REFRAMING THE ESTATE ATTORNEY'S ROLE WITH LEGACY FAMILIES

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Last month, I wrote about the general characteristics of those legacy families who find themselves dedicated to the task of thinking forward 50-100 years about perpetuating their family, its fabric of values, and their business and philanthropic enterprises.

While such a task is not for every affluent family, my hunch is that such planning will become far more commonplace among elite advisors and the families they work with. Why this trend in service? Because affluent clients will demand it as their needs surrounding their wealth, their values, their impact investing and the future of their family businesses are becoming more complex. Furthermore, studies show that their children, today's Gen-Xers and millennials, are influential in decisions concerning their family's philanthropic decision making. These young and affluent donors are indeed giving earlier in life and will require a different set of legal/advisory services other than tax centric advice.

But what defines the main differences in services rendered to this group of affluent families versus traditional estate planning services? I would summarize some of the professional differences as follows:

Traditional estate planning is focused on wealth transfer planning or tax mitigation as the primary goal. And while saying "One Size Fits All" may be a bit of an overstatement for the services that are delivered, the fact remains that once an advisor whose skill set does not include a deep understanding of family behavior surrounding money, family enterprises or philanthropic organizations, affluent families tend to see the same redundant set of commoditized tax planning that involves the shifting of assets from one's personal balance sheet to some sort of trust architecture for the next generation. It deals with today and with getting a client comfortable with the concept of reducing the size of their balance sheet, but its efficacy for facing tomorrow's family events is suspect-primarily because there is limited (if any) broad family participation other than the matriarch or patriarch driving the process. Rarely do outside business or philanthropic advisors, accountants and other key family enterprise consultants participate in this traditional legal service.

The root of all Legacy Planning on the other hand is getting the client and the family to understand the deeply collaborative cross-disciplinary process required to assist them in executing their family's goals.

Is commoditization bad? No, not in my opinion-**for a certain set of clients.**

Not every affluent family needs to purchase a customized car. Not every family wants to tackle thinking forward 50 years. For the vast majority of clients that enter a law firm without complex wealth holdings, with minimal estate tax liability, or with zero interest in tackling long term family planning despite the size of their balance sheet commoditized estate planning may be just fine as it should drive down the cost of legal services.

But herein lies a distinct problem for those legal advisors whose focus is rooted in estate tax mitigation as the primary purpose of the client relationship. This professional bias towards his or her own expertise of service may create a subtle conflict of interest for a different set of clients-the ultra-affluent. If the professional is not schooled in having non-tax related discussions then the conversations will naturally gravitate to what the professional knows and the process of exploring the questions noted below will never materialize.

But first, clients who do seek to focus on what their family will look like in 50-100 years need help in addressing one initial critical question, i.e. What motivated them to want to meet you?

Knowing the answer to the motivation question is critical for a successful attorney-client relationship. I find very few families can easily articulate an answer to this question in the first meeting-especially to someone who they don't know well. Thus, they usually need some further help in articulating why they trusted you to be part of their family's personal universe.

The lawyer will likely get two completely different sets of answers from any client to that question if the attorney also drives a discussion around such questions as the size of one's taxable estate or the amount of estimated estate taxes.

A completely different set of answers will likely flow from the motivation question if the attorney helps the client articulate an answer by further asking the client to educate you on the fabric of the family by asking the following simple questions-all of which I find can be used in a wide variety of initial client meetings:

You've worked hard and have been successful at accumulating significant wealth-have you thought about the purpose of this wealth for your family?

Have you pondered how much wealth is enough for the next generation to have?

What are the two most important messages you want to convey to your children and grandchildren about your family and its values?

Has the family articulated a mission that surrounds the family businesses, a mission that has been adopted by the entire family?

What charitable endeavors is your family passionate about and is your estate planning and your investment planning aligned with your philanthropic initiatives?

Listening to these answers, without judgment, is a skill. It will also take time.
It will also provide some color to the motivation question - why they chose to meet with you and why they allowed you into their private world. I have found the answers will create meaningful and durable value to the attorney-client relationship and can open up unique family planning opportunities.