GREENLEAF® TRUST

Perspectives

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Serve Clients More

For the last ten years, our strategic goal has been to be "Top of Mind" with our clients and for prospective clients with wealth management, fiduciary, or retirement plan needs. Top of Mind for our clients meant they actually might not be thinking about us at all because we provided them with peace of mind knowing we were working on their behalf. But when they needed additional financial solutions to issues, they knew to reach out to us for help. Top of Mind for prospective clients meant they or their advisors thought of us when they were considering a more comprehensive and holistic team-based approach to managing their wealth. I believe we have been successful in this journey with the caveat that continuous improvement is one of our core values.

Last month I wrote about the process we used to create our new long-term strategic goal. After unveiling the goal to our entire team in November at our annual strategic planning meeting, I am excited to announce that our new long-term strategic goal is "Serve Clients More". Our new goal is focused on what we are passionate about and built with a deep understanding of our core competency. Related to the Hedgehog Concept, our new strategic goal reflects the convergence of the answers to the three questions: What can you be best in the world at? What are you deeply passionate about? What drives our economic engine? We believe we can be the best in the world at client service. And we are deeply passionate about our clients. More reflects our desire to increase the breadth and depth of service to our existing clients.

Serve Clients More means delivering more personalized service, more often, in more innovative ways, with more expertise, and in more places. It requires more talent, more training and development, more leadership, and more collaboration. As a team it looks like more tools, to create more efficiencies, more impact, more specialization, more expertise, and more engagement and alignment with our culture. As a community it looks like more awareness of Greenleaf Trust, more brand recognition, and more local affinity in the communities we serve. As a client it looks like more value-add holistic planning, a more seamless digital experience, more consistency of outcomes, and a more personalized relationship.

Serve Clients More, continued

Serving our existing clients more then creates opportunities to serve more clients.

With our new strategic goal set, we then built our strategic plan for 2025 with input from the entire company. The 2025 plan represents our first step toward the successful achievement of Serve Clients More. Next year we will be concentrating on four strategic initiatives: Culture, Client Focused, Evolution, and Purposeful Growth. Because our culture is a differentiator, our identity, and a source of pride for us, we want to make sure we continue to nurture it as we grow. An area of focus within the initiative will be intentional human capital investment. We want to ensure our teammates have the tools and knowledge they need to Serve Clients More. Our Client Focused initiative involves continued enhancement of the client experience based on their direct feedback. Evolution represents our investment in new technology platforms that create scalability and drive efficiencies, which allow our teammates to Serve Clients More. And finally, our desire has always been to grow purposely. We aspire to grow in service – not just size. Growth will occur through the successful execution of Serve Clients More.

"We want to ensure our teammates have the tools and knowledge they need to Serve Clients More."

We are looking forward to the next ten years and are thankful for the trust our clients place in us. I hope that you have a lot to be thankful for this year and can enjoy the merriment of the holiday season. Happy holidays.

Economic Commentary

Nicholas A. Juhle, CFA®
Chief Investment Officer

Last month, Republican candidate Donald Trump won the U.S. presidential election. Republicans also earned majorities in the Senate and the House of Representatives. Election years bring a mix of clarity and complexity. While we now know which political leadership will guide the country, questions remain about how policy proposals will materialize and their implications.

Campaign proposals are one thing, but actual policy implementation can be quite another. It's easy to draw oversimplified conclusions based on assumptions that only account for the first order impacts of policy decisions. In this article we will explore open questions and potential economic implications of policy proposals with a focus on tariffs and trade policy.

On the campaign trail, President Trump proposed tariffs of up to 60% on Chinese goods. He also proposed much broader tariffs of 10%

to 20% on all other imports and potentially a 200% tariff on autos imported from Mexico. For comparison, the current effective tariff rate on Chinese imports is estimated at 10-20% while the average tariff rate on imports from the rest of the world is around 3%. Taken at face value, these proposals represent a significant change to current policy and if implemented in full, would have far-reaching implications for global trade.

