

Financial Planning

Emotional Rescue

By tending to family dynamics during the estate planning process, advisers can prevent wounds and conflicts years before they might occur.

By Mitchell Rose

April 1, 2005- When Warren Buffett wrote his estate plan, he didn't want simply to hand over his billions to his two children. Instead, he devised an estate plan in which his daughter, a magazine editor, and his son, a farmer, would receive, in Buffett's words, "enough so they could do anything, but not enough so they could do nothing." Under the plan, the bulk of his fortune will go to charity.

Clients don't have to have assets on the same scale as Buffett's to wrestle with how to pass them on judiciously and effectively. Estate plans can positively influence heirs' future behavior and reduce family conflicts--or they can reinforce unproductive behaviors, intensify poor communication, and create lasting wounds. While it's not their job to change a client's personality or resolve decades of parent-child conflicts, planners can help devise solutions that serve both the client's needs and those of the client's beneficiaries.

Advisers should learn to recognize a family's emotional dynamics and whether they create the potential for harmful relationships. Giving money to children who are either chronologically or emotionally immature, narrowly restricting the terms of an inheritance, and giving unequal amounts to different siblings can all create poisonous resentments down the line. Advisers can provide a great service to families--and also gain the lasting loyalty of future generations of clients--by helping them avoid these pitfalls.

Money itself is often not the central issue; more important is what's being communicated between parent and child. Barbara Blouin, who studies the emotional problems of inherited wealth as an author and co-founder of the Inheritance Project (www.inheritance-project.com), recalls receiving very negative messages about money. Her father's will was wielded like a weapon--both before and after his death.

Blouin and her brother grew up in a wealthy Massachusetts family where money wasn't discussed. Although she was a responsible person who would later graduate from Yale with a Ph.D., her controlling father created a restrictive trust for her that permitted only limited income distributions and saddled her, she says, with a "trust officer from hell," who was eventually dismissed.

Later, when Blouin married and had a child, her father, without consulting her, created a trust that would give her son a substantial lump sum when he turned 18. After her first marriage dissolved--partly, Blouin claims, because of conflicts over wealth--she moved to Nova Scotia, remarried, and adopted another son. Her father subsequently changed his will to exclude an adopted child. A final episode in her father's destructive messages: Blouin recently discovered he had left twice as much money to her brother as he had to her. These actions by her father so scarred her that Blouin decided to start the Inheritance Project to help others navigate the emotional minefields of family wealth.

Most clients don't intentionally set out to create such problems for their children, but they do make certain common mistakes. According to Gary W. Buffone, a psychologist who counsels families about business succession issues and director of The Family Advisory Group in Jacksonville, Fla., these errors fall consistently into four categories. Clients tend to give money either too soon, before their children are emotionally ready for the responsibility, or too late,

waiting to plan until one parent is disabled or has died. At that point, children have to scramble through a complicated estate during a stressful time without the formal guidance of a plan. A third mistake is that clients hold on to assets too tightly, even when the children are emotionally mature adults. Finally, clients err by giving too much, ignoring the benefits of multi-generational planning and philanthropy (see "**Carrots, Not Sticks**," below).

Carrots, Not Sticks

Estate planning can leave a positive emotional legacy as well as a negative one.

To teach children about the responsibilities and benefits of wealth, participatory philanthropy can be quite effective. For example, estate attorney Elizabeth Schurig of Giordani Schurig Beckett Tackett in Austin, Texas, represented a family that wanted to encourage philanthropy. It set up an inter vivos trust with Crummey powers to allow the grantors to participate and see the benefits during their lifetimes.

Distributions were broadly educational. The criteria for scholarships were financial- and character-based, with a sliding scale tying the distribution to each child's philanthropic deeds. Beneficiaries had to perform a charitable activity, such as spending the summer in a third-world country helping people. Specifically, for each dollar they received for school, the beneficiaries needed to perform a dollar's worth of charitable activity, as defined by the trust. The larger the distributions, the more hours the beneficiaries needed to put in.

