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A New Approach

Preserving The Blessing of Wealth Through Estate Planning

Experience shows that by the time grandchildren succeed to inherited wealth, more times than not it has been dissipated or has produced disappointing results—entitlement, "affluenza," "trust addiction" and broken lives. Aware of the potential for inherited wealth to create unintended results, some of our clients (including those not mega-wealthy) are wondering if there's another way? Is it possible to prepare future generations to utilize inherited wealth through positive values and the capacity to contribute to family, business and our larger society?

"Shirtsleeves to shirtsleeves in three generations" is an aphorism found in cultures around the world. What are our clients' chances of beating these odds? And more to the point: What contribution might CPAs offer to clients who share these concerns?

This article posits the shirtsleeves to shirtsleeves aphorism is not inevitable—i.e., inherited wealth can become a blessing to future generations and for many generations into the future; and that CPAs are uniquely positioned to be part of that solution.

Recognizing the Problem

If you think we're treading into the exclusive domain of attorneys specializing in estate planning, think again! The situation we now see—where affluenza is the norm, rather than the exception—has been presided over for decades by traditional estate planning attorneys as the gatekeepers for family inheritance. The solutions offered include: living trusts, bypass trusts, QTIP trusts (lifetime and postmortem), QPRTs, intentionally defective grantor trusts (IDITs), beneficiary defective grantor trusts (BDITs), dynasty trusts, self-settled trusts, off-short trusts, gifting trusts, medicaid qualification trusts, discounting strategies to devalue assets for transfer tax purposes, "estate freezes," family limited partnerships, and many more tax saving and asset protection devices.

It's true, these strategies in many cases

have worked miracles in reducing transfer taxes and income taxes, and in protecting assets from loss in divorce and to marauding creditors. We 've done a marvelous job of answering the tax and asset protection issues. Despite that success, many of us feel that traditional estate planning somehow missed the most important point: What about the human values that many families would relish even more than tax savings? If traditional estate planning tax strategies morph into aiding a drug addicted grandson, what difference does the tax savings make? If families fall apart because of profligate inherited wealth, what purpose is served by the best traditional estate planning available?

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CPA-centered Solutions

There are good answers to these questions, and we'll see that CPAs are well positioned to participate in implementing them.

Let's begin by looking at the situation from a new point of view—a point of view that values answering the above questions even more than saving taxes. This new point of view (derived from the work of James E. Hughes, Jr., in "Family Wealth, Keeping it in the Family") suggests that wealth preservation over the long term depends on the creation of dynamic strategies to support the development of the positive values upon which successful families are based. These values and human relationships that support them are necessary for successful intergenerational transfer of family wealth.

The positive values held by the senior generation are often characterized as qualitative estate planning values—referring to human, intellectual, social and even spiritual values important to the client family. In contrast, the quantitative issues—tax savings, asset protection, etc.—take center stage in traditional estate planning. Thus, in estate planning for family wealth we must plan for the transition of both aspects of the family's wealth: the qualitative wealth in addition to quantitative wealth. The consequence of failing to deal with qualitative values (as traditional estate planning has done) leads to the result predicted: shirtsleeves to shirtsleeves.

A relatively new classification of professional services is starting to develop among counseling/consulting professionals: family wealth advisers/counselors. So, there are pockets of attention for this topic in various professional settings around the country.

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Largely "missing in action" on this front are CPAs. Traditionally, CPAs have shied from any significant involvement in estate planning, instead deferring to attorneys as the prime movers in raising estate planning conversations with important client families. Let's skip reviewing the good reasons for this reluctance and say simply, times have changed. Some (many?) of your long-standing client families need your encouragement and guidance at each step in the estate planning process if the resulting estate plan is to reflect the family's qualitative values mentioned above.

How a CPA Practice Might Adopt a New Approach

If you can see that what we have called a "qualitative" approach might be useful to your practice, here are some steps you can take to move toward adding this service.

Let's begin with a definition of successful estate planning: The family's wealth transitions successfully for four (or more) generations (100 years, or more) and in each generation the family flourishes—i.e., beneficiaries are successful, productive members of society (and are not entitled or disincentivized).

This definition recognizes that there's much work to be done both in the planning and in the implementation. Who is included in "family," especially as we move from one generation to the next with marriages, divorces, untimely death? What are these qualitative values, and how will they be incorporated into the plan? Who are the advisers capable of carrying out the family's vision? These and many more "qualitative" issues will arise in the bringing this definition toward reality for each individual family.

The following are some specific steps that you might take to equip yourself to work in this environment:

1. Understand that successful estate planning depends more upon the strength of relationships—among family members, among the family's advisors, and between family members and the advisors—than upon the underlying documents. Good relationships may cure bad papers, but good papers will not often fix bad relationships. And it's the failed family relationships that cause the estate plan to fail.
2. Become familiar with other professionals who share this point of view. In accepting this challenge, you're far ahead of most of your peers and most traditional estate planning attorneys.
3. Recognize the importance of collaboration with other professionals. Over time, as you move from case to case, you will need access to lawyers, financial advisers, trustees, family therapists and others. Knowing who is "qualified" in terms of sharing your values will be critical.
4. If the estate plan contemplates your service in a fiduciary capacity (as trustee, executor, protector, etc.), you will need to equip yourself with the knowledge of how trusts should be structured to enable your participation with a minimum of liability exposure.
5. Identify and enroll clients with whom you have long-standing, positive relationships and with whom you would like to assure continued service beyond the lifetime of the senior generation. Probably, these are people with whom you have a long-term relationship in serving their family as well as business interests. These are people you already know and admire; so, expanding your services to meet their estate planning needs should be both logical and professionally rewarding
6. Participate from inception (along with attorney, financial advisers and other family advisers) in the process of planning wealth transfer strategies unique to that family. Getting in at the beginning enables you to control the decisions that affect your ongoing services to the client, including the factors creating potential future liability if you decide to serve as an independent fiduciary in the resulting estate plan.
7. All of this is possible because of your unique relationship with the client family as (in many cases) their most trusted financial/business adviser.

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The economic (quantitative) reason for doing this is client retention after death of the senior generation and increased revenue from: traditional CPA services associated with assurance of continued representation of the family; the newly created estate planning entities and, potentially, tax planning services for succeeding generations; and additional services, such as compensation for participating in the planning process and then on a continuing basis for services as a fiduciary.

The non-economic (qualitative) reason for doing this is the satisfaction of knowing that you've done your best to assist important clients with a crucial issue in their lives.

Conclusion

In summary, we believe many CPAs, and especially those with long-term financially successful clients, could profit (both economically and personally) from adopting a qualitative approach to estate planning. And with that approach, one may identify and then inspire selected client families to implement systems of human relationships and legal structures that will combine to thwart the dreaded aphorism. If this is successfully accomplished, you will have satisfied clients happily paying your fees for many years to come, and your services will have truly made a difference in their lives.

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