WHY YOUR ESTATE PLAN IS GOING TO FAIL

Richard Del Monte, President

You're sitting pretty. You have worked tirelessly and, truth be told, brilliantly throughout your adult life, and have created greater financial success than you had ever dared dream of when you started out. Now that you have achieved all this, you naturally want to preserve what you have, and that includes facing up to the inevitable time when your own life is over and your hard-earned wealth will pass to your heirs.

You met with your trusted attorney, who helped you create an estate plan that he assures you is state-of-the-art, and will be perfect for your circumstances. It minimizes taxes, avoids probate, and includes trust provisions that you think will prevent your kids from getting into trouble and blowing all of your wealth. Maybe you give a portion of the money to the kids at age 25 and the rest to them at 35, just to be sure. Or maybe you decided to leave a large philanthropic bequest to prevent the kids from squandering the money after you're gone.

Sorry to be the bearer of bad news, but unfortunately you unwittingly just signed the death warrant for your fortune *and* your family's unity after you are gone.

The dirty little secret in the family wealth transition world is that the vast majority of estates fail to transfer successfully to the next generation of families, no matter how much advance estate planning they have done, or how brilliant your attorney is.

We've all heard the horror stories about spendthrift kids who blow through millions of dollars in inheritances with breathtaking speed, or end up fighting with and even suing their brothers and sisters over perceived estate distribution inequities. But contrary to common misconception, these situations are the rule, not the exception.

A full seventy percent of estates fail to transfer successfully to the next generation. Failure, in the world of multigenerational wealth planning, means your kids either squandered all the money or they wound up fighting with or suing each other, destroying the family's harmony. The seventy percent loss rate is compounded each generation, so if your kids wind up being among the lucky minority who preserve your wealth after your death, the seventy percent loss rate kicks in again when your kids die. Therefore, your estate loss rates become exponentially worse with each successive generation of your family. Seventy percent of your estate is lost in the first generation, ninety percent is lost in the second, and ninety seven percent is lost during the third generation. Statistically speaking, it is a virtual certainty that your family's fortune will not escape this terrible fate.

Don't think this phenomenon is limited to just the very wealthy. It transpires across all levels of wealth, and in countries all over the world. It happens whether there are high estate taxes in the home country or none. It happens whether the family had a great estate plan in place, or none at all. You get the point.

70% OF ESTATES FAIL TO TRANSFER SUCCESSFULLY

How is it that this inconvenient truth remains unknown to the vast majority of people? That's a great question. Those who are aware of the problem attempt to address it in a few common ways.

- One strategy is to keep the amount of the family's wealth a secret from the children, believing that knowing how much they will inherit will cause the kids to lose their motivation to work hard and strive to achieve success on their own. Though highly unlikely, it's possible this strategy could work during the parents' lives. However, once the wealth passes to the next generation, they are so emotionally and intellectually unprepared, and have so little experience dealing with the responsibilities of caring for their sudden wealth, that they behave exactly like lottery winners, and devastation is the likely result for them and their families.

  We've all seen the plight of lottery winners—they suddenly have lots of friends and family members who need loans that will never be repaid, or are more than happy to help them spend their money on frivolous things that do not provide true happiness. Shysters show up in droves with get-rich-quick investment schemes that have zero intrinsic value. They begin buying everything they ever wanted but couldn't afford. Within a breathtakingly short period of time, the lottery winner is back in poverty and all their would-be friends and family are long gone.

- Another approach people commonly employ is to rely on restrictive provisions in their estate planning documents, such as wills and trusts, to exert control on heirs by limiting their access to the inherited wealth after the parents have passed away. Unfortunately, such restrictions almost always breed resentment in the heirs. An heir of this type of trust once tearfully shared with me, "I went my whole life believing that my parents trusted me and believed in me. My memory of our great relationship is now tainted by this, their final message to me."

  Nobody likes or appreciates being controlled from the grave. The result of all this collective unhappiness and resentment is an entire industry of 'trust breaking' lawyers whose only job is to undo the parents' carefully crafted estate plans and get the money directly into the hands of the kids as soon as humanly possible. At that point, the unprepared heirs morph into lottery winners and the race is on to deplete the funds as soon as possible.

