

Because It's About More Than Death and Taxes

Our greatest reward can come from helping clients articulate their values—and use estate planning to pass them on.

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The irony is thick. We lawyers—trained to win in an adversarial system and to rely on the wisdom of courts and lawmakers—are the ones who are helping people define their most important values, pass that understanding on, and translate into material terms their love for their progeny. Law school was no preparation for the priest-like role that trusts and estates lawyers assume. Yet here we are, discussing our client's deaths, the disposition of their wealth and, by implication, some of the most profound issues anyone ever has to confront.

So what do we do? Pretend that the estate-planning conversation is only about taxes? I say: Let's be more conscious and ambitious than that. Let's elevate our client discussions, and acknowledge our power as estate planners as guides.

One path on this high road is to help clients prepare personal and/or family mission statements. Another route: Assist clients in the preparation of "ethical wills." To create these documents, client and advisor must speak about far more than finances and tax.

How does this translate into the

tangible? The story of one of my clients is a good illustration. A reasonably wealthy man, he had his plan worked out before we met. To his only child, he wanted to give \$2 million; his favorite charity would receive an unrestricted gift of the \$24 million balance. Rather than simply prepare his documents, I asked him a series of "why" questions: Why only \$2 million to his son? Why did he believe a larger bequest would do more harm than good? Why did he want to the balance to go to one charity? Why wasn't he specifying the purposes to which his gift should be put? And why exactly did he support the type of work that they do?

By the end of our chat, he still left only \$2 million to his son, but also decided to create a family foundation in which his son would be involved *ab initio*. He resolved to fund the foundation while he was still living, and to have his son work with him in the management and grant-making process.

On top of this, he wrote an ethical will that explained to his family his motivation and rationale for creating the foundation and

involving his son. He explained why his foundation would focus on education and aging, his passions. I helped him craft his "family letter," as he calls it. He sees this document as an integral part of his legacy.

Everyone Wins

My experience is that when an advisor and client talk not only about the money but also about the values the client is hoping to pass on, it is more likely that the client will make or increase charitable giving. Such discussions also lead our clients to connect with their families in a way and on a level that many never thought possible.

There is a direct benefit for the client. Let's be honest. Many are uncomfortable with the concept of death; clients often undertake the planning process with palpable aversion. Elevating the discussion, as many a rabbi and minister has found, softens this process, humanizes it, and imbues it with meaning. And what greater reward could there be for us lawyers than, in our own way, to help people explain their life's lessons and their dreams for loved ones? ♦