

Breaking the Silence: Helping Clients Discuss Estate Plans with their Families

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Following is a white paper for our estate planning professional friends.

While many talented wealth management professionals spend an extraordinary amount of time and effort designing elegant, tax-efficient estate plans, they often fail to assist clients with the sensitive task of discussing the plans with the clients' families. As a result, plans often create unintended negative consequences. This article explores the reasons for this phenomenon, and suggests how to best seize the opportunity to better serve clients.

“Shirtsleeves to Shirtsleeves in Three Generations”

Common experience suggests that most families fail to sustain wealth across multiple generations. An almost universal proverb reminds us that the third generation of a wealthy family is ill-advised to rest on its ancestors' laurels: in Italy, the expression is “from the stable to the stars and back again” and in China it is “from peasant shoes to peasant shoes in three generations.” Empirical research helps us understand the underlying reasons. One study of 3,500 families found that 70% failed to sustain wealth across generations. Interestingly, the study concluded

that errors in financial planning or taxes accounted for less than 3% of the failures. By contrast, 60% of the failures were found to result from lack of communication and trust in the family and 25% from “unprepared heirs” (R.O. Williams and V. Preisser, *Preparing Heirs: Five Steps to a Successful Transition of Family Wealth and Values*). This is often surprising to wealth management professionals who devote their careers to designing technically elegant estate plans. But it can be viewed as an opportunity to serve clients more broadly, while deepening the advisory relationships with them.

Our research on the “25 Best Practices of Successful Families” is consistent with both the earthy proverbs and empirical research cited above. In surveying the best practices in the accompanying box, it is immediately obvious that many of them involve intra-family communication. Under the category of Trusts and Estates, the discipline of “communicating intentions” is a powerful best practice.

<p>Family Cohesiveness</p> <ul style="list-style-type: none"> • Family History & Culture • Shared Values • Family Mission Statement • Teamwork & Communications • Family Member Well-being 	<p>Philanthropy</p> <ul style="list-style-type: none"> • Support for Philanthropy • Shared Philanthropy • Strategic Philanthropy 	<p>Strategic Issues & Wealth Objectives</p> <ul style="list-style-type: none"> • Understanding of Economics • Wealth Objectives • Planning for Major Life Events
<p>Governance</p> <ul style="list-style-type: none"> • Family Governance • Family Meetings • Family Policies • Conflict Resolution • Succession Planning 	<p>Mentoring</p> <ul style="list-style-type: none"> • Financial Education • Parenting Skills • Support for Entrepreneurship • Family Support Network • Money Smarts 	<p>Trusts & Estates</p> <ul style="list-style-type: none"> • Communicating Intentions • Grantor & Beneficiary Mentoring • Selection of Trustees & Advisors • Trustee & Beneficiary Relationships

Fear and Worry

So, if the stakes are so high, why is communication so difficult for wealthy families? The answer, most often, is fear. Clients worry that children informed of the estate plan will feel “entitled” to the wealth, become spoiled, unmotivated and isolated by envious peers. They worry that children might tell outsiders who will exploit the knowledge to harm the family, or that disclosure will trigger conflict, such as sibling rivalry, years before the estate plan is even relevant. Clients also worry that disclosure today will limit their flexibility if they want to make changes in the future.

These fears are not entirely unfounded. Every estate planning attorney can relate horror stories involving children with knowledge of an estate plan who try to declare a client incompetent before he or she can change the estate plan (for example, to favor charity) or make even more dastardly attempts to accelerate their inheritance. But such stories can be countered with equally chilling tales in which a second spouse manipulates or exploits a client to the detriment of uninformed children from a prior marriage. The point is not to compare horror stories, but rather to take note of the more common, non-sensational ways in which clients’ bias to under-communicate their estate planning intentions can create lasting problems.

Lost Poets and Disappointing Lotteries

In our experience, these more routine failures take two very different but equally troubling forms. The first arises when failure to communicate leaves highly responsible children with an inadequate understanding of their parent’s desire that the family’s wealth be used to make life more comfortable for them than it was for the parents.