When President Trump implemented tariffs during his first term, the result was an almost one for one increase in the prices of imported goods which were borne by some combination of U.S. corporations and consumers. Directionally, we would have to expect a similar dynamic this time around, only bigger. But what ***would*** the impact be on profit margins, consumer spending and inflation? Will there be retaliatory trade actions? To what extent, and by whom? How quickly will global trade be re-routed through countries with more advantageous duty requirements? And how will currency rates adjust as a net result of all these changes?

While we expect President Trump to pursue incremental tariffs soon after taking office, the extent of those tariffs is uncertain. On November 25, Trump stated that upon taking office, he would immediately impose additional 10% tariffs on goods from China and 25% tariffs on imports from Mexico and Canada. These figures differ from the more dramatic proposals outlined during the campaign, highlighting how policy proposals can evolve.

So why impose tariffs at all? Governments typically impose tariffs to raise revenue or to protect domestic industries and jobs from foreign competition. President Trump cites national security as the grounds for the newly proposed tariffs on China, Mexico and Canada arguing that the new taxes are necessary to address issues related to border security and migration.

From an economic perspective, tariffs make imported goods more expensive, and therefore less attractive to consumers. In turn, demand for domestically-produced substitutes should increase. Higher prices translate to lower sales volume for foreign producers or lower profitability if they can absorb the added cost of the tariff. This interference with what would otherwise be considered free trade results in an economic inefficiency known as "net welfare loss" or "deadweight loss." Benefits to domestic producers (more volume, higher prices) and the government (tariff revenue) do not offset the reduction to consumer surplus otherwise supported by free trade.

While their use can be tactical and targeted with specific intentions, tariffs can also cause a range of negative side-effects. For example, tariffs can:

"Taken at face value, these proposals represent a significant change to current policy and if implemented in full, would have far-reaching implications for global trade."

Economic Commentary, continued

- Reduce competition making domestic industries less efficient
- Increase prices and degrade purchasing power for domestic consumers
- Create tension (even at home) by favoring certain industries and/or regions over others

“The range of potential scenarios highlights the challenges with predicting the precise economic and market impacts today.”

Perhaps most importantly, global tensions and retaliatory responses from trading partners can quickly escalate into a counterproductive policy exchange or trade war. Taken to an extreme, higher prices and reduced demand for goods and services can erode global GDP growth, perhaps contributing to a global economic recession and/or market downturn.

The conclusion of the Presidential election removed a large branch from the tree of possibilities but plenty of branches remain. The range of potential scenarios highlights the challenges with predicting the precise economic and market impacts today. Fortunately, there are a few things we ***do*** know. We know that U.S. stocks have historically performed well under both Republican and Democratic Presidential administrations. We know that U.S. stocks have been up 86% of the time over rolling four-year periods dating back to 1928 – suggesting that four years is an ample time period from which to expect growth out of your portfolio regardless of who is in the White House. We also know President Trump emphasized the strength of the economy as a focus on the campaign trail. This focus could serve as a mitigant against policy excesses that would harm the economy or markets. As we navigate this next presidential term, we will monitor policy developments and adjust strategies to align with the fundamental impacts of trade and other economic policies.

Michael Holmes, J.D., CTFA
Senior Trust Relationship Officer

Ensuring Your Child’s Care: How Michigan Parents Can Use a Power of Attorney for Parental Consent

Under Michigan law, parents have the right to use a Power of Attorney to delegate certain parental rights and responsibilities to another individual for their minor children. This legal mechanism is particularly valuable when parents need to be away for an extended period of time, whether for a vacation, work obligations, or other reasons. Michigan Compiled Law (MCL) 700.5103 provides the statutory framework for such an arrangement, allowing parents to ensure that their children’s needs are met in their absence.

What is MCL 700.5103?

MCL 700.5103 is part of the Michigan Estates and Protected Individuals Code (EPIC), which governs various aspects of estate planning, guardianship, and fiduciary responsibilities. This specific statute allows parents or guardians to delegate their parental authority, temporarily transferring decision-making power regarding a minor child to another responsible adult.

Under this statute, parents can authorize another individual to make a range of decisions on behalf of their children. This can include medical and dental care, educational matters, and other important day-to-day decisions. The individual granted this authority is known as the attorney-in-fact.

