Transferring the Intangible

Even the most tax-oriented practitioner can help clients with the "soft" issues. Here's how

By **Claire Gaudiani**, clinical professor, George Heyman Jr. Center for Philanthropy and Fundraising, New York University, New York

The wealthy have far more to bequeath to the next generations than their dollars. That's why a comprehensive estate plan addresses intangible assets as well as the standard tangibles.

Estate planners can easily adapt the basic tools and vocabulary of their practices to the challenge of planning for legacy intangibles. It's not necessary to acquire new credentials in psychology or religious studies to provide guidance on a topic of enormous importance to clients—indeed, to all of us.

First, if only for the purpose of reading this article, adopt a more expansive definition of client "assets." A solely material view of assets constrains deliberations, limiting the planner's role and the help planners can offer. Don't just be a specialist in left elbows; treat the whole patient. Help clients give birth to future generations. Build a new deeper kind of trust.

It may help to adopt this mindset: I have argued elsewhere and continue to maintain that Americans are not generous because we are rich. Rather, we are rich because we are generous.[1] Older generations built wealth through the judicious use of what Alexis de Tocqueville in *Democracy in America*, described as "self-interest, rightly understood."[2] So, in addition to the traditional financial and material asset classes, advisors should pay attention to "character" and "legacy" assets. A complete estate plan includes a systematic approach to growing, preserving and handing to future generations the wealth in all four asset classes.

What exactly are character and legacy assets, besides catchy phrases? By character assets, I mean the personal traits that wealth founders feel enabled them to achieve success. Help clients identify those traits. Devise a plan for encouraging these traits to grow in subsequent generations. Is it self-discipline, persistence, risk-taking, generosity, honesty, tolerance, wisdom, thoroughness, faith, patience, optimism, patriotism, humor, reliability, attention to detail?

An "ethical will," which provides a summary of a founder's life philosophy, can be a useful tool. So too can an autobiography or biography, written or filmed. These are good first steps, but they focus on "end time." Financial planning is "now time:" Investments toward bequest time. So, don't just help clients write their will. Take it to the next level: Help clients—while they're living—to develop careful investment strategies, a proactive plan, that leverages the character traits that define their family or personal "brand."

LANGUAGE MATTERS

By "legacy assets," I mean the people who will carry the wealth founder's brand into the future. Clients often have many beneficiaries. But, among all those heirs will be a very few to whom the character assets of the family can be entrusted. These individuals (be they children and/or grandchildren, nieces, nephews or step-children) are the clients' legacy assets. Clients should think of these special heirs as the most important gifts they leave, bequeathed to their country, state, community and the future.

When planners help clients consider their special heirs as assets to the future, the next step is logical: Devise a plan to invest in and build those assets. Note the language and its importance: We're not just *giving* to heirs; we're *investing* in them.

Most wealth owners are acutely aware of the pitfalls of indulged offspring. Clients need and want ways to help them reduce the toll that wealth levies on many families, before it happens. But, rather than having these discussions in a therapeutic context, with talk of "victims of wealth," I recommend a more positive, investment-oriented approach.

Investments, unlike outright gifts, anticipate a return. Clients have a right to anticipate a profit, for instance—a social profit—from some portion of the inheritance they invest in their legacy heirs. One older couple taught me this lesson. They invested significant travel funds in sending their legacy heirs on trips to developing countries, where the young people visited orphanages and hospitals, and did volunteer service. The elders hoped these trips would inspire their legacy heirs with moral ambition, a drive to make their lives

Clients can expect a social profit from their investments in heirs.

deeply meaningful to others as well as to themselves. The elders wanted their special progeny to learn what life at home could not teach. The goal was to call the children to the family virtues of self discipline, hard work and service to others that the elders had learned more easily from their hard-working parents. The trips were costly, but their impact was heartening. A simple gift of the funds likely would not have built the same relationships or experiences.

QUESTIONNAIRE

So how do we introduce these concepts—character and legacy assets—to clients and shape our planning with them?

The first step is a client questionnaire. Planners routinely use such instruments to guide clients' thinking before face-to-face meetings. Consider adding to your pre-meeting instrument the new categories of character and legacy assets.

Under character assets, list possible traits; encourage brainstorming. Clients can be invited to go a step further and imagine how they would like their family motto to read, or family crest to look. I find that the most engaged and open clients seek input from others, such as friends or business acquaintances, in defining their personal or family brand.

Then, for all four asset classes, ask clients to think about:

(1) What assets are to be conveyed? To what end?

(2) To whom do clients want to pass these assets?

(3) Under what circumstances will these assets convey? After certain milestones? To enable heirs to achieve certain goals? Rather than controlling, these circumstances can be enabling and supporting.