"The goal was to have the beneficiaries spend three months in the summer in Guatemala, East L.A., or somewhere helping kids instead of feeling pressure to go to work flipping burgers," Schurig says. "It was an innovative way to teach charitable giving and encourage education while the grantors were still alive. In general, clients don't think about it much, but how do they lead the charge to encourage philanthropic behavior once they die?"

To teach philanthropy, Kathleen Day, a CFP and founder of The Enrichment Group in Miami, has clients set up donor-advised funds to establish a pattern of gifting to social causes. For example, after a grandmother dies, the grandfather sets up a donor-advised fund in her memory. Every year, on the anniversary of her death, he sits down with the grandchildren to decide which cause will receive the distribution that year. —MR

To help clients avoid such mistakes, advisers must address the emotional issues underlying their estate plans. The first step is for parents and children to talk openly about an estate plan and its significance when it's being devised. That's not easy if family members aren't used to discussing money and wealth as part of normal household conversations. Even when families are used to talking about assets, a simple wealth-transfer plan can raise complicated emotional dynamics. The presence of a planner can often add objectivity to the discussion. Planners may even want to bring a psychologist into the conversation to help with thornier conflicts.

Kathleen Day, a CFP and founder of The Enrichment Group in Miami, sees exploring family dynamics as key to devising a lasting estate plan that best addresses both grantors' and heirs' needs. A social worker on her staff helps families discuss difficult transfer issues, especially when parents must present their children with emotionally loaded decisions such as unequal distributions. "One of the main objectives of our work is to create harmony in the family," Day says. "If a plan creates adversarial positions, then you can't achieve that harmony."

After developing an estate plan, Day holds a conference with the parents, children, and sometimes daughters- and sons-in-law. The family doesn't discuss dollar amounts but focuses on the roles and responsibilities heirs will have in the estate plan, how they will affect them, and why certain decisions were made.

When parents leave money to a married daughter, for example, Day encourages her to keep that money separate from her spouse's assets so that it will stay with her parents' bloodline in

case of a divorce. "If the topic isn't discussed by the parents at the planning stage, it's hard at the time of inheritance for that daughter to say to her spouse, I love you, but I'm going to keep this money separate.' It creates all kinds of bad feelings." By bringing this condition up in the context of estate planning, the spouse can see that it's the parents' wish and not necessarily that of his spouse.

Advisers should conduct direct, frank discussions with clients about not giving too large an inheritance to children when they turn 18 or 21, regardless of their relative maturity at the time of planning. Planners and psychologists point out that most young adults have no idea how to manage money and aren't mature enough to figure it out. "A couple of times, I've worked with children who inherited big chunks of money, and they've blown it," Day notes. "They can't get their lives together. They hop from one thing to another until the money is gone."

She recounts the case of a woman in her early twenties who inherited a substantial sum from her father--probably a lot more than she thought she would. She attended five or six universities, spent a few years in Europe, and bought several houses. She bought new cars and wrecked some of them. Before she was 30, the money was gone. "It was a very self-destructive situation," Day says. "She never felt that she was okay. You can't fix that."

When parents object, Day doesn't let them off the hook. "I have some parents who say, 'I don't care if they lose it. I'm just going to give it to them,' " she says. "In that case, I tell these clients they have a big responsibility between now and then to teach their children how to handle money. Most of the time, the kids are not involved in the parents' finances at all. They don't have a clue."

A potentially useful way to manage the transfer of wealth to younger children is through an incentive trust. Such trusts make payment contingent on certain behavior, such as finishing college or getting a job. Heirs who stay home to raise children, join the Peace Corps, or go back to school might get a higher disbursement for a time than their working siblings. Planners may also use triggers to stop distributions in cases of substance abuse, say, by giving the trustees discretion to withhold payments.

While some clients may want to control assets beyond the grave, planners warn that incentive trusts can be problematic and difficult to administer if the language isn't well thought out. How will the trustee determine if the child has a substance-abuse problem, for example? In addition, such trusts can unintentionally penalize a responsible child who does not participate in the incentive, such as a child who chooses a low-paying but socially responsible job.