Key Provisions of MCL 700.5103

MCL 700.5103 outlines several critical elements of a Power of Attorney for parental consent:

- Scope of Delegated Powers: The law allows parents to delegate any part of their parental authority except the power to consent to the child's marriage or adoption. This means that the attorney-in-fact can make medical decisions, enroll the child in school, or provide consent for extracurricular activities.
- Duration: The Power of Attorney can be in effect for up to six months. If parents anticipate being away for longer than six months, they would need to renew or execute a new Power of Attorney. The limitation helps ensure that parental rights are not indefinitely transferred and that there is regular oversight of the arrangement.
- Form and Execution: The Power of Attorney must be executed in writing and signed by the parent or guardian in the presence of a notary public or two witnesses. This formal requirement ensures that the document is legally binding and protects the interests of the child.
- Revocability: The parent or guardian retains the right to revoke the Power of Attorney at any time. If circumstances change or the parent returns earlier than planned, they can terminate the attorney-in-fact's authority.

> "This legal mechanism is particularly valuable when parents need to be away for an extended period of time..."

Why Use a Power of Attorney for Parental Consent?

Parents use a Power of Attorney delegating parental consent for several practical reasons:

- Extended Vacations: If parents are taking an extended vacation, whether for relaxation or to travel abroad, it provides peace of mind to know that a trusted individual can step in and make decisions for their children.

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- Work Commitments: Jobs that require frequent travel or temporary relocations make it challenging for parents to always be present. A Power of Attorney ensures that children are properly cared for and can receive necessary attention, such as medical treatment or school-related decisions.
- Military Deployment: Members of the military who face deployment for several months often use a Power of Attorney to delegate decision-making power to a spouse, grandparent, or trusted friend.

Choosing the Right Attorney-in-Fact

Choosing an attorney-in-fact is a critical step. Parents must select someone they trust completely, as this person will be responsible for making significant decisions on behalf of the child. Common choices include grandparents, aunts or uncles, close friends, or other reliable family members.

"Common choices include grandparents, aunts or uncles, close friends, or other reliable family members."

The attorney-in-fact should be:

- Trustworthy and responsible: The individual must have a record of dependable behavior and good judgment.
- Familiar with the child's needs: It is beneficial if the attorney-in-fact knows the child's medical history, schooling, and routines.
- Willing and available: The person chosen must be willing to assume the responsibility and available to step in as needed.

What Can an Attorney-in-Fact Do?

An attorney-in-fact can take on various roles depending on the powers delegated by the parents. Some examples include:

- Medical Decisions: The attorney-in-fact can take the child to a doctor's appointment, consent to medical treatment, and make urgent decisions if the child needs immediate care.
- Educational Matters: They can enroll the child in school, attend parent-teacher meetings, and authorize participation in school trips or activities.
- Daily Care: The attorney-in-fact may also handle routine matters such as picking up the child from school, managing their schedules, and ensuring their general well-being.

Legal Considerations

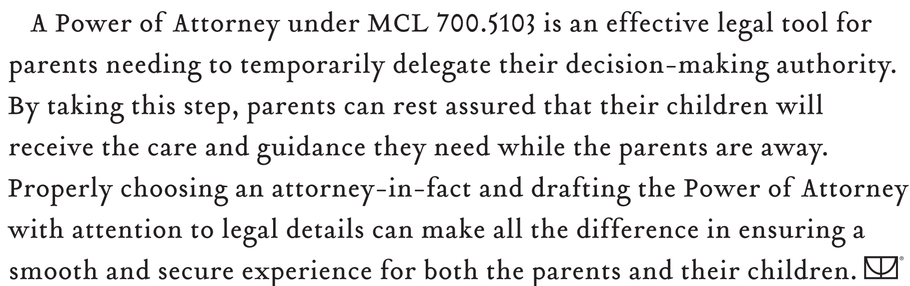
While using a Power of Attorney for parental consent is practical, parents should be aware of certain legal considerations:

- Not a Transfer of Custody: A Power of Attorney does not transfer legal custody of the child. Parents maintain their legal rights and responsibilities; the attorney-in-fact acts on their behalf within the specified period and scope.
- Limitations: The attorney-in-fact cannot make decisions related to marriage or adoption. Additionally, they must act in the child's best interest and within the boundaries set by the Power of Attorney.
- Communication: It is wise for parents to discuss the specific powers being delegated with the attorney-in-fact to avoid misunderstandings. Clear communication ensures that all parties understand their roles and responsibilities.

