

A New Look at Estate Planning

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Jeffrey D. Steed, Esq., Kirton McConkie

Most people are aware that a comprehensive estate plan can help preserve hard-earned assets for the benefit of ourselves and our heirs. While traditional estate planning typically involves transferring as much property as possible to the next generation, we rarely think about the impact this transfer can have on loved ones. Parents and practitioners alike focus primarily on dumping the wealth, dividing the assets, protecting the assets, and deferring the taxes – everything else is a moot point. Needless to say, this is an impersonal approach where the only goal is to transfer as much “inheritance” as we possible can. Meanwhile, the effect this approach has on heirs is often ignored.

While financial, tax and legal considerations are important, family wealth simply cannot be preserved long-term without systems of values-based governance. Regardless of the size of the estate, the harsh reality is that hard-earned fortunes are almost always gone within a generation or two. Where financial wealth is conveyed without the accompaniment of values, laziness can replace enterprise and self-gratifying behavior can replace work-ethic. Oftentimes, the assets we so eagerly seek to preserve and pass down are squandered and the opposite result is realized; the financial success mom and dad accumulated during their lifetimes only serves to destroy the character and maturation of the next generation. Many estate plans are ultimately destructive because they fail to motivate and encourage successive generations to develop the core values that created the wealth in the first place.

The simple fact is that values matter. The best estate plan is one that doesn't rob children of character building opportunities and challenges. For an estate plan to preserve a family's financial wealth, it must first seek to increase “actual wealth” for future generations. Actual wealth can be defined as the combination of each individual family member's creative abilities, intellectual aptitudes, social skills, character talents, and spiritual resources. The process and practice of enhancing these “real assets” using estate planning tools is known as values-based estate planning. As Warren Buffet expressed so well, “Inheritance should be left in a way that a child can do anything they want, but not left in a way that they can do nothing.”

There are many tools that can be used in values-based estate planning. One of the primary tools is the use of a Family Bank where a portion of the parents' estate is held in trust to advance the family's goals, values and beliefs. For example, a family that values education may establish grants, loans, or scholarships for qualified descendants into perpetuity. The Family Bank may provide the financial resources, but the child or grandchild would be expected to provide the effort, energy, and desire. The Family Bank may establish criteria for support, such as a minimum grade point average or a maximum period of time for assistance. Similarly, families that value entrepreneurship may establish a program for loans or investments that provide an opportunity for a child and a financial return to the Bank. Loans could be made from the Family Bank to heirs at rates lower than those commercially available in the financial markets. The Bank could encourage philanthropy through matching charitable giving or supporting descendants who choose to spend their lives working for worthwhile causes. Some

Family Banks have been established to finance family reunions, to support stay-at-home parents, to assist with adoptions, to incentivize spiritual development, to finance ecclesiastical missions, or even to help care for the needs of disabled children.

Another values-based planning tool is for the family to form a private foundation. There is no such thing as a family member being too young to participate in philanthropy. In truth, there is nothing perhaps more effective to teach your children important core values and life lessons than by granting them an integral role in overseeing how the family shares its resources with those in need. In the past, we divide a foundation's charitable work into various "committees" for the foundation's health, education, artistic and other 501(c)(3) charitable activities as defined by the Internal Revenue Code. Each child of the family then takes the role as a "leader" of each committee. The children then are given the task to take initiative and work with trusted friends and estate planning advisors throughout the year to think of and develop charitable giving opportunities for the family's foundation. At the end of the year, the children and their committees must present their ideas to the board of the foundation for approval. I have seen "committee leaders" as young as five (5) years old really catch the purpose and the spirit of these activities. Through active, hands-on involvement, the children learn the values of empathy, productivity, leadership, accountability, and social responsibility. They can actively participate and discover that money is not just a means to self-gratification, but a tool that can bless and enrich the lives of so many people.

However, one of the most important tools in values-based estate planning is the trustee and estate planning mentor. Assets can be left to children in lifetime spendthrift trusts for their benefit, with qualified friends and estate planning professionals who serve as trustees and help mentor and coach the family's younger generations to become socially, intellectually, financially and spiritually responsible individuals. Parents are important in the development of a child or young adult, but the potential, positive influence of responsible friends or estate planning mentors should not be underestimated.

In summary, the primary goal of a values-based estate plan is to preserve the "true wealth" of a family over multiple generations by focusing primarily on the transfer of personal values as opposed to just the transfer of financial resources and the minimization of taxes. It goes beyond mere asset protection. In helping your descendants learn productive life skills and attributes, a values-based plan can provide more long-term benefit to you and your heirs than any of the latest and greatest tax and financial strategies ever could.

Jeffrey Steed, J.D., is an attorney with Kirton McConkie in Salt Lake City. His practice focuses on tax, legal and asset protection planning strategies for high-wealth individuals, estates, trusts, charities, and private business organizations.