The client in this case might be someone sympathetic to John Quincy Adams’ famous quote: “I must study politics and war, that our sons may have liberty to study . . . commerce and agriculture, in order to give their children a right to study . . . poetry.” A client who fails to clearly express this intention allows each generation to underestimate its ancestors’ generosity and repeat unnecessarily its hardships.

On the other hand, some clients are determined that children not use the parents’ wealth as a justification for their own laziness. Such clients are often surprised by the extent to which uninformed children can over-estimate the extent of the family’s wealth, or the parents’ desires to facilitate and subsidize their study of poetry. In these cases, disclosure can be a reality-check for children who are waiting for an inheritance as a kind of lottery which never quite materializes.

Discomfort with Wealth -- “Born on Third Base and Thinks He Hit A Triple”

An entirely separate problem caused by failure to disclose estate planning intentions is the perpetuation of feelings of embarrassment and discomfort with one’s wealth. Under-communication reinforces negative messages that children receive from the earliest ages about the family’s wealth. These messages are offered by less fortunate peers, extended family (such as a jealous uncle), and even politicians and the media (consider, for example, how wealthy people are often caricatured in the movies). Our own work with wealthy families often reveals surprising distortions about wealth which only a healthy, candid dialogue over many years can correct. One commentator notes that without open communication about the social

and emotional implications of having wealth, inheritors can feel “ashamed of receiving handed-down wealth, guilty because they had so much and inadequate when compared to the people in the family who made the fortune” (J.H. O’Neill, *The Golden Ghetto: The Psychology of Affluence*). Parents’ secrecy about the family’s wealth can also leave children with the impression that the parents don’t trust them, which can do lasting damage to their self esteem.

Of course, clients have their own negative feelings surrounding their wealth, making it especially hard for them to break the silence. Wealth is a very sensitive topic to most people and discussing it honestly with others is often extremely uncomfortable. In fact, clients themselves may not be clear about the underlying motivations for their estate plans and may therefore not be willing or able to tell their advisors the full story. In those cases, the plan is not completely aligned with the client’s true intentions and he or she is more likely to be ambivalent about discussing it with others, even family members.

To grasp how feelings of embarrassment can cloud estate planning decisions, consider how uncomfortable clients are discussing some of the underlying reasons for estate planning. Some of the motives set forth in the accompanying box, such as the desire to make a positive difference in descendants’ lives or giving based in family tradition, are easy to articulate or share with advisors. Advisors will hear about these motives from clients. But others, such as a desire to control the decisions of heirs, are less readily claimed. In the case of reasons not to give, or to do so with strings, it is often much easier to talk about one’s concerns about spoiling children than it is to admit to an inability to confront one’s mortality or overcome deep-seated financial insecurities that persist even after becoming wealthy. A thoughtful advisor can help clients more honestly assess these genuine motives, without judging them, and assist the client with the development of a plan that better aligns actual giving behavior with those motives.

<p>What Motivates Us to Give?</p> <ul style="list-style-type: none">• Genuine generosity• Obligation, tradition• Societal pressures, lifestyle expectations• Control• Tax reduction	<p>What Are Our Objections to Giving?</p> <ul style="list-style-type: none">• Negative impact on recipient• Confronting mortality• Financial insecurity• “I don’t want to”
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The Advisors' Dilemmas

Finally, as wealth management professionals, we must also consider our own hesitations to engage in these conversations with clients. Many fellow advisors discover over time that their attraction to Estate Planning is based, at least in part, on their own complicated attitudes concerning wealth (just as psychiatrists often discover they themselves have unresolved childhood issues). The estate planning lawyer's focus on confidentiality and attorney-client privilege raises understandable anxiety about encouraging, and especially participating, in intra-family discussions about one family member's estate plan. More generally, many advisors, given the nature of their training and maybe even the personality types that attract them to more technical fields, are more comfortable focusing on ascertainable results rather than process and on analytical subjects rather than feelings.

