FEATURE:
PERSPECTIVES

By **L. Paul Hood Jr.**

Thirty-two Core Beliefs

Holistic ways for practitioners to achieve a good estate-planning result

At age 36, I was a cocksure lawyer who was confident that he'd seen it all and had all of the answers in estate planning. When challenged by an elderly client to start with my very best advice—the advice that I'd give on my deathbed—I had no immediate answer and realized that I'd never articulated my own estate-planning beliefs and philosophies, which, to me, was a glaring personal omission. I immediately took to remedying that situation by creating a one-page list of my beliefs and philosophies on estate planning. I've tweaked those beliefs over the last 20 years, but, by and large, they've stood the test of time. Having been out of full-time law practice since 2005, I continue to think and to write about the list. These are in no particular order of importance, as they're all equal.

I consider myself to be a purposeful estate planner. By "purposeful," I mean that I consider the client's total life picture and employ traditional and holistic means to achieve a "good estate-planning result." By "good estate-planning result," I mean a plan that achieves the client's goals, reflects the client's values and nurtures or at least doesn't harm the relationships of those who survive the client. Notice that there's no mention of tax elimination or minimization in that definition. Some clients' goals conflict with tax minimization; that's just a fact. Here are some of my core beliefs.

Listen to Client's Needs

The client is the one best suited to design the parameters of the estate plan—the estate planner should merely be a facilitator. Many clients come into the estate-planning process without a clear idea of what they want to accomplish or indeed what's even possible. Most practitioners assume that by the very fact that the client is in their office, the client is ready to proceed with estate planning. Years ago, I believed this. However, I learned the hard way that this isn't always the case. Too often, the client will ask the practitioner, "What do others similar to me do?" This is a loaded question.

It's seductive for the practitioner to then take over the process and pigeonhole the client into one of the practitioner's pre-fabricated estate plans that too often are drafted with a view toward tax minimization and to make the draftsman's post-death administration job easier. I believe this practice explains at least some of the procrastination by clients in estate planning and subsequent failure to go forward with signing the documents, especially when that pre-packaged plan conflicts with what the client actually thinks when finally confronted with having to make a decision about his estate planning.

I believe that the job of the purposeful estate planner is first to listen, watch the client's body language and ask open-ended questions to guide the client toward solving his own estate-planning problem. Too many practitioners begin talking way too soon before doing sufficient questioning, listening and watching. Listening to the client's needs isn't easy, particularly when the client is cost-conscious and puts the practitioner into the pressure-packed "expert category," which can be a conundrum and a trap. Every client is different; some clients know exactly what they want to do and can get right down to it, while others are unsure and meander. The purposeful estate planner needs to figure out where the client is in the estate-planning mental process and meet him there.

Give Client Control

The client must be in control of the planning process. Clients fear the estate-planning process, which can

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cause procrastination and failure to go forward. Death anxiety (mortality salience) is one of the obvious fears of estate planning. Clients also fear the unknown and not doing the right thing in the estate plan (so as long as they've done nothing, they haven't erred). Another fear is that the practitioner will take control of the client's estate-planning process.

Many practitioners, particularly those who have something to sell, are taught to gain control over the situation to close a sale by systematically eliminating each of the client's possible objections. The purposeful estate planner will do everything possible to put and keep the client in control over his estate-planning process.

> Getting feedback from the proposed and potential beneficiaries can be invaluable in the final fashioning of the estate plan.

I maintain that clients who are in complete control of their estate-planning process go forward and conclude the work at a much higher success rate than those who let the practitioner control the process.

Mirror the Client's Goals

An estate plan must mirror the client's desires, goals and values—not those of the advisor. Too often, the practitioner is overly paternalistic and makes lots of decisions concerning the client's estate plan, often buried in the so-called boilerplate, which express the practitioner's desires, goals and values instead of the client's. Clients whose estate plans reflect their personal desires, goals and values are much more likely to have bought into the plan, are far more likely to sign documents implementing the plan and are usually happier and more confident about their estate plan.

