preserve wealth, but preserve the child. A trustee can be encouraged in personal discussions, a side letter of instruction and/or the terms of the trust instrument itself, to foster and encourage the lifestyle you want for your descendants.
- Does the Bible actually encourage the use of trusts? Consider *"A good person leaves an inheritance for their children's children..." Proverbs 13. The optimal way to leave an inheritance for grandchildren and later descendants is to create a trust for your children and all future descendants to protect and transmit wealth down the generational lines.*

51

Use of Trusts - 4

- Consider a purpose trust to construct and maintain a grave or monument; to support the saying of Masses; to maintain a church building, an organ, one or more statues, relics, or works of art; to support the Catholic press, both paper and internet, etc.
- **Sample Provision:** "Upon my death, \$ _____ shall be allocated to a separate trust, to be administered as follows: Commencing as of my death and until the termination date (defined below), the trustee shall expend as much of the net income and principal of the trust, even to the extent of exhausting principal, as the trustee determines from time to time to be desirable for the upkeep and maintenance of the stained glass windows, organ, baptismal font, and statuary of [NAME OF CHURCH] of [ADDRESS OF CHURCH]. During the period described in this paragraph: The trustee shall add any undistributed net income to principal from time to time, as the trustee determines; and my primary concern is for the purpose described above, and the trustee need not consider the interest of any remainder beneficiary in making expenditures for the same. If the trustee fails to carry out the terms of this trust, _____ shall have the right and authority to enforce the terms of this trust. Upon _____, (the "termination date"), the trust shall terminate, and the trustee shall administer the remaining principal of the trust (if any) as provided in Article _____."

52

Use of Trusts - 5

- Consider adding parents, other relatives or relationships whom you are supporting or assisting financially during your lifetime to continue that support after death.
- **Sample Provision:** "I authorize and empower my said trustees in the exercise of their sound judgment and sole discretion to use or apply any part of the principal of said trust fund, in addition to the income therefrom, as may appear to my trustees to be necessary and for the welfare and best interest of my [MOTHER/FATHER], [NAME OF PARENT]."

53

Use of Trusts – Incentive Trusts - 6

- Consider creating some type of incentive trust to encourage heirs to remain faithful. The following illustrates such a clause in the context of a charitable remainder unitrust or "CRUT":
- **Sample Provision:** "In each taxable year of the trust, [NAME OF HEIR] shall receive, during [his/her] lifetime, an amount equal to [NUMBER]% of the net fair market value of the assets of the trust valued as of the first day of each taxable year of the trust.
- Upon the death of [NAME OF HEIR], all of the then principal and income of the trust shall be distributed to [NAME AND ADDRESS OF CATHOLIC CHURCH AND/OR CATHOLIC CHARITIES].
- Notwithstanding any provision to the contrary, [NAME OF HEIR] shall not be entitled to any distribution from this trust unless [he/she] [CHOOSE ONE: confesses [his/her] sins once a year //or// receives the sacrament of Eucharist at least during the Easter season] (except that this provision shall not apply during any period that [NAME OF HEIR] is unable to comply therewith by reason of physical or mental disability as determined by my trustee in its sole and absolute discretion).

54

Use of Trusts – Incentive Trusts - 7

- If [NAME OF HEIR] fails to [REPEAT CONDITION ABOVE], [his/her] interest in this trust shall be terminated at the end of such calendar year and the principal of this trust, together with all accrued and undistributed net income, shall be disposed of as if [NAME OF HEIR] had then died.
- My trustee shall rely on an affidavit from [NAME OF HEIR] certifying that [he/she] has complied with the condition of the preceding paragraph, and my trustee shall have no duty to make, and shall be prohibited from making, any further inquiries into the matter. At the end of any calendar year, my trustee shall have the right to presume that [NAME OF HEIR] did not comply with the condition of the preceding paragraph if the aforementioned affidavit is not received for such calendar year.
- Based on Will of Leona Helmsley <https://www.livingtrustnetwork.com/estate-planning-center/last-will-and-testament/wills-of-the-rich-and-famous/last-will-and-testament-of-leona-helmsley.html>

