

PURPOSE CLAUSES: THE HEART OF THE PURPOSEFUL TRUST™

The Trust with Your Voice and Vision

The clients' vision for how they want their Purposeful Trust™ to benefit their loved ones and favorite causes leads us to powerful purpose clauses.

KEY POINTS

- * The purposes of a trust are often not stated in the trust instrument. The failure to clearly state a Trustmaker's intent makes it likely that courts will be called upon to divine what that purpose was.
- * Hasty, casual, or rote expressions of trust purposes will most likely be incomplete and can even be seriously misleading. They are thus likely to do more harm than good.
- * The most powerful purpose clauses are those which capture our client's vision and values.
- * Purposeful Conversations offer a method to avoid "hasty, casual, or rote" expressions of trust objectives, and instead tap into the client's true desires and feelings.
- * For those clients interested in creating a perpetual or near perpetual trust, the Purpose Clauses becomes extremely important as it is likely there will be few living at the time the trust has to be interpreted who will have any clue what the grantor's intentions were.
- * Such clients may also benefit greatly from the concept of a Trust Compass. The Trust Compass consists of core virtues and principles which the grantors consider timeless and which they hope will serve as a beacon to insure the trust will be a positive force in the life of the beneficiaries, no matter what difficult and unforeseeable challenges they run into.

Every trust we have been seen will hopefully fulfill at least one, if not multiple purposes contemplated by the grantor. However, how often do you see those purposes expressly stated within the trust instrument? We may see a hint of the primary purpose in the name of the trust or in the tax savings clause. For instance, the XXX Life Insurance Trust. Or the ZZZ GST Exempt Trust. Here is an example of a GRAT (grantor retained annuity trust):

JOHN DOE GRANTOR RETAINED ANNUITY TRUST

THIS TRUST AGREEMENT, effective XXX, is among John Doe of XXX, as grantor (“grantor”), and XXX Bank & Trust, of XXX, Delaware, as trustee (the “trustee”).

CREATION OF TRUST

The grantor hereby transfers to the trustee the property described in the attached Schedule A and the trustee accepts such property as the initial trust estate. Such property shall be held by the trustee IN TRUST and shall be administered as a qualified annuity interest, within the meaning of §25.2702-2 of the Regulations under the Internal Revenue Code, for the grantor’s benefit during the annuity term, as defined in Article 2, and thereafter all other interests in the GRAT, which constitute qualified remainder interests within the meaning of said Section 2702 and its regulations, shall be administered upon the terms set forth in this agreement for the grantor’s children who shall be referred to as the “secondary beneficiaries”.

Except for the opening preamble and the signature block of the Trust, you never see the Grantor’s name in this trust. In fact, there are more references to tax codes than to the names of family members. This trust really doesn’t tell us much at all about the purposes the Grantor had in mind in establishing the trust. The title probably is your best guess: a trust that will create an annuity for a wealthy grantor. Now contrast that with the depth of vision and purpose that is evident in the following Purposeful Trust™:

This Trust does not exist as an end unto itself. It is merely the means by which we have chosen to share some of our wealth with our children, and eventually our future descendants. It is a framework to help our family better govern itself, and to encourage our children and their descendants to strive to be the best individuals they can be and to seek joy by living in accordance with the values expressed in this Agreement. We hope that this Trust will remind our children to discover the personal growth and satisfaction that can be realized through sharing our good fortune with those who are less fortunate. We also hope the Trustee will offer positive encouragement and assistance to each beneficiary in their quests, crises and challenges.

After that introduction of the general purpose of this Purposeful Trust™, it goes on to enumerate its primary purposes (which are not specifically included below) and then explains the Trust Compass which was attached as a separate exhibit.

The foregoing primary purposes for this Trust are built on the premise that the whole “*** family” is much greater, in terms of our children’s capacity to achieve their dreams and goals and to carry out our family mission statement than what the “separate sum of our family parts” would be. The Trust has been established to provide a platform to allow all members of the ***** family to “grow interdependently.”**

From the primary purposes enumerated above we have distilled certain principles and values which we believe to be so fundamentally important for the long-term best interests of our children and their descendants that we have summarized these bedrock principles and core values in Exhibit “A” of this Trust Agreement. The fact that these principles and core values are set forth in a separate exhibit should not in any way diminish their importance. We have deliberately chosen to place them there to draw attention to them and to make it easier for the trustee and beneficiaries to refer to them.

Our advisors have cautioned us about the difficulties of being able to pinpoint precisely how the Trust should be administered in the next fifty to one hundred years and beyond. What we have agreed upon is that there are certain values which will be enriching and enduring to both our family relationships and to each individual beneficiary. If the Trustee, beneficiaries and their advisors always make sure their judgment and analysis is firmly grounded on these bedrock principles, then this Trust will have the greatest probability of allowing each beneficiary to attain their maximum potential and accomplish our goals of enriching the lives of the beneficiaries as well as the communities in which they live. Going back to bedrock should always begin with a careful review of the Trust Compass set forth in Exhibit “A”.

If You Were a Beneficiary of a Trust, Which Trust Would You Prefer? The Purposeful Trust or the Trust Which Appears to Have the Solitary Goal of Tax Minimization?

If You Were the Grantor of a Trust, Would You Want Your Children and Grandchildren to Remember You Through the Trust That Appears to Be Tax Motivated or to Hear Your Voice Through a Purposeful Trust?