

Counseling Clients On The Importance Of Including The Community In Their Planning

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In this article, local estate planning attorney John F. Hopkins offers his time-tested advice on the role that philanthropy plays in the estate planning process and his "goals before techniques" approach with clients. Mr. Hopkins and Peninsula Community Foundation invite you to explore and think about these concepts and apply them in your practice.

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I advocate an approach to estate planning that I think differs significantly from established practices. I have developed these ideas over the years, borrowing heavily from Scott Fithian and others in the field, and I have spoken frequently to groups of professionals developing this theme: "As advisors, we need to learn how to talk with our clients about the importance of what giving back to their community has to do with their relationships and their goals for themselves and their families."



Estate planners have traditionally focused on tax reduction as if it were the client's most important goal. Since the techniques used to accomplish tax reduction are complex and mysterious to clients, they have an attraction, and both counselor and client tend to become caught up in the intricacies to the exclusion of everything else.

Yet, tax reduction is only a means to an end, which is usually to leave more to their heirs. When clients are asked why they want to leave more to their heirs, particularly if the size of the estate is such that the heirs will receive a substantial sum without any tax planning, most have difficulty answering the question. They have not thought of it in that way, and do not know how much they want their heirs to receive. Rather, their goal has been to be a prudent steward to their wealth while they are alive, without any conscious planning about how much they want to leave to heirs or what they would like them to do with it.

In recent years, the focus of estate planning, at least for clients, has begun to shift away from tax reduction toward client-centered values having to do with how they should use their wealth to bring meaning and satisfaction into their lives, and how they can shape the legacy they wish to leave to their children and their loved ones. In short, they are open to consider their deeper values and goals.

Clients are searching for a way to achieve meaning with their wealth, give back to society and leave a legacy to the next generation. This need increases with age, peaking in the senior years, when your clients are most focused and ready to think and plan for building a legacy of community support that will continue into future generations. Research conducted by The Philanthropic Initiative shows that clients desire an opportunity to discuss their philanthropic goals, but often won't if not asked.

While I strongly believe that this change of focus is arising from within our clients and also our culture, I can point to at least two outside factors that are influencing it. First, government is withdrawing from the field of social programs and that responsibility is shifting back to the local communities. Most local agencies cannot continue with the same level of support without government funding. The result is that clients are becoming more aware of the importance and the extent to which local social programs need help. Second, the financial services industry has

experienced incredible growth in the last 20 years. It has recently discovered estate planning and is now spending substantial resources in advertising and marketing the need for planning for one's estate as well as their finances.

The Concept On Social Capital

Another development that has a significant impact on the estate planning process is the concept of social capital. There is the involuntary social capital, known as taxation, by which our clients send money to the IRS that Congress spends on the social programs they deem appropriate. And there is voluntary social capital, known as philanthropy, by which clients contribute capital directly to social programs in their community that they choose. Because voluntarily contributions to community organizations reduce the client's taxes, he or she has the power to direct those saved taxes to the causes he or she wishes to support.

This reframing of the issue of charitable giving is a powerful tool in dealing with clients, but discussing charitable giving often moves too quickly into the tax techniques that diverts the client's attention away from "why" he or she wants to give to charity, to "how" these tax tools work. Part of my message is that advisors need to hold off on the "hows" until the client has identified the values that he or she wishes to express with the gift. The best method I know of to lead clients to their deeper values is to talk with them about what they want for their children, other loved ones, and what kind of a legacy they wish to leave to their community.

Ascertaining Your Clients' Values And Goals

As advisors, we have the unique opportunity to help clients bring meaning into their lives in a way that might not happen if we focus too quickly on the techniques of tax reduction in estate planning. Therefore, it is important to not discuss tax techniques until your client has connected with the idea that giving is an important activity. You can do this by first establishing the client's personal and family goals and values.