And, of course, the pressures of modern professional life—applicable to attorneys, accountants and wealth managers alike—often discourage advisors from initiating conversations about communication issues. Advisors who charge by the hour might worry that it will be difficult to bill for time spent resolving such “softer” issues. On the other hand, advisors who charge fixed fees or asset-based fees might worry that introducing more open-ended communication issues might bog the relationship in an unprofitable morass. Our experience is that these fears are greatly exaggerated. As advisors, we are in a unique position to help clients see that a well-crafted plan is only the beginning of a successful strategy for multi-generational estate planning. Overcoming our own hesitation, and helping clients overcome theirs, can be rewarding to all.

So How Can You Help?

It is an entirely fair critique of this article that an experienced estate planning attorney develops an intuitive feel for advising a client about when, what and how to communicate estate planning intentions to family members. Such intuition is part of the artistry of an estate planning practice and a direct reflection of the diverse intellectual and emotional skills that the career choice requires. Nonetheless, the unique perspective of a multi-family office, whose advice is more general and less technical than that of the attorney, can provide some useful perspectives which might helpfully inform the attorney's approach to these issues. Specifically, we have found that it is often useful for the client and advisory team to take a collective breath and a deliberate step back in order to view the communication issue as part of a much broader analysis of the client family's non-financial makeup.

The first step is the discussion of the client's “money history.” The detailed questions in the accompanying chart are designed to help the client uncover, and critically consider, five core issues: (i) what childhood influences color your current concepts about wealth? (ii) what is your current attitude towards wealth? (iii) what are your beliefs about how money should be used? (iv) what are your beliefs about how money affects relationships? and (v) what are your initial thoughts about communicating money issues to your family? This exercise can help clients consider what messages they are passing on to their heirs, consciously or otherwise, and whether some of those should be revisited. The objective is to learn from the past both what has worked and what the client wants to do differently. Inevitably, clients who pursue this exercise and see the importance of communicating more directly with their family members will ask, when, what and how to communicate.

(i) Influences From the Past

How was money used in your family? (e.g., for control, to buy love, as rewards, etc.)
What do you remember your father / mother saying about money?
How did the money attitudes of your parents differ?
When you were growing up, who made the financial decisions in your family?
At what age did you begin to have some money?
What lessons in money management did you receive at home?
Did you have to work for your money?

(ii) Attitude About Money

What is your definition of “wealthy”?
Are you comfortable talking about your money?
In which situations are you the most uncomfortable talking about money?
What are the dangers associated with having money?
What do you think is the greatest value of money?

(iii) The Way Money is Used

Is saving important to you?
Do you live on a budget?
Do you feel like you are a prudent spender?
What types of satisfaction have you received without money?
Was/is your family philanthropic?
Do you want more or less philanthropic involvement in your life?

(iv) Belief About How Money Impacts Relationships

Do you feel that money negatively impacts your interpersonal relationships?
What role did money play in your choice of a mate?
How do your attitudes toward money differ from those of your spouse?
How do your past experiences with money differ from those of your spouse?

(v) Communication to Heirs

What are the attitudes about money that you would like to teach your children?
What have you done to develop financial competency in your children?
What are your priorities for the control and transfer of your wealth?
Have these issues been discussed with the members of your immediate family?

When: Quite simply, the best time to encourage clients to talk to their families about their estate plans is “now.” Ideally, this communication is a process, rather than a one-time event, and it needs time to unfold. The most effective approach is to start with an introduction of basic financial concepts when children are young and then introduce more sophisticated topics, such as trusts and taxes, at appropriate ages. Obviously the nature of the various family relationships will affect what is said at any time, but some additional communication is usually helpful at any stage of the client’s life. The tax and financial topics are often unfamiliar to at least some family members, and take time to sink in. The emotional issues that underlie the entire topic often need to be identified and fully expressed before the content can truly be absorbed. And, overcoming the misconceptions left by the powerful negative messages about wealth delivered by society and extended family may require consistency and repetition. The most successful families view the communication process as iterative and learn from the reactions of family members at each stage of the process.