How to Draft a Power of Attorney Under MCL 700.5103

Drafting a Power of Attorney under Michigan's statute typically involves the following steps:

- Consult an Attorney: While parents can draft a Power of Attorney themselves, consulting an attorney ensures that the document complies with state laws and addresses any specific needs.
- Include Essential Information: The document should list the full names of the parents, child, and attorney-in-fact, along with the powers being delegated.
- Specify the Duration: Clearly state the effective dates of the Power of Attorney, ensuring it does not exceed the six-month limit unless a new Power of Attorney will be drafted.
- Notarization or Witness Signatures: Sign the document in the presence of a notary public or two witnesses to validate it.



Conclusion

A Power of Attorney under MCL 700.5103 is an effective legal tool for parents needing to temporarily delegate their decision-making authority. By taking this step, parents can rest assured that their children will receive the care and guidance they need while the parents are away. Properly choosing an attorney-in-fact and drafting the Power of Attorney with attention to legal details can make all the difference in ensuring a smooth and secure experience for both the parents and their children.

"By taking this step, parents can rest assured that their children will receive the care and guidance they need while the parents are away."

Garrett Urman, CFP®
Wealth Management Advisor

Unlock Financial Success: Year-End Planning Tips You Can't Ignore

As the year draws to a close, it is an ideal time to reflect on your financial plan and make strategic adjustments designed to enhance your financial well-being. Just as you prepare your home for the chilly months ahead, double check the ice scraper in your vehicle still works, or start your snow blower to determine if it still will function properly when called upon, year-end financial planning is about setting the stage for a prosperous new year. It is an opportunity to evaluate strategies such as optimizing your savings, minimizing tax liabilities, and charitably giving. In this article, we will dive into seven effective year-end, financial planning strategies that will not only help you finish the year strong, but also set you up for financial success in 2025.

"It is an opportunity to evaluate strategies such as optimizing your savings, minimizing tax liabilities, and charitably giving."

Maximize Retirement Contributions

One of the most effective ways to bolster your financial future is by maximizing contributions to your retirement accounts today. In 2024, individuals can contribute up to $23,000 to their 401(k)s, with those aged 50 and older able to add an additional $7,500 in catch-up contributions. Similarly, IRAs allow contributions of $7,000, plus an additional $1,000 catch-up contribution for individuals over 50. For those with higher incomes, be mindful of the income thresholds affecting deductibility for traditional IRA contributions. If you exceed these limits, your contributions will be classified as "after-tax," but you can still make them, and we can assist with the proper paper trail.

Optimize After-Tax Returns

Tax-loss harvesting is a strategic approach to managing capital gains and minimizing tax liabilities. This technique involves selling underperforming investments to realize losses that can offset capital gains from profitable investments. For instance, if you've sold stocks at a profit during the year, you can sell other stocks at a loss to counterbalance those gains, thereby reducing your taxable income. If your realized losses exceed your gains, you can use up to $3,000 of those losses to offset ordinary income in the current tax year, with the excess rolling over to offset capital gains in future years. This strategy not only helps in lowering your tax bill, but also allows you to reinvest the proceeds from the sale into more promising opportunities. This strategy requires active

management to closely monitor for compliance with IRS rules and to optimize the tax benefits.

Required Minimum Distributions (RMDs)

RMDs are mandatory withdrawals from retirement accounts that individuals must begin taking at age 73 under current law. As the year-end approaches, it's vital to ensure that you meet these requirements by December 31 to avoid hefty penalties – up to 25% of the amount that should have been withdrawn. RMDs apply to traditional IRAs and most employer-sponsored retirement plans, but do not apply to Roth IRAs/ Roth 401(k)s during the account holder's lifetime. Calculating RMDs involves dividing your account balance by a life expectancy factor determined by IRS tables.