These questions will stimulate your client's thinking about the bigger picture and what is really important to them:

- How do you want to be remembered? By whom?
- What kind of legacy do you want to leave for your children? How much?
- How do you want your children to use this legacy?
- Do you have a plan to achieve your goals for your children?
- Are your children trained in handling the wealth you intend to leave them? (If not, establishing a donor advised fund at a local community foundation is an excellent opportunity for them to learn these skills.)
- What values would you like to pass to your children?
- Are there specific charities or causes you have supported during your lifetime? Why?
- Are there other causes you would like to support?
- Would you like a portion of your estate to support these activities or organizations after your death?
- Is reducing taxes a goal in your estate planning?
- Taking into account all of the taxes you have paid over your lifetime (income, capital gain, excise, property, etc.), if you were required to give estate assets away, and your only choices were the Federal Government as a charitable recipient and all other philanthropic purposes, how would you allocate between the two?

The questions above can help to inventory values, not just assets. The last question is a great way to introduce the concept of "social capital" and benefits of charitable giving as an estate planning strategy.

Take a look at your new client intake questionnaire. When was the last time you revised it? Planting the seed with a few questions up front in the interview process will help them to think about and discuss their philanthropic values later in the process. They will appreciate this, thereby increasing their level of satisfaction with you and your services. And in doing so, it ultimately helps address important social needs, improves the health of the community, and it marries your chosen profession with your desire to do something good for the world.

Your Clients Can Be Tax Savvy In Their Giving

It is important not to discuss tax techniques until your client has connected with why they want to give. You want to establish the client's personal and family goals before proceeding to discuss the tactics and tools of how to accomplish these goals. Failure to use this order results in confusion and gives your client information that is not useful. In fact, it distracts the client's attention away from his or her deeper goals. Keep in mind that the tax techniques are more about "keeping" or "saving" than they are about "giving."

Once you have focused on the client's values and determined an interest in supporting community needs, you may move to some of the more complex areas of charitable gift planning.

I offer three ideas to you:

The first is naming your local community foundation as the contingent beneficiary of a retirement plan or IRA, with the purpose of establishing a donor advised fund for the children to advise. You are probably aware that upwards to 80% of a retirement plan will be drained as taxes unless your client plans otherwise. With this technique the children will receive 100% of the funds that they can use to make their communities a better place.

The second idea is setting up a charitable remainder trust to enable a more flexible investment strategy free from tax on capital gains. By designating the aforementioned organization as the remainder beneficiary of such a trust, you can create a charitable legacy for children and future generations to use in community work.

The third idea is using a charitable lead trust to give money to grandchildren without incurring gift taxes. A trust providing income to charity for 30 years can provide grandchildren with a substantial gift at a later point in their life and benefit the charity now. A lead trust may also direct income to a donor advised fund at a community foundation for the family to make grants to the community.

Using Family Philanthropy As A Learning Lab

To introduce children and grandchildren to the concept of giving, clients should be encouraged to create a charitable giving fund each year. Your clients can put in most of the money and ask the children to contribute to the fund as well, and then have a meeting to discuss where the money will be contributed. Each child recommends an organization they believe in and explains why. Then the decision is made as a family and the children go along to deliver the check to the organization.

This approach will connect with children at a deeper level and create a family tradition of giving to the community. It allows for a discussion of family values and helps establish a healthy stewardship of wealth.

This tradition of giving can be perpetuated through gifts at death that establish a donor advised fund in the name of the family or a loved one which future generations can use to support their communities. This is a gift to future generations, imbued with your client's values and wisdom about the importance of community. Such a fund will shape the identity and character of future generations and it empowers future generations to effect changes in their communities.

How To Internalize This Approach

To be able to speak with credibility about the impact giving to the community can have in fulfilling your client's deeper needs, you need to experience these benefits. You have to begin the process of learning how to give yourself. There is no way around this.

We are all attached to our money and can see that in our clients as well when the subject of giving to the community comes up. If we are not certain that it is better to give than to hold on, we probably wouldn't even bring up the subject of charitable giving.

Jacob Needleman in his book, *Money and the Meaning of Life*, points out a very profound truth: "Greed is inevitable in the absence of an inner aim." As a planner, the greed I see in clients is usually unconscious and manifests itself in excessive attachment to their wealth.

By focusing on your clients' inner values - their desires for their children and the organizations they have supported during their life - it leads them to inventory what is in their heart as well as what is on their balance sheet. When the client (and you) can begin to make decisions from his or her heart, excessive attachments begin to dissolve.