Consider Psychological Implications

The client's legacy impacts far more than the client's property. Estate planning can have psychological implications for the receivers or perceived receivers and can adversely affect the relationships of those who survive after the client's death. It's imperative that the purposeful estate planner make it crystal clear to each client that what the client does in the estate plan can have a lifelong effect on others.

Get Feedback From Beneficiaries

Family communication before death is essential to an effective estate plan. One of the most common causes of miscommunication and estate and trust litigation is a client's failure to discuss his estate plans with potential beneficiaries. This dialogue goes a long way toward reducing the post-death rancor as well as relationship destruction. When heirs aren't given any explanation for an estate result that doesn't meet their expectations, they often default to hurt and anger, as they blame individuals who came out better and come back swinging with a vengeance in court. Often, there's a simple explanation that, had the client articulated it, either during lifetime or at death, would have cut off post-death litigation or hard feelings. One explanation could save thousands in legal fees and eliminate or substantially reduce angst and hard feelings.

This doesn't mean that those folks should necessarily have the right to give input or vote about the estate plan; estate planning shouldn't be a democracy. However, getting feedback from the proposed and potential beneficiaries can be invaluable in the final fashioning of the estate plan. The client may learn that the intended recipient doesn't want the legacy or may prefer it to go elsewhere.

This situation often plays itself out in family businesses. Parents too often, without asking their children, assume that the children want to continue the business. A candid conversation may reveal otherwise, so that the family business can achieve a sale of the business while the parent is alive, which usually provides a higher price than a post-death sale by disinterested and inexperienced children.

Those who won't be receiving what they may have expected can begin to heal or at least get over it after having heard the client's plan and its rationale directly from the client, which often substantially reduces or eliminates post-death challenges or poor relations going forward.

Beware of the Hidden Enemies

The hidden enemies of an estate plan are the "lack ofs:" liquidity, coordination, communication and diversification. Any of these deficiencies can spell doom for an estate plan or cause it to underperform. Having more than one of these enemies usually is disastrous for an estate plan. The lack of liquidity and/or diversification threatens estate plans financially, while the lack of coordination and/or communication can tear an estate plan apart from within. Too often, particularly in this post-probate world, estate planning is done in bits and pieces through execution of deeds, beneficiary designation forms and pay-on-death account forms. The client whose estate principally consists of one asset, for example, a family business interest, isn't diversified and faces the risk of a wealth setback if the business flounders for whatever reason, even one that's out of the client's control.

Even though there may be little that the client can do about being non-diversified and, in fact, the client may be wealthy because of having taken the risk of non-diversification, since reward usually follows risk, the purposeful estate planner will nevertheless advise the client about this risk. It's worth repeating that you can't have too much communication in estate planning, either between the client and his potential beneficiaries, or between the client and his advisors, as well as among the advisors themselves.

Be Flexible

An estate plan must be flexible and anticipate reasonable contingencies. The principal problem with most estate plans is that they're fixed in time and based on a finite, fixed set of assumptions. People can die suddenly, become incapacitated or fall prey to alcoholism or drug abuse. Financial fortunes can wax and wane. People marry and get divorced and marry again. Relationships are formed while others fall apart.

Estate and financial planners and fiduciaries die, retire or change firms. The purposeful estate planner will anticipate and address reasonably foreseeable events and build in safeguards should any of those events occur. For example, when selecting trustees for a trust that's expected to last for a long time, the purposeful estate planner will not only provide for successor trustees, but also will include a method for selecting additional successor trustees when the named successors can or will no longer serve. The client also should consider a family business succession plan when the client's estate includes a family business interest, and that business succession plan must be carefully coordinated with the estate plan.

Refrain From Absolutisms

There's no one absolutely correct way to address any particular estate-planning issue. Practitioners who fail to adhere to this principle fall prey to psychologist Abraham Maslow's admonition that the person who only has a hammer begins to think that every problem is a nail. Every client's situation is unique. Indeed, what may usually be lousy advice for most may fit a particular client's situation perfectly. The purposeful estate planner will remain nimble and open-minded about all possibilities for solving a client's problem.