55

Catholic Estate and Financial Planning

Religion and Vacation Home Agreements

56

Vacation Home Tenants in Common Agreement- 1

- **Example:** Three children are bequeathed or given a beach house for shared use. A tenants in common agreement governing the use of a vacation home is prepared. In addition to the usual issues concerning repair and maintenance, financing, sale, etc. However, religious sensibilities can be important in such an agreement.
- Consider:
 - Rotation of dates of use considering religious holidays (e.g., family A gets Christmas usage every third year).
 - A dispute resolution mechanism can be included that respects religious sensibilities (e.g., a provision reflective of the Catholic faith's views).
 - Should gambling and other activities be prohibited?

57

Catholic Estate and Financial Planning

Financial Planning

58

Catholic Financial Planning - 1

- How you spend money, the allocation to charitable purposes, religious education for children and more, can all have a significant impact on your budget. Relying on general estimates for expenses may miss the mark.
- *19 "Do not store up for yourselves treasures on earth, where moths and vermin destroy, and where thieves break in and steal. 20 But store up for yourselves treasures in heaven, where moths and vermin do not destroy, and where thieves do not break in and steal. 21 For where your treasure is, there your heart will be also." Matthew 6:19-21.*

59

Financial Planning – Parable of Talents - 2

- The famous biblical story of the talents provides a framework for beginning to consider the responsibilities of Catholic financial stewardship, and estate planning:
- *14 "For it will be like a man going on a journey, who called his servants[a] and entrusted to them his property. 15 To one he gave five talents, to another two, to another one, to each according to his ability. Then he went away. 16 He who had received the five talents went at once and traded with them, and he made five talents more. 17 So also he who had the two talents made two talents more. 18 But he who had received the one talent went and dug in the ground and hid his master's money. 19 Now after a long time the master of those servants came and settled accounts with them. 20 And he who had received the five talents came forward, bringing five talents more, saying, "Master, you delivered to me five talents; here I have made five talents more."*

60

Financial Planning – Parable of Talents - 3

- 21 His master said to him, 'Well done, good and faithful servant. You have been faithful over a little; I will set you over much. Enter into the joy of your master.' 22 And he also who had the two talents came forward, saying, 'Master, you delivered to me two talents; here I have made two talents more.' 23 His master said to him, 'Well done, good and faithful servant. You have been faithful over a little; I will set you over much. Enter into the joy of your master.' 24 He also who had received the one talent came forward, saying, 'Master, I knew you to be a hard man, reaping where you did not sow, and gathering where you scattered no seed, 25 so I was afraid, and I went and hid your talent in the ground. Here you have what is yours.' 26 But his master answered him, 'You wicked and slothful servant! You knew that I reap where I have not sown and gather where I scattered no seed? 27 Then you ought to have invested my money with the bankers, and at my coming I should have received what was my own with interest. 28 So take the talent from him and give it to him who has the ten talents.'

61

Financial Planning – Parable of Talents - 4

- 29 For to everyone who has will more be given, and he will have an abundance. But from the one who has not, even what he has will be taken away. 30 And cast the worthless servant into the outer darkness. In that place there will be weeping and gnashing of teeth.' Matthew 25:14-30
- Each manager was given certain wealth to steward while the owner was gone. The decision as to how much wealth was given was the masters, not the servants. Nonetheless each had an obligation to prudently handle all that he was entrusted. This can be viewed as each of us is given certain wealth to steward during our lifetime. The parable makes it quite clear that it was the responsibility of each manager to handle the funds he was entrusted prudently. It is also clear that for each of us, just as for each manager, the period of stewardship will come to an end and we will each account for how we handled the wealth entrusted to us during our lifetime.

62

Financial Planning – Parable of Talents - 5

- That final accounting may well be viewed as the final dispositions of wealth through estate planning. How have and will we give our wealth away during our lifetime? How will we give away our wealth at death?
- Perhaps there is another message about planning in the parable. We each must use, perhaps literally, our talents (money, and literally "talents"), wisely. And perhaps an estate plan should guide and encourage our descendants to use their talents wisely.