A gift made from the heart will not be experienced as a loss; it will be replaced with a sense of connection to something larger and will bring meaning and purpose into their life. St. Francis articulated this beautifully when he said, "When you leave this earth you cannot take with you anything you received; only what you have given."

Giving To Community As Extended Family

There is an inner value to giving that improves heart and health. Your inner sense of well being is heightened. An estate plan that expresses personal values takes the emphasis off of wealth building, asset protection, and taxes, and shifts the focus to what the wealth can do for family and others. This is true enlightened self-interest.

Once this path is taken, a whole new field of learning about how to give opens up. Clients move beyond simple check writing in response to a letter or phone call to the realm of grant making. Establishing a donor advised fund at a community foundation is a great resource available to help clients take this path. Donor advised funds provide all of the fun of giving money away while delegating the administrative burdens, at a low cost, to the community foundation.

Peninsula Community Foundation is a wonderful resource for advisors and families. They have deep roots in the community with extensive knowledge of the needs and the nonprofit organizations serving those needs. They offer many charitable giving options, including donor advised funds, field of interest funds, scholarships, endowments and charitable trusts. They excel at connecting people, ideas and resources for the common good, and they can help you to include community in your clients planning.

For additional resources, including organizations, newsletters, books, consultants and coaches, contact Bert Feuss, Director of Professional Services, at bfeuss@pcf.org or 650.581.4312

TEN REASONS TO DISCUSS PHILANTHROPY WITH YOUR CLIENTS

1. It's good for society, it's good for your clients, it's good for your business, and it's good for you.
2. Many of your clients are searching for a way to give back to society, to memorialize a loved one, add meaning to their wealth, or simply to do good.
3. Discussing philanthropy with your clients can be done unobtrusively, in a way that respects their privacy, values, and autonomy.
4. It expands the menu of services available to your clients, thereby increasing their level of satisfaction with you and your services.
5. It adds to your areas of expertise as a professional advisor.
6. It increases the potential for new referrals and thus opens the door to many new clients.
7. It marries your chosen profession with your desire to do something good for the world.
8. It helps address important social needs and helps make your community a healthier, more vibrant place to live - a real legacy for future generations.
9. It puts you in touch with a supportive network of new colleagues who are willing to share their time and expertise.
10. It's easy to do.

TEN QUESTIONS YOU SHOULD ASK YOUR CLIENTS

1. Are there sufficient assets to provide for your spouse? Are there any special needs? Are there special concerns?
2. Do you plan to leave assets to your children? If so, how much and in what fashion? Can they handle financial asset management? Would a professional trustee be of benefit?
3. Do you plan to leave assets to grandchildren? If so, how much and in what fashion? Can they handle financial asset management? Would they benefit from a professional trustee?
4. Do you have any special concerns or needs that should be addressed in providing for your children or grandchildren? Are there special medical needs, education needs, or other special family situations?
5. Do you have special concerns or needs that should be addressed in providing for your parents?
6. Are there any siblings or extended family members requiring special help?
7. Is reducing taxes a goal in planning?
8. Do you have family values and philanthropic goals that are important? Do you want to teach your family members to give in the same manner you give?
9. Do you have specific charities or causes that you have supported during your lifetime? Do you want to endow that gift through your will?
10. Are there any other concerns that are important to you that should be addressed in the planning process?

TEN CONVERSATION STARTERS

1. I know you are very supportive of [organization or program, e.g., the local shelter, church, music school]. Would you like to continue your support through your estate plan? (Review your client's charitable deductions on past tax filings for clues.)
2. Are you making charitable gifts now that you would like to continue after your death?
3. Have you considered what would happen to your assets if your spouse or children do not survive you? Would you like any of your assets passed on to a charity, rather than to a distant relative?
4. Beyond family and business, what is most important to you?
5. What does giving mean to you?

6. Five years from now, what do you want your philanthropy to say about you? Your family?
7. Why do some causes pull powerfully at you while others have no appeal?
8. Tell me about your most meaningful volunteer experiences.
9. Who or what has been the most significant teacher in your life? Why?
10. What life experiences are you most thankful for?