Charitable Giving

Qualified charitable giving not only supports causes you care about but is also an effective strategy for maximizing tax benefits at year-end. By donating appreciated assets instead of cash – such as stocks or mutual funds – you can avoid paying capital gains taxes on those assets while still receiving a charitable deduction based on their fair market value at the time of donation. If you're considering making significant donations, think about "bunching" them into one year rather than spreading them over multiple years; this can help exceed the standard deduction threshold and maximize itemized deductions for that year. Establishing donor-advised funds is another excellent way to streamline charitable giving while securing immediate tax deductions for future donations. Lastly, if you are age 70½ or older, you can donate up to $105,000 directly from your IRA to qualified charities without incurring federal income tax on the distribution – known as a Qualified Charitable Distribution (QCDs). This strategy not only satisfies your Required Minimum Distribution (RMD), but also helps lower your Adjusted Gross Income (AGI), potentially reducing taxes on Social Security benefits and other income-based tax credits. While QCDs do not qualify for a charitable deduction since they are made directly from an IRA, they provide significant tax benefits by avoiding additional taxable income that could push you into a higher tax bracket. To execute this strategy effectively, ensure that distributions are made directly from your IRA custodian to the charity by December 31.

> "If you're considering making significant donations, think about "bunching" them into one year rather than spreading them over multiple years..."

Roth IRA Conversions

Roth IRA conversions present an opportunity for individuals looking to optimize their retirement savings and tax strategies. Converting a

traditional IRA into a Roth IRA allows you to pay taxes on the converted amount now while enjoying tax-free withdrawals in retirement. This strategy is particularly advantageous during years of lower adjusted-gross income (AGI) when you may be in a lower tax bracket than anticipated in future years (such as a year you engage in charitable "bunching" thereby elevating deductions and lowering AGI). Once converted, all future earnings grow tax-free, providing significant long-term benefits. Additionally, Roth IRAs do not have required RMDs during the account holder's lifetime, allowing for greater flexibility in retirement planning.

"If it has been more than a couple years since you've met with your legal advisor, it may be time to have your estate plan reviewed and updated."

Review Insurance Coverage

Reviewing insurance coverage at year-end ensures adequate protection against unforeseen events as personal circumstances change over time. Major life events—such as marriage, having children, or starting a business—often necessitate adjustments in insurance policies like life insurance or liability coverage on homes and vehicles. Regularly assessing these policies (including beneficiary designations) ensures that you're adequately protected against potential risks while aligning with your current financial situation.

Review your Financial Goals

The end of the year is a good time to review with your advisors other major life changes that might have occurred throughout the current year, or that are expected to occur in the coming year. Review your personal financial statement and confirm that assets and liabilities are titled correctly. Review your beneficiary designations on your retirement accounts and insurance policies and make changes if necessary. If it has been more than a couple years since you've met with your legal advisor, it may be time to have your estate plan reviewed and updated.

As you wrap up the year, taking the time to implement these strategies can provide peace of mind as you usher in 2025. Each action you take not only strengthens your financial position but also paves the way for a more secure and fulfilling new year. Remember, the journey toward financial security is a marathon, not a sprint, and every step counts. Embrace the upcoming year with renewed enthusiasm, armed with the tools and knowledge to thrive. Here's to a prosperous new year filled with opportunities, growth, and meaningful financial milestones!

Cost-of-Living Adjustments to Retirement Plans and More in 2025

Lorey L. Matties
Senior Participant Services Specialist

The Internal Revenue Service recently announced contribution and benefit limits for qualified retirement plans effective January 1, 2025. The contribution limit for employees who participate in 401(k), 403(b), and most 457 plans, as well as the federal government's Thrift Savings Plan will increase to $23,500, up from $23,000. This limit rose by the standard $500 increment since the current rate of inflation has leveled off over the past few years.

Being that many Americans have inadequate retirement savings, there is a new feature taking effect in 2025 that can provide a boost for older workers. While the catch-up contribution for savers age 50 and older remains unchanged at $7,500, savers age 60 to 63 can contribute even more each year thanks to changes enacted by SECURE Act 2.0.