63

Financial Planning and Religion - 6

- The Bible recounts Pharaoh's disturbing dreams: *"Then it came to pass, at the end of two full years, that Pharaoh had a dream; and behold, he stood by the river. Suddenly there came up out of the river seven cows, fine looking and fat; and they fed in the meadow. Then behold, seven other cows came up after them out of the river, ugly and gaunt, and stood by the other cows on the bank of the river. And the ugly and gaunt cows ate up the seven fine looking and fat cows. So Pharaoh awoke. He slept and dreamed a second time; and suddenly seven heads of grain came up on one stalk, plump and good. Then behold, seven thin heads, blighted by the east wind, sprang up after them. And the seven thin heads devoured the seven plump and full heads. So Pharaoh awoke, and indeed, it was a dream."* Genesis 41 - 1-7.

64

Financial Planning and Religion - 7

- Joseph later interpreted Pharaoh's dream and based on that interpretation grain houses were established and grain was stored during bountiful years for future use during lean years. This simple recipe for wealth building and financial security is lost on much of the American public.
- The American culture, and in particular advertising, pushes consumption and especially conspicuous consumption of products and services that often are superfluous and contrary to your Catholic religious values. Your goals, reflecting your Catholic values, should include charitable giving, financial security for your later years, passing wealth on to children to help them live the life you wish for them, and supporting charities and causes important to you. Investing well is only half the equation. The other half is intelligent consumption, controlling your expenses and living within a budget that is appropriate not only for your means, but for your goals.
- Controlling spending is a critical component to financial security, creating wealth and being able to achieve your financial goals. A large part of budgeting well is making decisions as to expenditures, differentiating between "wants" and "needs."

65

Catholic Stewardship - 8

- The concept of stewardship stems from a simple premise: *"The earth is the Lord's, and everything in it."* Psalms 24:1. We are not the owners of wealth, merely the stewards of it for the time we have.
- *17 You may say to yourself, "My power and the strength of my hands have produced this wealth for me." 18 But remember the Lord your God, for it is he who gives you the ability to produce wealth, and so confirms his covenant, which he swore to your ancestors, as it is today."* Deuteronomy 8:17-18.
- You have or will spend much of your lifetime accumulating wealth. Accumulating wealth certainly should be achieved with due regards to your Catholic values. Every component of your financial life can be intelligently planned and can also be implemented in a manner consistent with your values.
- Consider: Legitimate earnings from activities that are consistent with your values - robbing a bank to build your wealth hardly seems an ideal track.

66

Catholic Financial Planning - 9

- Budgeting - do you spend your income in a manner consistent with your values?
- Investing – you can also invest in assets and funds that are consistent with your religious, social or other values?
- How you ultimately dispose of or distribute the wealth you have accumulated during your lifetime is the final act of proper Catholic financial stewardship and should be done with as much care and attention as you marshalled to accumulate your wealth. This includes gifts during your lifetime (to family, friends and charity), and how your assets are distributed on your death.
- Catholics have received riches of God's grace, and are to respond with generosity and giving. Catholics are called to a life of service, sharing and stewardship. We have an obligation to do good. When we give ourselves to the Lord, we will give generously. Jesus often taught about money. *"Sell everything you have and give to the poor, and you will have treasure in heaven. Then come, follow me,"* said Jesus to a rich man (Luke 18:22).

67

Catholic Financial Planning - 10

- *"For we brought nothing into the world, and we can take nothing out of it. But if we have food and clothing, we will be content with that."* Timothy 6:7-8. What is in your budget?

68

Catholic Estate and Financial Planning

Life Insurance

69

Life Insurance

- Use life insurance to fund a charitable bequest to demonstrate support for an organization important to you. If the charity owns a permanent policy and is the beneficiary the value will grow as an asset for the charity every year. You will get a tax deduction every year. The annual cost relative to the commitment is modest.
- Use life insurance to support those you are responsible for.