What: Clients who center the communication around shared family values have the best experiences. The “money history” discussed above is a good place to start, since it is impossible to help a client communicate his or her values around wealth until those values are first fully understood. Productive discussions about shared values include those that reveal the meaning of money to each family member and celebrate the history of both the family and the wealth, with a special focus on the hard work and accomplishments of those who created the family fortune. Children who understand the family’s history and values can more readily see the estate plan as a manifestation and continuation of those values. They can accept the plan

more authentically and are more likely to adopt the family values in their own subsequent planning. According to author and family governance expert Jay Hughes: “to successfully preserve its wealth, a family must form a social compact among its members reflecting its shared values, and each successive generation must reaffirm and readopt that social compact.”

How: Once the client agrees to communicate early and often, and to center the discussion on shared values, a few helpful guidelines can facilitate the process. It often works best to start with the overall flow of the plan, rather than the details, in order to give everyone an opportunity to react, perhaps first emotionally, but ultimately more thoughtfully, to its overall themes. Clients should share details with children as they mature and as they demonstrate, as part of the ongoing dialogue, that they can handle the information responsibly. We recommend that the conversation be formal and structured, since the issues often involve technical, seemingly inaccessible concepts that can be glossed over in more casual conversation. Formality also reinforces that the family’s history and values are important to the client. At all stages, it is critical to emphasize that the current plan can, and likely will, change and that any expectations formed from the plan’s description could produce later disappointment. Nonetheless, the conversation should be very open and the client should encourage the family to offer its authentic reactions and ask uncomfortable questions. Finally, and not surprisingly, it often helps to have the client’s advisors present for at least some of the conversation. This again reinforces the seriousness of the discussion, permits real-time clarification of technical issues and allows the heirs to form their own relationships with the advisors.

An Important Example: Prenuptial Agreements

Perhaps no topic better illustrates both the discomfort and the value of these communication issues than the client's discussion with a child about executing a prenuptial agreement. In so many cases, this sensitive topic raises a powerful dilemma for the client and the advisory team. Clearly, the law favors agreements that are signed early, rather than on the eve of the wedding, and that make full and adequate financial disclosure to the child's fiancé. Parents who feel strongly that such an agreement is necessary therefore must promptly make meaningful disclosure to the child who is planning to marry. Those who hesitate because of the discomfort discussed above and give the child inadequate time or information to consider the topic thoughtfully risk having the child resist or undermine the process or, perhaps worse, reluctantly comply with the parents' wishes but remain resentful, to the detriment of the overall family relationship.

Imagine, instead, a case in which the client has discussed the family wealth with the child throughout the child's entire life. Imagine parents who have carefully considered the impact of messages they themselves received about wealth and marriage, who can examine the impact of wealth on their own marriages, consider the impact of any guilt and shame that the child might feel about the family's wealth and understand what gaps, if any, remain in the child's financial education. Such parents may already have become more comfortable addressing the many emotional issues raised by the introduction of a new spouse into the family, and its wealth. In that case, the prenuptial agreement can be a logical, and accepted, extension of the family's well-established wealth philosophy. It can, in fact,

offer a useful opportunity to reinforce the family's wealth values and help carry them into the child's marriage and into the next generation.

Summary

Successful wealth transfer is a long-term process that does not end with a well-crafted, technically effective estate plan – it begins there (if not before). Clients willing to engage in thoughtful communication of their estate planning intentions to their family can better understand their own underlying attitudes about wealth, consider how their intentions might affect their family and provide explanations or make changes, if appropriate. At best, the communication can strengthen family relationships and facilitate the perpetuation of the clients' values into future generations. Advisors who assist clients with the process can broaden and deepen their relationships with clients, form relationships with multiple generations of client families and, most importantly, better help clients achieve objectives that they may not even be able to express in a more conventional estate planning conversation.

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