As of January 2025, savers age 60, 61, 62 and 63 may make a special "super catch-up" contribution. SECURE Act 2.0 did not mandate this feature, so the plan sponsor will have the option to adopt the super catch-up or not. If adopted, this contribution is limited to the greater of $10,000 or 150% of the standard catch-up contribution limit for 2025 and is indexed to inflation. Therefore, the "super" limit for anyone age 60-63 will be $11,250 ($7,500 x 150%). Any saver age 64 and older will revert to the normal catch-up limit of $7,500.

> "Being that many Americans have inadequate retirement savings, there is a new feature taking effect in 2025 that can provide a boost for older workers."

Also introduced in SECURE Act 2.0, starting in 2026, taxpayers who earn over $145,000 in the prior calendar year and want to make catch-up contributions will have to do so with after-tax dollars in a Roth account. Individuals earning $145,000 or less, adjusted for inflation going forward, will be exempt from the Roth requirement. Many employers do not currently offer a Roth 401(k) plan and setting them up can take time. Additional guidance from the Treasury and IRS is expected in 2025.

The Social Security Administration (SSA) also announced an increase to key numbers that affect workers and retirees for 2025. The Social Security Wage Base, which is the maximum amount of earnings subject to Social Security tax, will increase by $7,500 to $176,100 in 2025.

For retirees, the SSA announced a 2.5% increase to monthly Social Security and Supplemental Security Income benefits, which is the smallest increase since 2021, reflecting cooling inflation. On average, that translates to approximately $49 more per month for the 72.5 million Americans currently receiving Social Security and Supplemental Income benefits. The monthly benefit check for the average retiree in 2025 will increase to $1,976 ($23,712 annually) according to the Social Security Administration. Further

Cost-of-Living Adjustments to Retirement Plans and More in 2025, continued

highlighting the importance of personal savings for retirement.

The chart below reflects the key limits, along with other frequently used benefit and compensation items for 2025.

Retirement Plan Limitations	2025	2024
Annual deferral limit for 401(k), 403(b) and 457(b) plans aka "402(g) limit"	$23,500	$23,000
Catch-up contribution limit for savers age 50-59 and 64+ in 401(k), 403(b) and 457(b) plans	$7,500 total = $31,000	$7,500 total = $30,500
Super catch-up contribution limit for savers age 60-63 in 401(k), 403(b) and 457(b) plans	$11,250 total = $31,000	–
Annual contribution limit to a defined contribution plan aka "415 limit"	$70,000	$69,000
Annual compensation limit to a defined contribution plan aka "401(a) limit"	$350,000	$345,000
Highly Compensated Employee (HCE) compensation definition	$160,000	$155,000
Officer or Key Employee compensation definition	$230,000	$220,000
Income subject to Social Security tax (wage base)	$176,100	$168,600
Annual IRA contribution limit	$7,000	$7,000
Annual IRA catch-up contribution limit for savers age 50 and older	$1,000	$1,000
Health Savings Account (HSA) individual contribution limit	$4,300	$4,150
Health Savings Account (HSA) family contribution limit	$8,550	$8,300
Health Savings Account (HSA) catch-up contribution limit for savers age 55 and older	$1,000	$1,000

"It is a particularly good incentive to get young people to start saving early and assist taxpayers with modest incomes to make their money work harder for them."

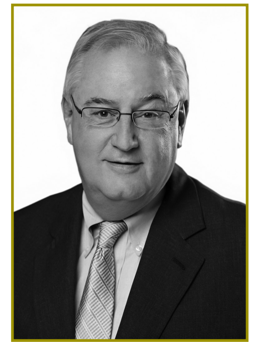
The Retirement Savings Contribution Credit – aka the "Saver's Credit" – offers low- and middle-income workers who contribute to a retirement plan a tax credit worth up to $1,000 ($2,000 for married couples) when they file their annual tax return. It is a particularly good incentive to get young people to start saving early and assist taxpayers with modest incomes to make their money work harder for them. The credit for 2025 (taxes filed in 2026) is $79,000 for married couples filing jointly; $59,250 for head of household; and $39,500 for singles.