70

Catholic Estate and Financial Planning

Investment Planning and The Prudent Investor Act

71

Investment Provisions and IPS - 1

- Require the use of Catholic mutual funds such as Ave Maria Mutual Funds, LKCM Aquinas Funds, Epiphany Funds and others (not an endorsement).
- "Piggy back" on USCCB policy: <http://www.usccb.org/about/financial-reporting/socially-responsible-investment-guidelines.cfm>
- **Sample Provision:** *"As far as reasonably possible, trust funds shall not be invested in companies whose products and/or policies are counter to Catholic moral teaching. The investment policy adopted by the U.S. Conference of Catholic Bishops in 2003 shall serve as a model in this regard.*
- **[OPTIONAL:** *Included in this investment policy shall be prohibitions against investment in companies: (1) that directly participate in abortions; (2) that manufacture abortive agents or contraceptives or that derive at least 15% of their total business revenue from the sale of abortive agents or contraceptives; (3) that engage in scientific research on human fetuses or embryos, which research either (a) results in the end of prenatal human life, or (b) makes use of tissue derived from abortions or other life-ending activities, or (c) violates the dignity of the developing human person; (4) that earn at least 15% of their total*

72

Investment Provisions and IPS - 2

- *business revenue from publishing or selling pornographic materials; (5) that earn at least 15% of their total business revenue from gambling; and (6) whose operations involve child labor, sweatshop conditions, human rights violations, ethnic/gender/racial discrimination, or environmental abuse.]*
- *The additional cost (if any) incurred in implementing this investment policy through the use of specialized mutual funds or through the delegation of the investment function to professional investment managers shall be considered appropriate and reasonable shall not be subject to question. Further, such additional costs (if any) shall not reduce the trustee's own compensation.*
- *Implementation of this investment policy shall not be a breach of the trustee's duty of loyalty (even if lower investment returns should result) and shall not be construed to require investment exclusively in publicly-traded companies or mutual funds."*

73

Investment Provisions and IPS - 3

- "The duty of loyalty requires the trustee to act exclusively for the beneficiaries---no form of 'social investing' is consistent with the duty of loyalty if the investment activity entails sacrificing the interests of trust beneficiaries – for example, by accepting below-market returns – in favor of the interests of the persons supposedly benefited by pursuing the particular social cause."
- What the above comment means practically is that if a testator or grantor wishes a Catholic method of investing, he or she should carefully word the governing instrument to make this an exception to the Prudent Investor Rule.

74

Investment Provisions and IPS - 4

- For many people, maintaining a portfolio which is consistent with their underlying social morals is important. However, this may not always be reconcilable with a Prudent Investor Standard. For example, is it still feasible to use index funds if those indices would include investments which violate the social goals? Presumably, the universe of appropriate investments would be narrowed to exclude those investments which are inappropriate. Thus, a more personalized portfolio may have to be developed. If this occurs, it may affect the fees which can be charged.

75

Catholic Estate and Financial Planning

Charitable Giving

76

Charity – 1

- Biblical view of charity (more modern view):
- *"[But] take care not to perform righteous deeds in order that people may see them; a otherwise, you will have no recompense from your heavenly Father. When you give alms, do not blow a trumpet before you, as the hypocrites do in the synagogues and in the streets to win the praise of others. Amen, I say to you, they have received their reward. But when you give alms, do not let your left hand know what your right is doing, so that your almsgiving may be secret. And your Father who sees in secret will repay you."* Matthew 6:1-4 NAB. <http://usccb.org/bible/matthew/6>

77

Charity – 2

- Biblical view of charity (more traditional view):
- *"Take heed that you do not your justice before men, to be seen by them: otherwise you shall not have a reward of your Father who is in heaven. Therefore when thou dost an alms deed, sound not a trumpet before thee, as the hypocrites do in the synagogues and in the streets, that they may be honoured by men. Amen I say to you, they have received their reward. But when thou dost alms, let not thy left hand know what thy right hand doth. That thy alms may be in secret, and thy Father who seeth in secret will repay thee."* Matthew 6:1-4 Douay-Rheims. <http://drbo.org/chapter/47006.htm>

78

Catholic View of Charitable Giving - 3

[REDACTED]

