

ESTATE PLANNING AND CONFLICT RESOLUTION

Why should clients engage your firm for estate planning? Perhaps the most popular reasons are to minimize taxes, preserve wealth and provide for the needs of family members. But did you know that estate planning also may prevent and resolve many potential family conflicts?

We've all had clients who say they want distributions to be "fair" or "equal" for their heirs. Some clients avoid estate planning because they fear conflict, while others prefer not to involve their families at all. In fact, despite the parents' best intentions, the implementation of estate plans often causes family feuds that rival television soap operas and court dramas.

The best method of avoiding conflict is good, one-on-one conversations with your client—ask the right questions, include the right people and be willing to point out current client problems that would spell disaster during estate plan implementation.

The next time you are planning an estate, add more value to your client relationship by covering the following bases:

Involve key players

Conflict often occurs not because of actual disagreement, but rather, because those affected by a decision did not have input in the decision-making process. It is important that those included in the estate plan have a chance to offer their ideas, goals and concerns. This is not to suggest that every party should have veto power. Instead, look for ways to get input that helps shape the plan.

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CHALLENGE ASSUMPTIONS

Ten questions that will encourage your client to get everyone involved in the estate planning process:

1. What is your definition of a successful family estate transition?
2. Have you included everyone affected by the plan in the planning process? If so, how? If not, why?
3. Are there current or potential conflicts resulting from the estate plan?
4. Are in-laws involved in the estate plan?
5. Do your heirs have the necessary management skills to carry out your plan?
6. Do heirs know of the assets in the estate?
7. Is keeping the business or assets in the family the best thing to do?
8. Do the heirs appreciate their future inheritance?
9. Do you appreciate the contributions of your heirs?
10. Do you and your heirs understand the difference between "fair" and "equal"?

Encourage clients to write—with your help—estate planning update memos to all family members and, when appropriate, business partners. Set up a regularly scheduled conference call between family members to go over a set agenda relating to the estate and the planning process. If it is a large estate, consider getting various family members involved in reporting on or tracking the performance of various assets. There is never too much positive family communication.

Map out family needs

Encourage participants to educate one another about future plans and goals. Ask your clients and families if they would get in a car with a group of people without knowing where they are going. Consider the estate plan as a vehicle used to meet the family's needs—all passengers should have the opportunity to say what they want in their future. For example, an heir may want to attend graduate school. Another family member may want to increase or decrease his or her ownership in a family business. Learning how family members see their futures not only prevents conflict but it allows you to design a unique estate plan.

Challenge pedestrian assumptions

Use your trusted relationship to ask questions, challenge assumptions and point out current conflicts. Because you are the family's most trusted professional adviser, you are in the best position to ask questions that will avoid con-

jecture, such as "Will a plan that retains the most wealth contribute to, or detract from, family relationships?" or "What are the consequences of dividing the estate equally if some family members work in the family business?" (See box at left.) Find out whether your client has based a decision on fact, opinion or assumption, and help him or her predict any potential conflict. In the end, your clients will appreciate your willingness to ask tough questions because it demonstrates your concern for their estates.

Always focus on the target

Conflict often occurs when an estate planning conversation turns into a disagreement about asset or estate decisions, management responsibilities and contributions or previous personal conflicts. Avoid this by developing a timeline and schedule for the steps in the process. Create an agenda for each meeting, crossing off steps as you work through them until you meet your client's goals.

Consider discussion guidelines or ground rules. For example, only one person should speak at a time. Finally, consider using a facilitator to enhance the meeting process.

You may understand your role in estate planning, but do your clients know all that you can do for their families and business? Take a moment with each of your clients to explain all you can do to secure his or her families' future. For example, when you sit down to discuss an estate plan, let your client know, when appropriate, that you also can help with strategic, retirement and compensation and benefit planning as well. It is good practice for all your services! ✓

—By William H. Jenkins, CPA, CEO, *Kennedy and Coe*, and Lance Woodbury, *Mediation and Planning Group Director*, 250 North Rock Road, Suite 270, Wichita, KS, 67206. Phone: 316-685-0222.