The Saver's Credit as it exists today is also in for significant changes, particularly

with respect to how it will be paid. The SECURE 2.0 Act converts the current tax credit into a government matching program for retirement plan contributions dubbed the "Saver's Match." The new Saver's Match is not effective until 2027, so the existing tax credit will be around for a few more years.

Should you have any questions regarding the various limitations that apply to retirement plans, including some that are not included in the table, please contact our Greenleaf Trust Retirement Plan Division.

Who is Your Descendant?



George F. Bearup, J.D.
Senior Legal Trust Advisor

"....and if my daughter does not survive, then the share created for her shall be distributed by the trustee to her descendants, per stirpes."

Many, if not most, trusts at some point use the word descendants. A bequest to descendants (called a class gift) is often used for ease instead of naming several individual beneficiaries or more remote, unknown beneficiaries. Yet interpretation problems can arise when the trust instrument refers to distributions of a trust's income or assets to a person who is related to and survives the named beneficiary as his or her descendant.

If the trust or beneficiary designation does not expressly define the term descendant, nor does it identify what persons are intended to be included within that class, Michigan provides the default definition to help the trustee interpret that legal document. Unfortunately, these statutory default definitions also can lead to confusion and unwanted probate litigation.

"Many, if not most, trusts at some point use the word descendants. "

> *Descendant:* Michigan's Estates and Protected Individuals Code (for convenience, the Code) defines a descendant to mean 'in relation to an individual, all of his or her descendants of all generations, with the relationship of child and parent contained in this Code.' (Note that this definition uses descendant to describe itself!) The Code also makes it clear that the word issue has the same legal meaning as descendant.
>
> *Child:* A child is defined as 'including, but not limited to, an individual entitled to take as a child under the Act by intestate succession from the parent whose relationship is involved. Child does not include an individual who is only a stepchild, a foster child or a grandchild or remote descendant.' Again, the definition uses child to describe itself.
>
> *Parent:* A parent is defined to 'include, but is not limited to, an individual entitled to take, or would be entitled to take, as a parent under this Code

Who is Your Descendant?, continued

by intestate succession from a child who dies without a will and whose relationship is in question. Parent does not include an individual who is only a stepparent, foster parent, or grandparent.'

These statutory definitions in Michigan can lead to a lot of questions. The problem with these statutory definitions of descendant, parent, and child is that today's 'modern' family looks much different than the conventional parent-child relationship on which the Code's definitions rely. Consider the following recent statistics and demographic trends:

- One (1%) percent to two (2%) percent of babies born in the U.S. each year are estimated to result from artificial reproductive technology (ART), where the donors of zygotes and embryos may not technically be the parent of a child;
- The donor of genetic material used in ART may not be living when a child is born using the donor's gametes, i.e., posthumous conception, which has led to new legal classifications that include genetic parentage, gestational parentage, and functional parentage;
- Fewer couples now are married before they have children. It is estimated that 40% of children are born to women outside of marriage, either as single women or women who cohabitate with an unmarried partner;
- More children are born in nonmarital relationships. In the past, a child 'born out of wedlock' was not considered to be either the issue or a descendant of the father. In the 1970's the U.S. Supreme Court held that defining a descendant purely on marital status violated the Equal Protection Clause of the 14th amendment;
- Several states have expanded a child's adoption to include new situations such as an equitable adoption, or they have expanded a legal adoption to include the adoption of an adult;
- The advancement in genetic testing has revolutionized the process used to determine an individual's biological parentage; and,
- Blended families are now commonplace with second and third marriages where stepchildren are treated as part of the 'family unit' and are frequently held out to the public by the stepparent as 'my child.'

"...today's 'modern' family looks much different than the conventional parent-child relationship on which the Code's definitions rely."

Each state has its own laws and definitions of descendant, child, parent, adoption, and stepchildren. Consequently, the risk of confusion is increased when an individual moves to another state and their Will or Trust makes a class bequest to their descendants. This risk is exacerbated is when a dynasty-type Trust is used that is intended to exist for multiple generations where the trustee is authorized to make discretionary distributions to the trust creator's descendants when a descendant is determined by reference to the dynamic parent-child relationship, which can vary from state-to-state.