- *"I... give a tenth of all I get."* Luke 18:12. How much do you want to give to charity each year? How much on your death? Some use a 10% figure based on the Biblical concept of tithing. But a tithe was, according to some views, a percentage of income, of a year's agricultural crop. It was not correlated to principal or wealth.
- According to some views, tithing is more of a Protestant concept. Although Catholics are free to choose to tithe if they wish, there is no rule of the Church or passage of the New Testament that requires a strict 1/10th tithing. Instead, the quotation above is one form of guidance when it comes to giving to those in need.
- When it comes to supporting the Church (sometimes also called tithing), Catholics are required to do this both by canon law and by the fifth precept/command of the church: "to contribute to the support of our pastors." Again, a strict 1/10 is nowhere mentioned.

79

Catholic View of Charitable Giving - 3

[REDACTED]

- But consider: *"Every tithe of the herd and flock—every tenth animal that passes under the shepherd's rod—will be holy to the Lord."* Leviticus 27:32. Thus, some choose to give more, much more.
- Another approach used by many is to treat charitable causes as an additional child. If they have four children they divide their estate into fifths, giving each child one-fifth and the charitable causes they wish to support the final fifth.
- Consider: *"Each of you should give what you have decided in your heart to give, not reluctantly or under compulsion, for God loves a cheerful giver."* 2 Corinthians 9:7.

80

Charity – Bequest for Masses - 4

[REDACTED]

- *"I hereby give and bequeath the sum of \$ _____, to be paid to [NAME OF CHURCH] of [ADDRESS OF CHURCH], for the cost and purpose of weekly Masses to be held at said Church, commencing the first week following my demise and continuing each week thereafter until said bequest is exhausted; it being my wish that the said Masses shall be for the repose of the souls of myself and my spouse."*
- *"I bequeath unto the Bishop for the Roman Catholic Diocese of _____, who shall be in office at the time of my death, and to his successors in office, the sum of \$[DOLLAR AMOUNT OF BEQUEST] for the purpose of having Masses said for the repose of my soul."*
- *"I bequeath to my trustee the sum of \$[dollar amount], to be invested and the income used perpetually for procuring Masses to be said for my soul and the souls of the members of my family in [NAME OF CHURCH]."*

81

Charity – Bequest for Masses - 5

- *"I give and bequeath the sum of [TEXT DOLLAR AMOUNT] Dollars to _____ Roman Catholic Church and direct that for a period of [NUMBER OF YEARS] years after my death the income therefrom shall be expended for the saying of masses for the repose of the souls of my mother and father. Ten years after the date of my death any amount remaining shall be used by _____ Roman Catholic Church for such religious or other charitable purpose as it, in its sole discretion, may determine. If this gift should fail because of any statute in effect at the time of my death restricting or prohibiting testamentary gifts to charity, then I give the above amount to [NAME OF BISHOP] without attempting to impose any legally enforceable obligation on him and request that he carry out my wishes as expressed above."*

82

Catholic View of Wealth and Charity - 6

- Catholics have received riches of God's grace, and are to respond with generosity and giving. Catholics are called to a life of service, sharing and stewardship. We have an obligation to do good. When we give ourselves to the Lord, we will give generously. Jesus often taught about money. *"Sell everything you have and give to the poor, and you will have treasure in heaven. Then come, follow me,"* said Jesus to a rich man (Luke 18:22). He said the same thing to his disciples (Luke 12:33). The new covenant demands all that we have, and that is fair, since Jesus gave all he had for us. He praised a widow who put two coins into the temple treasury, because she gave *"all she had"* (Luke 21:4).

83

Catholic View of Wealth and Charity - 7

- Wealth is often an enemy of faith. It can "choke" people and cause them to be spiritually unfruitful (Luke 8:14). *"Woe to you who are rich,"* Jesus warned (Luke 6:24). He warned us about the dangers of greed (Luke 12:15) and warned about the danger of storing up wealth for self without being *"rich toward God"* (Luke 12:16-21). When we use wealth to help others, we gain *"treasure in heaven"* (Luke 12:33). This helps us have our heart in heavenly things instead of earthly, temporary things (Luke 12:34).