(4) What help clients need to design the best vehicles to ensure the preservation and growth of these character and legacy assets?

By requesting that clients complete such a questionnaire, planners can gauge clients' reactions and test their comfort with discussing each of the four categories.

DIALOGUE

Then, there's the chat itself. In my experience, the topic of "character assets" is generally popular with clients. Typically, they will have selected several traits suggested by the questionnaire as critical to their financial and/or personal success. An astute planner will be able to offer suggestions for clients who want to grow their character assets and make all their heirs understand their value. The first step is to discuss with clients the best way for them to talk about the family character assets.

> Have clients consider volunteering with legacy heirs. Children learn a lot when pursuing a social goal, rather than leisure activity, with parents and/or grandparents.

(1) A family discussion about the relationship of wealth to values and wisdom is the ideal starting point, if family relationships permit. What personal character traits have enabled the family to acquire the wealth they have? What role have external factors played in family success? How has the generosity of other Americans, for instance, benefited the family? How does the family express gratitude? Identify the ways that character assets have had an impact on the family's work, educational success, peoples' personal lives and the family's common life. Reflect on how the investment of these character assets has yielded profit in each area of their lives.

One family I worked with remembered how grateful they were that their son received penicillin so swiftly for a serious staph infection in the early 1950s, when he was a boy. The father remembered his parents' grief at losing his little sister from a similar infection 30 years before. Not only was the boy's life and health saved, but he also remembered his medical support so fondly that he went into medicine.

The parents knew that John D. Rockefeller's philanthropic contribution enabled the development of penicillin. In gratitude, the family gave a large scholarship to the medical school that their son attended.

After his graduation, he and the whole family have been devoted to providing scholarships to this medical school, especially for low income members of their home town. The family is known for this generosity. Three other children from the family are in medicine and two are in medical school.

The family's gratitude shaped a generation of connections to others who are grateful for their help and in their turn are inspired to help others. All this gratitude has generated several millions of dollars of scholarships and also created classmates and colleagues for family members in medicine and other fields. The family legacy means spreading the wealth out of gratitude. At holiday gatherings, this family retells stories about this history, teaching new in-laws about the family legacy They also discuss the gifts they are making to philanthropic causes each year, seeking advice and sharing common interests.

(2) Beyond discussion (or in some families, in lieu of discussion), it's helpful for clients to communicate more formally to heirs about the char-

acter traits they believe were most influential in creating and sustaining the wealth they will pass down. These documents may be letters, films or compact discs and are held with securities and other assets as part of the wealth to be received.

(3) This idea can be expanded to a more extensive wisdom endowment that works especially well for multi-generational clients (or those you hope will be). Clients write a short letter each year that describes the challenges faced and the values that helped overcome these challenges. They decide the appropriate time and place for these letters to be opened. Some will want to wait a decade. Others will decide to share them on a milestone birthday. Still others, after they have passed away. Tracing a lifetime in communications into the future can provide offspring with important resources in their own lives. In societies where several generations lived in proximity, wisdom stories were more easily shared. These annual communications are most easily remembered if done at the same holiday or birthday each year, and "banked" for the future.

In one family with whom I've worked, the elder couple wrote a letter each year to their heirs about the family's cherished character assets and put the notes away. The couple had worked through the serious illness of one spouse, a difficult job loss and family dislocation, as well as other disasters. For stabilizing them during hard times, they credited their commitment to the virtues their own parents demonstrated in making a life after surviving a Nazi death camp. Like their parents, this elder couple focused on loyalty, self-discipline and gratitude. The couple wanted their grandchildren and great grandchildren to remember "what MAKES a life, not just what makes a living" as the older man used to say.

The couple strongly believed that it was their intangible assets that had built their tangible wealth. They shared stories about their parents and grandparents, the good and the not-so-good stories. After this couple died, their letters were opened one at a time, starting with the oldest letter, and read every year at the family Thanksgiving. In this way, the whole family learned about the family legacy; the children learned precisely where they came from.

Family members were so inspired and impressed by the voices of their senior members that the next generation of parents started to write similar letters to be held in the safety deposit box with the elders' treasured letters. The 30-somethings in this family were inspired to start a resource center for the children of wealth in their social community. They are showing their contemporaries how to invest in, and build a wisdom endowment.

Wisdom endowment documents are usually saved together and the contributors choose the time frame for opening these offerings. The wisdom endowment is often valued as highly as the financial resources left by the elder generation. Some family members value it more. After all, fortunes can be made or lost precipitously but wisdom endowments are a loving witness to the spirit of living well. They are the work of a lifetime.