Who will qualify as a potential descendant of the Trust's creator and thus

become eligible, as part of the class of descendants who is entitled to receive a trust distribution?

- A child born with someone else's genetic material?
- An individual who meets the state's definition of an equitably adopted child that arises from a relationship that is not a formal, legal adoption?
- An individual who was treated openly and held out to the public as 'my child' by a stepparent?
- The biological child of an individual whose rights as a parent were legally terminated due to neglect?
- A child born long after the father's death when the child was born using the father's frozen sperm?
- The legal adoption of a 55-year-old girlfriend?

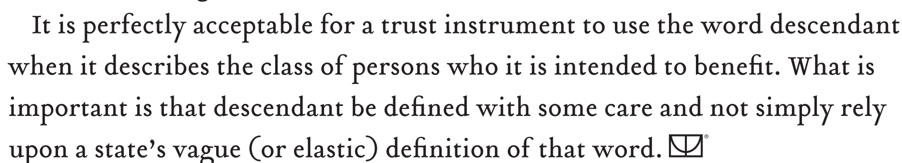
As time, medical science and societal norms change, the 'law' then follows, albeit slowly. These changes will impact the definition of who falls within the class of an individual's descendants.

It will be helpful if the trustee that is charged to administer a trust has a clear and workable definition of who the trust creator intends as a descendant to benefit from their trust by providing a more comprehensive definition of descendant and not rely on the state's vague and circular definitions. The trust's creator can then describe how broad, or narrow, that definition of descendant will be when it is used in the trust. The trust instrument definition might expressly exclude adult adoptees. Or it might permit a posthumously born child to be consider as a descendant, but only if the child is born within three years after the death of their genetic parent. A nonmarital child could be included within the class of descendants, but only if that cohabitation arrangement of their parent persisted for an extended number of years. A stepchild might be treated as a descendant if the state by statute expressly recognizes the legal concept of equitable adoption. These detailed definitions are just some examples where confusion could be avoided when a trust directs the trustee to distribute income or assets to a descendant.

"The trust's creator can then describe how broad, or narrow, that definition of descendant will be when it is used in the trust."

In light of the fact that the identification of a descendant can turn on so many different factors along with the state's definition of a child who is entitled to inherit from his or her parent, some thought should also be given to including a provision in the trust instrument that holds the trustee harmless for its good faith effort to determine who is a child or a descendant.

It is perfectly acceptable for a trust instrument to use the word descendant when it describes the class of persons who it is intended to benefit. What is important is that descendant be defined with some care and not simply rely upon a state's vague (or elastic) definition of that word.



Stock Market Pulse

Index	11/29/2024	Total Return Since 12/31/2023
S&P 1500	1,365.43	27.51%
Dow Jones Industrials	44,910.65	21.21%
NASDAQ	19,218.17	28.88%
S&P 500	6,032.38	28.06%
S&P 400	3,366.18	22.63%
S&P 600	1,532.61	18.04%
NYSE Composite	20,272.04	22.86%
Dow Jones Utilities	1,078.95	26.86%
Barclays Aggregate Bond	2,225.45	2.93%

P/E Multiples	11/29/2024
S&P 1500	26.5x
Dow Jones Industrials	25.4x
NASDAQ	43.0x
S&P 500	27.0x
S&P 400	21.7x
S&P 600	24.4x

Key Rates

Fed Funds Rate	5.25% to 5.50%
T Bill 90 Days	4.43%
T Bond 30 Yr	4.36%
Prime Rate	7.75%

Current Valuations

Index	Aggregate	P/E	Div. Yield
S&P 1500	1,365.43	26.5x	1.26%
S&P 500	6,032.38	27.0x	1.24%
Dow Jones Industrials	44,910.65	25.4x	1.55%
Dow Jones Utilities	1,078.95	25.9x	3.11%

Spread Between 30 Year Government Yields and Market Dividend Yields: 3.10%

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