"…[leave their children with] enough money so that they would feel they could do anything, but not so much that they could do nothing."

Bill & Melinda Gates and Warren Buffet

- Some parents, wise to the problems associated with inherited wealth, make the same pledge that Bill and Melinda Gates and Warren Buffet have made, to leave their children "enough money so that they would feel they could do anything, but not so much that they could do nothing." The Gates' told Steve Kroft in an October, 2010 interview on 60 Minutes that they believe that money ruins kids. And they are certainly not alone in this belief. Many, if not most people agree with them. However, it is not a fact that money ruins kids. It is a belief, and a very limiting belief at that. While it is true that leaving wealth to unprepared heirs is a lot like handing a loaded pistol to a child, there is absolutely no reason that money, even great wealth, left to heirs who have been well prepared by their parents, has to play a toxic or corrosive role in their lives.

  To the contrary, well prepared heirs have the very same opportunities for living happy and productive lives that their wealth creator parents enjoy. For this very small but fortunate cadre of heirs, wealth can actually be a huge blessing to them, and to the communities that they live in and care deeply about.

At this point you may be asking yourself what makes an heir a '*well prepared heir*?' To understand this distinction, we must first discuss the root causes underlying the overwhelming odds of estate failure that we discussed above.

Many estate professionals wrongly assume that estates that fail do so because of planning errors such as poorly or erroneously written wills or trusts, documents that were not signed, tax or financial plans that didn't work out as planned, or investment mistakes.

A study done by Williams & Preisser, documenting 3,250 affluent families whose estates failed, showed that less than five percent of estate failures were caused by financial, estate or tax planning errors. This demonstrates that our traditional financial and estate planning professional communities are performing their jobs almost flawlessly. Yet the overwhelming numbers of estate failures continue unabated.

Communication & Trust

In the study, a full sixty percent of the estate failures were caused by a lack of communication and trust within the family. Another twenty-five percent were due to a failure by the parents to prepare their heirs for the roles and responsibilities they would have to assume after they inherited the money.

It is not hard to understand how huge problems are promulgated, given the reluctance most parents have to discussing money or their wealth with their children, and this is the case even when the "children" are sixty years old!

Consider the very common case of parents who want to leave one child more or less money than their other children, but never explain their reasons for doing so (communication and trust). One father, without any explanation, left his daughter a paltry additional $8,000 in a bank account and it enraged one of her brothers to the point that he never spoke with his sister again.

Building good communication and trust within your family, and properly preparing your heirs for their future roles includes things like making everyone in the family aware who will serve as the executor, successor trustee, or continue managing the family business, plus the all-important ***why*** you chose that person. You can alleviate so much suffering among your children after you're gone simply by explaining your reasons behind the choices you have made.

Preparing your heirs also includes making sure your executor, successor trustee or family business manager is both willing to serve and understands what it means to do a good job in those vitally important roles. Preparation includes teaching the entire family what it means to be a good beneficiary, and providing your children with opportunities to work together cooperatively while you're alive, so that after you are gone they will know how.

Consider the Smith* family, who had done a wonderful job of building a successful and cooperative family unit. The three children are very close and the communication is strong between all five family members. The piece they were missing, however, was heir preparation. Simply knowing their kids weren't going to fight and sue each other after mom and dad passed on wasn't enough. These kids (young adults, really) didn't understand their parents' vision for the family's wealth, didn't know how it was created, and they didn't know the first thing about investments, taxes, and charitable giving. They also had no prior experience working together on something as crucial as stewarding the family's financial wealth. A calamity in the making, even though everybody "got along" just fine.

Inexplicably, these human and interpersonal skill development issues are almost never addressed by traditional planning professionals, and therein lies the difficulty—and the great untapped opportunity for alert families who want to avoid being part of the unfortunate seventy percent who fail.

"You can alleviate so much suffering among your children after you're gone simply by explaining your reasons behind the choices you have made."