Incentives can also be too narrowly defined. Estate attorney Elizabeth Schurig of Giordani Schurig Beckett Tackett in Austin, Texas, relates the case of a grantor who was a proud graduate of Texas A&M University. He wanted to make all distributions--even those for critical health emergencies or education--contingent on his children attending his alma mater. This discussion raised such an argument between the graduate and his wife that it almost led to a divorce, and the will was never signed. The grantor ultimately relented. But years later, none of his children wanted to attend Texas A&M.

Other planners have seen incentive trusts used to encourage procreation, increasing distributions per grandchild. "All of us have seen extremely detrimental attitudes," Schurig says. Estate attorney Ed Koren of Holland & Knight in Tampa, Fla., agrees. "Estate planning is a poor substitute for not being able to communicate with your children."

Planners also warn parents about the dangers of leaving unequal amounts to different siblings. Given that children mature at different rates and have different problems, however, it's not always possible for everything to be equal. When a client wants to treat children differently, that needs to be communicated at the time of planning, rather than have the heirs discover it later--when it could lead to sibling friction, strained relations between a surviving spouse and the children, and even legal battles.

For example, Day counsels parents not to put one child in charge of an irresponsible sibling's

distributions. "It puts both children in a difficult position," she says. If the parents are set on making such a move, they need to explain the decision to their children during the planning process. "Otherwise you just create hurt and pain," Day says. "It's like an anonymous slap from the grave. Tell the child what you're thinking and why. And explain it in a way that says, 'We're doing this because we love you.' It's a hard conversation, but it works."

Diane Lindner, a counselor who works with Day at The Enrichment Group, is usually present when such conversations take place. How things are said is tremendously important, she notes. Sometimes, before they meet with children, Lindner will coach parents in how best to present their observations and decisions so that the children can hear them without becoming instantly defensive. She counsels parents to avoid accusatory language and encourages them to talk about their feelings of love for the children, using phrases like, "I feel," "I'm afraid," "I worry," and "I'm concerned about." Day observes that careful phrasing can be "quite effective."

Psychotherapist Eileen Gallo and estate attorney Jon Gallo of Los Angeles, in their book *Silver Spoon Kids*, offer the positive example of a wealthy couple with two young children from their marriage and two older stepchildren from previous marriages. The oldest son was successful and wealthy in his own right. The parents told him they were thinking of leaving all of their money to the other three children. Since he didn't need the money, he agreed, and because there had been a discussion beforehand, there was no resentment later.

This may be the exception and not the rule, however. Jon Gallo, a senior partner at Greenberg Glusker, has videotaped estate-planning discussions between parents and children, and he recommends it to clients who have those discussions outside his office. The videotaping is a way to prevent future lawsuits and create a record that documents the family and emotional context for the will and trusts.

He especially recommends taping when parents are treating the children differently in the plan and they anticipate one child may resent the arrangement and contest the plan after their deaths. Like Day and Linder, Gallo strongly believes parents must clearly communicate an unequal treatment to the family when they create the plan.

When the estate plan involves a family-owned business, the potential for emotional complications can multiply. A succession-planning discussion may be one of the few occasions when parents directly evaluate their children's abilities. The normal resentments about who takes control of a company or who gets ahead can magnify existing sibling or familial rivalries. Making matters worse, a surprising number of business owners keep their succession plans secret until they die or become disabled.

The most successful succession planning typically involves several discussions about parents' wishes and children's goals. While planners can use insurance trusts or other assets to equalize an estate for heirs when a business is the primary holding, Gallo recommends that clients work with a family business consultant who can spend months, if necessary, working with the family on a succession plan that suits its emotional dynamics.

While it's the family that directly experiences the emotional legacy of inheritance, financial planners must also confront it when developing estate and succession plans. By understanding the dynamics of each family, planners can better advise clients in ways that serve both grantors and their beneficiaries.

In the end, it's not the planner's job to resolve decades of turmoil--but a plan can help avoid years of future conflict. **FP**

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