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Communication in the Estate Planning Process

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By **Amy Neifeld Shkedy and Rebecca Rosenberger Smolen** | May 03, 2021

Rebecca Rosenberger Smolen, left, and Amy Neifeld Shkedy, right, of Bala Law Group.

In our last article, "Demystifying the Estate Planning Process (https://www.law.com/thelegalintelligencer/2021/03/01/demystifying-the-estate-planning-process/)," we attempted to simplify and break down the various steps involved in the estate planning process and to outline the key documents in a typical estate plan. Although we explained that the process of having estate planning documents prepared and executed can be fairly straightforward and somewhat painless, we understand that it doesn't end there. Sure, the documents are essential in any successful estate plan. However, after the documents are executed (and in some cases, before), it can be advisable to discuss the estate plan, in some fashion, with family members or other intended beneficiaries and with those who will play key roles in the plan.

Every family situation is different and there is not a one-size-fits-all approach that works for every family. For many, having one or more family meetings to discuss the estate plan and wealth management, in depth, may make sense. In other cases, a full family meeting may not be advisable or desirable for various reasons. Much of this may depend on the family dynamics, the ages and financial maturity of family members and the concern over the need for continued motivation to achieve financial independence and career satisfaction.

In many cases, individuals may be concerned about disclosing their wealth to their children or other intended beneficiaries of their estate. This may, in part, depend on the level of wealth that the beneficiaries may stand to inherit. There are various ways to tackle this type of communication. In our experience, with exceptions of course, we have found that open communication with family members about wealth (even in general without specifics) is beneficial and can help beneficiaries be better prepared to manage the wealth down the road and provide assistance to aging parents (or other benefactors) should incapacity arise. Many times, these discussions happen organically over time, starting at early ages, as individuals may illustrate the values associated with the family wealth and the hard work involved in generating that wealth over time. Teaching these values over time can help to preserve the wealth and hopefully foster the development of a good work ethic for the junior generation. Although, in cases of great wealth, it is often the case that many of the junior generation members will have a lessened work ethic relative to the senior generation and lessened financial success, which requires a degree of acceptance and understanding on both sides of the equation.

There are certainly cases where it might not make sense to disclose every detail or amount of wealth, but just have more general discussions. While in other cases, particularly as an individual becomes older, when the time for inheritance or the need for assistance in managing financial affairs becomes more imminent, detailed discussions may be important. At the very least, it is a good idea to keep a list of the various financial institutions where one's assets are held along with a list of professionals who have access to that information (including names and contact information of the financial adviser, accountant and estate planning attorney) and share that list with a family member or other trusted individual (such as the intended executor of the estate or the attorney) in the event that they need to access it one day. Regardless of the level of detail that one may impart, having some sort of communication is often advisable so as not to leave family members in the dark.

In addition to having open discussions about wealth, whether generally or in detail, it is also important to consider how assets will pass, so that there are no surprises. In blended families, for example, it is helpful for the spouses to have candid discussions with one another and with their respective children as to how the assets will pass in the future. This may provide peace of mind to the future widow or widower as to continued support that he or she may receive after his beloved has passed, but can also avoid future conflicts between the surviving spouse and the children of the deceased. Having everyone on the same page is often critical to the implementation of a successful estate plan.

Another item that clients may wish to discuss with their children or other intended beneficiaries is whether they will receive their money outright or in trust. Without having these discussions, a child may be insulted that he was not trusted or perceived responsible enough to receive the money outright. However, having an understanding ahead of time as to the various reasons that a trust is being established often will alleviate that concern, as trusts provide protections for the child, including tax shelters, creditor protection, divorce protection, money management, etc.

For business owners, conversations about business succession are critical. For family run businesses, these discussions may be a natural progression. Where there are multiple children involved in the business, with the intention that one child will hold the controlling interest one day, open communication is imperative to help avoid future conflict. In other businesses, where the family may not be involved, the future of the business should be a part of the discussions. These discussions may be time consuming and evolve over time, so it is a good idea not to wait until it's too late to get these conversations started.

For more complex estate planning and wealth management discussions, individuals may consider bringing in their financial adviser, accountant and estate planning attorney in to help navigate certain family discussions.

Every situation is different and there are numerous philosophies and objectives when it comes to the estate plan and family wealth. What feels right to some may not to others. The important thing to keep in mind is that effective communication will help prepare beneficiaries (or trusted advisers on behalf of beneficiaries, such as trustees or executors) to manage expectations and help implement a smooth and effective estate plan.

Rebecca Rosenberger Smolen *and* **Amy Neifeld Shkedy** *are members and co-founders of Bala Law Group. They focus their practices on tax and estate planning.*