Remember My Values, Not Just My Wealth

By Leslie Rosenberg

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You know him: The Trust-Fund Brat — the party-hearty, layabout rich kid who never made a dime in his life and scoffs at the word "work." The type of guy that might be inclined to ditch his dorm room and blow the endowment on Porsche, Prada and Paris. The one who likely will end up penniless, crashing at Aunt Hilda's pool house and scarfing up Uncle Henry's leftover foie gras.

So, in planning an estate, what's a benefactor to do? Surely not leave the brat with millions and no strings. Fact is, even a summa cum laude can lose his drive once he's gotten control of his trust fund.

That's where values-based planning comes in, says Scott Fithian, president of Legacy Advisory Associates, in Quincy, Mass. "It's putting vision, values and goals before techniques, products and tools," says Fithian, who provides planning services for the well-heeled and their progeny.

Values-based planning helps your clients align their personal values and ideals with their portfolios to plan wisely for future generations. (For more on values-based planning opportunities, read our article on UGMA and UTMA trusts on page 134.)

For many affluent individuals, ideals are the true legacy they hope to leave behind after their death, says Dennis Carpenter, president of financial planner International Wealth Management in Grapevine, Texas. "If we ask, 'What do you want your children to inherit?' most rarely are dollars and cents at the top of the list. It's values and beliefs."

To facilitate the transfer of ideals as well as assets, Fithian encourages clients to employ an incentive-based trust, which usually is an intergenerational irrevocable trust. The structure of governance can be tied to anything from the fostering of work values by matching incentives to an heir's annual earnings, to the rewarding of philanthropic activities.

Fithian even had one client who wanted to encourage political involvement, and so created financial incentives for heirs to hold public office, from city council member all the way to U.S. president. (Note: Courts generally haven't upheld religious-oriented behavioral clauses.)

"If you give a child with well-developed values lots of money, those are the kids that change the world," Fithian says. "It's only the kids with underdeveloped values that get into trouble."

Offset Clauses

However, there are some escape valves to prevent a benefactor from completely dictating the kind of

life a descendant must live in order to receive his inheritance. For example, what if an heir wants to join the clergy, but the trust stipulates that he must have an income as measured on a W-2 form? With an “offset clause,” he'll still be able to receive his inheritance, says Al King III, co-CEO of South Dakota Trust, a unit of Third Constellation with offices in New York and Sioux Falls, S.D. (King is on the board of our sister publication, *Trusts & Estates*.) Such clauses are common and allow for other socially positive arrangements, such as an heir quitting work to raise children.

Still, some trusts put sticky restrictions on the beneficiaries. “We've seen vesting clauses, similar to a pension, to encourage family members to stay in a marriage,” says King. In other words, the longer you stay married, the more you inherit each year. Again, escape valves may sometimes be added. “A lot of them include floating spouse clauses, so the in-law can float in and out of the trust,” he says. “If somebody gets separated, the [non-family member] would float out, and if the beneficiary remarries, the new spouse would float in.”

Although these stipulations seem restrictive, they are rarely disputed by the beneficiaries because many trusts include a “beneficiary conflict” clause stipulating that the beneficiary will lose the inheritance altogether (or most of it) if he contests the terms.

Another way to build responsible spending habits, says Richard Goldstein, principal at Goldstein Enright Financial Advisers in San Ramon, Calif., is by using a family limited partnership as a teaching tool. In a limited partnership, the parent generally contributes a significant amount of funds and owns most of the partnership units, then starts gifting some of the units to the children each year, Goldstein explains.

Currently, tax-exempt annual gifts are limited to $11,000 per beneficiary. Or, if your client has a vast fortune, he can use some or all of the current $1 million lifetime exemption to transfer a larger share of units. But under the partnership agreement, the children wouldn't necessarily have any say in how the assets are spent.

Adds Fithian, “The most successful families value human capital over financial capital, and they spend a great deal of time preparing the skills you need to inherit and manage wealth.” [Some families never achieve that goal, and, in those cases, sudden wealth can become a burden; see story on page 94.]

The other arm of values-based planning is helping clients identify the causes that are important to them. Getting clients to open up about their most deeply held ideals and beliefs also solidifies the planner's role as the client's “most trusted advisor,” notes Betsy Brill, founder and president of Strategic Philanthropy, a Chicago-based philanthropic consulting firm.

“We encourage advisors to inquire about the charitable giving activities that they're currently engaged in, the issues they're most passionate about and what motivates them,” Brill says. In so doing, planners give their clients “the opportunity to more holistically address who they are as people and as members of a society, a community and a family.”

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