Don't Assume Order of Death

An estate plan must work irrespective of death order. One of the immutable truths of life is that individuals sometimes die out of actuarially expected order. The estate plan that hinges on, for example, a senior generation member predeceasing those in younger generations often is a house of cards that comes crashing down when a member of the junior generation dies first. The same is true in the estate plan that assumes that a healthy spouse will survive a not-so-healthy spouse. This problem is seen in buy-sell agreements between those of different generations. The purposeful estate planner will draft an estate plan that still functions if deaths occur out of expected order.

Provide Checks and Balances

An estate plan should provide a system of checks and balances on power and authority. Estate planning necessarily involves a passing of the torch of leadership and control. As Lord Acton observed long ago, power tends to corrupt, and absolute power corrupts absolutely. Power shifts can expose people and leave them vulnerable to oppression, even to being terminated in employment or as a beneficiary through, for example, a spiteful exercise of a power of appointment (POA). The purposeful estate planner will build in a series of checks and balances that simultaneously allow exercise of authority and provide protection to those who are subject to that authority, which can be in the form of veto powers, powers to remove and replace trustees,

co-sale or tag along rights, accounting rights or similar types of protections.

Anticipate Post-Death Problems

If you foresee a challenge to the estate plan, discuss building a reasonably negotiated "out" for the potential contestant with your client. Otherwise, the only out is the courthouse. Wealthy individuals usually find that they have no peers down at the courthouse. The purposeful estate planner will plan in advance for realistically possible post-death problems and estate plan challenges. Sometimes, the fix is as simple as a modification of the spendthrift clause to permit voluntary purchases and sales of beneficial interests so that the interests of beneficiaries who can't get along in the same trust can be separated, which occurs frequently when step-relations are lumped together in the same trust.

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Sometimes, if a challenge or other problem is anticipated, the estate plan can be confected to penalize the challenger or reduce the value of winning a challenge. For example, the estate plan might contain an in terrorem clause in which the challenger forfeits his inheritance by challenging the estate plan or can even be configured in such a way as to force the challenger to sue his own children (when a generation is skipped, usually to the chagrin of the members of the skipped generation) or even a respected charity to receive anything from the estate. Sometimes, it involves making what's potentially available to the challenger an undesirable asset, such as a minority interest in a closely held entity or even non-voting stock or an assignee interest in a partnership or limited liability company.

Prepare for Post-Death Contingencies

Estate planning is a process, not an event, that never ceases until at least nine months after the client dies. A prudent estate plan will provide for post-death contingencies. Too many clients and their advisors view estate planning as an event that ends when the will or trust is signed or the life insurance is purchased. The purposeful estate planner views planning as a process on several levels that continues throughout the client's lifetime. Estate planning often is done in stages: a will or trust is executed, or a deed is signed, which may or may not be done at the same time (even though it should all be coordinated). Because life always changes, it's imperative to review an estate plan periodically and modify it to address material changes in circumstances. I've advised clients to have estate plans fully reviewed every five years or immediately following a significant life event, for example, marriage, divorce or birth of a child.

I've also urged clients to pull out their estate-planning documents and read them once a year, either when going onto or coming off of daylight saving time. I've continuously reminded clients that it was their estate plan, not mine. The estate plan also should provide for what happens if one of the heirs, beneficiaries or legatees survives the client but dies during the administration of the client's estate. Moreover, the purposeful estate planner will draft an estate plan that anticipates and provides for disclaimers or failures to survive for a short period of time.

Coordinate Efforts Among Advisors

Coordination of efforts among the client's professional advisors is critical to the ultimate success of an estate plan. Communication problems among estate-planning advisors arise in one of two principal ways:

1. The client tells each advisor what the client feels that advisor needs to know and no more, so that the client retains some false sense of control over the situation. Communication among advisors can surmount this problem—if the advisors anticipate this possibility and fully communicate among themselves. I required complete access to all of the client's advisors in my engagement letter.
2. The advisors fail to properly communicate among themselves. Sometimes this happens because of fear that the other advisors will encroach on the advisor's

"turf," which causes that advisor to withhold information. Sometimes these communication problems are caused by a power struggle among the advisors to be the client's "most trusted advisor." Still other times, the problem is that the advisors don't trust, respect or like each other.