ADVANCE TEAM

In my experience, wealth owners have given considerable thought to identifying legacy assets. Frequently, they focus on younger people and are grateful to planners who can suggest ways to develop these special heirs beyond providing them with trust funds. Some suggestions would include helping clients to:

- **Define moral ambition**—For people who start the game of life on third base, developing ambition is sometimes a challenge. Clients often feel badly that their fortune may be supporting a disabling set of traits in their progeny. Instead, they hope their children will develop moral ambition: the drive to do well personally while advancing others' well-being. This is self-interest, rightly understood.

Advisors can enable clients to engage their legacy heirs in exploring ambition. You can help clients talk with their legacy heirs about the choices that confront people who don't have to work for a living: which people are serving as the role models in their lives and why? Who would they like to be more like and why? How does a person get to become the kind of person whom the heirs admire? How can they get started?

- **Understand your audience**—Some clients appreciate advice on what to read to make them more comfortable talking with their special heirs. I recommend Robert Coles' *The Moral Life of*

Children.3 Coles provides a framework for understanding children's decision-making patterns and for learning to communicate more effectively.

• **Grow moral ambition**—Have clients consider allocating time to do volunteer service with special heirs. Children enjoy a significant learning experience when they engage with their parents/grandparents to pursue a social goal rather than just a personal leisure activity. The work might involve improving the water quality in a local river, relieving hunger in a soup kitchen, or supporting the arts by staffing a museum shop Saturday mornings. Such experiences can change family conversations. Someone besides family members become the center of attention for a time.

Volunteering is not something only young people do and older people outgrow. It can be vigorous or quiet, close to home or overseas. Many travel firms and non-profits now offer opportunities in both domestic and international settings for established, well-supported volunteer trips that families can undertake together. Depending on your clients' interests, you can choose from a spectrum of possibilities by searching *www.voluntourism.org* and related web sites. Besides having an opportunity to work together to help others and often discover a sense of purpose, voluntours engender a sense of gratitude in many volunteers. And gratitude is one of the major motivators of generosity. It is likely to be one of the virtues that your clients respect.

ACTIVE ENGAGEMENT

All these discussions should help you develop a general plan that aligns the tangible with the intangible assets and lays out active strategies for each asset class. Many of these strategies begin while clients are alive.

Planners can suggest that clients:

• Plan to give holiday or birthday gifts to their legacy heirs with the expectation that these recipients will offer a percentage (perhaps 10 percent) to some venture that pursues a socially profitable objective of interest to their heirs—clients can ask for an accounting of these social investments once each year. They also might consider matching heirs' productive charitable investments. In so doing, clients will be investing in the development of their heirs' work for the greater good.

• Establish a fund, such as a donor-advised fund (DAF), that heirs disperse each year to socially profitable organizations—decisions will be based on joint discussions with legacy assets after they have taken responsibility to do research on worthy causes and/or efficient service providers. This latter step is essential for the development of intelligent social investors going forward.

• Leave funds in their will for heirs or perhaps only those who've been identified as the legacy assets to start a business or socially profitable venture designed to help others—clients can activate moral imagination and moral ambition in the family by asking the families' advice about such a fund. How would family members envision using it? Would it make a difference to them? Whom would they trust to advise them on these ventures?

• Leave a fund to match heirs' charitable giving—clients might consider leaving a two-to-one match of the funds that heirs donate and a three- or four-to-one match if heirs are taking a leadership role in the organization.

These suggestions offer an ideal way for clients to empower their legacy assets in perpetuity.

THE FUTURE

We all have a stake in the success of these planning efforts. Even the wealthiest person is a beneficiary of American philanthropy. We enjoy pooled pension funds because Andrew Carnegie funded the first one (now TIAA-CREF.) We invest in the stock market, which was structured by the development of econometrics and models for asset allocation and portfolio management. Fellows in economics, funded by Albert Cowles' foundation, won nine Nobels for their work. We benefit from Rockefeller's funding of research to develop antibiotics and the electron microscope, the developments upon which current advances, like magnetic resonance imaging, are based.

Our society relies on the power of citizen's investing in assets for the good of all. Some of your clients may be in that 50 percent of U.S. citizens who are leaving sizable estates yet have no plans to make charitable contributions. Inspire them with this new approach to asset allocation. They may see the wisdom of investing in their family brand before decades.

Clients can't take it with them. But their self-interest is served when they can ensure the effective transfer of their most valuable assets—the intangible as well as the tangible.

Endnotes

1. Claire Gaudiani, *The Greater Good: How Philanthropy Drives the American Economy*, Henry Holt and Company/ Times Books, New York, 2003.
2. Alexis de Tocqueville, *Democracy in America*, Vol. II, University of Chicago Press, Chicago, 2000, at p. 501.
3. Robert Coles, *The Moral Life of Children*, Atlantic Monthly Press, Boston, 2000.