If you can find ways to promote trust and communication in your family, and train your children for the responsibilities they will bear after Mom and Dad are gone, you will be well on your way to a successful estate transition.

Nevertheless, family members have to tread very carefully in their attempts to accomplish this. While not impossible, it can be extremely daunting for Mom and Dad, or children for that matter, to make drastic and long-lasting changes in a family's communication methods, no matter how poorly they are serving the needs of the family. Likewise, the comfortable and well-traveled pathways of interpersonal relationships inside the family structure are equally hard to change. People intuitively understand how difficult this can be, and that explains why most don't even bother trying. It simply seems unattainable to them.

I recently had this lesson reinforced when my father died and I was tapped to serve as the executor of his estate, and the successor trustee for his living trust. Almost immediately, the problems started occurring. Previously kind, caring and reasonable siblings began behaving so awfully toward each other and to me as trustee. Ridiculous and groundless accusations were aimed in my direction, and despite all my professional experience and training, I was powerless to stop them. Things got so bad that I considered resigning as successor trustee. This was powerful reinforcement to me personally of what I already knew professionally; that my family members did not view me as the accomplished and experienced family transition professional. I was just their older brother standing between them and the money they couldn't wait to get their hands on.

In many cases, it can be a lot easier and more effective for families to bring in a trained professional to provide family wealth transition coaching and mentorship. The injection of an outsider into the family's ongoing dynamics has the desirable effect of upsetting the family's usual way of relating to each other and because of that, the conditions are put in place for lasting and positive change to begin to take root.

For families willing to go it alone, you will want to create conditions for the family to be able to practice communicating more effectively.

- A good way is to arrange periodic family gatherings where everyone in the family has the opportunity to come together to discuss things that are important to the family as a whole as well as to individual family members. You might, for example, have the family read a book about effective communication and then get together to discuss (and most importantly, practice) the principles you learned together.

- Another approach is to create some kind of family project to work on together. The family members can get crucially important experience working together on a cause that is important to all. The experience of working together, building trust in each other, and effectively communicating together on a project that is important but not vital to the family's survival, can become the foundation for a much smoother estate transition down the road.

- Having family fun together is also an important way to strengthen your family's relations with each other. Assigning the second generation to work together to come up with a plan, a budget, and to manage a fun outing for the family builds stronger relationships, teaches Generation Two how to work together and creates new memories of family togetherness that the family will cherish.

Highly successful wealth creators often suffer feelings of guilt and remorse because they neglected or failed to build relationships with family members while they were busy creating their wealth. As a result, many of these wealth creators are resigned to believing that things can never really change in their families. They believe that their children who are currently struggling or are afflicted with the unwanted side-effects of wealth will never really be able to change. Similarly, estranged children or other family members may seem permanently out of the parents' reach.

Let me assure you that possibility exists in *all* situations and for *all* families. I have learned that family members *crave* having a good relationship with their family. And it is no wonder this is the case. The need for a sense of love and belonging to one's family is right in the center of Abraham Maslow's hierarchy of needs, and it is the necessary foundation to one's ability to achieve self-esteem and self-actualization. People who do not experience the love and acceptance of their family rarely recover from this deficit. This explains why the desire for good family relationships is virtually always present and it does not go away, no matter how difficult the family's physical and emotional environment may have been. People become severely oppositional, angry, prone to litigation, or withdraw themselves from the rest of the family only when they abandon hope of ever having what they really desire-- a close family relationship.

Reigniting lost hope and regaining lost trust in a family doesn't happen overnight, but it is completely possible and available to everyone, if you honestly want it and are willing to work at it.

Dysfunctional families separated by poor communication, parental neglect, addictions, divorce, and feelings of mistrust and betrayal, can be transformed into functional families that, perhaps for the first time, get along together and enjoy each other's company, work together, vacation together, and love and support each other. Ordinary people can and do achieve extraordinary results. You can too!

*Names have been changed to preserve anonymity.

Del Monte Group, LLC
75 Golden Meadow Lane
Alamo, CA 94507
T 925.736.6410 F 925.263.1930
www.aplaceofpossibility.com