84

Making a Charitable Statement - 7

- Add to your will a bequest to an organization that has been to your life, or which embodies the values you hold dear. *"I give and bequeath \$10,000 to "NAME-OF-ORGANIZATION." Making a charitable bequest to a religious organization is a wonderful way to demonstrate the importance of charitable giving, religious values, priorities and more for your heirs. But, with a modicum of additional effort you can perhaps emphasize those values even more. What if the will included the bequest written in the following manner: "I give and bequeath \$10,000 to "NAME-OF-ORGANIZATION to demonstrate to my children the importance of my Catholic religious value of charity, and the importance of the "ORGANIZATION in my life, with the hopes that each of my children establish a similar bond with the Church."*

85

Catholic Estate and Financial Planning

Medicaid Planning

86

Medicaid Planning – Thought to Consider

- *"My father expressed his choice this way: I've never cheated one penny on my taxes, and I'm not going to start hiding money now. If we outlive our savings, I won't feel a bit guilty about accepting Medicaid. But I sure as heck am not going to pretend to be eligible before then. Every well-to-do senior who hides savings for the gain of his own family and seeks benefits meant for the needy weakens communal bonds. Have we become a nation of Scrooges, counting our own coins with little concern for others? I'm proud of my father. If my step-mother lives several years in her nursing home, or if he also needs long-term care, their life savings will run out. But he will leave me one thing of great value: an example of ethical behavior in an era when most people are out to grab everything they can for themselves."*
- Diana Conway, *My Turn: Cheating Uncle Sam for Mom and Dad: Why Do So Many Otherwise Honest Citizens Think It's O.K. to Take Medicaid Money They Don't Deserve*, Newsweek 2003,
- <https://www.littmankrooks.com/pdf/My-Turn-Cheating-Uncle-Sam-Mom-Dad.pdf>

87

Medicaid Planning – Thought to Consider

- **Sample Provision:** Consider the following to include in power of attorney and in modified from in revocable trust: *"The authority that I have given in this instrument to make gifts to my family members includes the authority to engage in so-called "Medicaid planning" but not for the sole purpose of preserving my heirs' inheritances if I am otherwise able to afford my own care. Rather, such planning shall only be undertaken to enhance the quality of my care or to protect my spouse from impoverishment, the preservation of my heirs' inheritances being only an incidental consequence thereof."*

88

Catholic Estate and Financial Planning

Preuptial Agreements

89

Preuptial Agreements

- Be careful about conditioning distributions on entering into a Pre-Nuptial Agreement.
- Pre-nuptial agreements made in contemplation of divorce could render the marriage invalid ("till death do us part").
- Pre-nuptial agreements made solely in contemplation of death (e.g., to protect the inheritances of children from a prior marriage) present no such problem.

90

Catholic Estate and Financial Planning

Conclusion

91

Conclusion

- A surprisingly large number of Catholic clients want some aspects of their Catholic faith reflected in their financial, charitable, estate and related planning.
- If advisers would both ask and explain that there are broad implications more clients would wish these matters to be addressed.
- The changes required often only require a minor effort in terms of drafting but can have a profound impact on heirs and others.
- As advisers seek deeper connections with their clients, and ways to differentiate their services from commoditized or "robo" versions, addressing Catholic religious values for Catholic clients presents a means to accomplish just that.

92

For more information

- Estate Planning for Catholics, A Guide to Doing God's Will in Your Will (and Other Estate Planning Documents), by Salvatore LaMendola
- <https://www.authorhouse.com/BookStore/BookDetails/491993-Estate-Planning-for-Catholics>



93

Questions or Comments

- **Salvatore J. LaMendola, Esq.**
 - Giarmarco, Mullins & Horton, PC
 - 101 W. Big Beaver, Tenth Floor
 - Troy, MI 48084
 - (248) 457-7204
 - sjl@disinherit-irs.com
- **Marty Shenkman**
shenkman@shenkmanlaw.com

94

CLE Credits

- For more information about earning CLE credit for this program or other Martin Shenkman programs please contact Simcha Dornbush at NACLE. 212-776-4943 Ext. 110 or email sdornbush@nacle.com

95