The problem is that the client and the beneficiaries of the estate plan are the ones who ultimately suffer. This suffering is avoidable if the advisors check their egos at the door and remain open-minded and cooperative and truly put the interests of the client first. The key to effective estate planner communication when multiple advisors are involved is collaboration and the willingness to acknowledge a good idea that they didn't come up with and spread the credit among all members of the team.

Beware of Misrepresentation of Facts

Information withheld from advisors is one of the biggest reasons for estate plan failure or underperformance. Very few estate planners do much due diligence aside from incorporating the answers from a client's fact finder, assuming those answers to be complete and truthful. The purposeful estate planner will maintain a healthy skepticism about the client's representation of the facts, paying particularly close attention to what isn't said or when things just don't add up.

Clients hold back some facts for various reasons. The client may feel vulnerable and want to maintain control by holding onto key facts. Sometimes, clients are embarrassed, rightly or wrongly, by what isn't revealed. Sometimes, a client is hiding something from his spouse or family and can't tell the advisor in front of them. On a few occasions, I uncovered some material facts that had been misrepresented, underrepresented or omitted. One ramification of misrepresenting or omitting material facts is that it gives a client a false, if not irrational, ground to disregard our advice when the client knows that the facts are other than what he represented, but the client can't say why he's rejecting the advice.

Apply Risk Management Principles

Apply risk management principles in the estate-planning process, and consider asset protection and investment diversification. Client families face different types of risks. Advise the client to take active steps to reduce or eliminate these risks. Estate planning has come full circle, from a time when there were ethical issues inherent in even discussing asset protection with clients to a time when failure to address it may well constitute malpractice. In the estate-planning process, employ risk management principles, including segregating high risk assets from passive investment assets. The purposeful estate planner should discuss appropriate asset protection techniques ranging from asset segregation in entities to proper property and casualty insurance, as well as umbrella insurance to self-settled asset protection trusts.

Asset Values, Cash Flow and Income

Significantly analyze asset values, cash flow and income before any gifting is done. Many estate planners focus too much on asset values and prospects for appreciation in the gifting calculus, and they don't spend enough time analyzing the cash flow aspects of a proposed gift. If the planner doesn't sufficiently consider cash flow aspects, the client could be left exposed after having made a large irrevocable gift. For example, a client who's still working in a family business and living off of the salary of that business may be best advised not to gift significant interests in the business entity because the loss of control could imperil his livelihood. I've seen good and fair offers to buy family businesses get rejected when the client realized that his share of the post-tax sales proceeds after the large gift of interests wouldn't support his lifestyle at the same pre-sale salary level, often to the family's detriment because the time was right to sell and the price was attractive.

No Need to Force Inter Vivos Gifts

It's okay not to want to gift property. Many practitioners are mesmerized by the tax and estate-planning benefits of inter vivos gifts. Some pressure clients to make gifts to achieve these so-called "benefits" under the guise that gifting is something that they can't afford not to do. Practitioners like these neglect to consider the loss of access to the capital that the gifted asset represents. It's the nature of human beings to gather and accumulate possessions. What isn't so natural is to part with significant assets during lifetime because of the real fear of running out of money or living too long. The purposeful estate planner recognizes this difficulty and allows the client to become totally comfortable with irrevocably

parting with significant assets before allowing the client to do so, notwithstanding the potential tax benefits of gifting, never forcing a client to make a significant irrevocable gift.

Don't Assume It's Too Late

It's rarely too late to do some planning. While it's true that some estate-planning techniques are risky at the end of life expectancy or after the client becomes terminally ill, there are many things that can be done to assist the effectiveness of the client's estate plan even at the end of the client's lifetime. For example, asset holdings can be rearranged to qualify the client's estate for tax benefits, such as paying the estate tax in installments. It's appropriate to revisit beneficiary designations and the estate-planning dispositive documents close to the time of death to see, for example, whether POAs should be exercised.

Illiquidity is an enemy of the estate plan unless it's carefully planned out in advance.

Don't Ignore Boilerplate

Boilerplate is more important than you think. Practitioners make very important decisions that are buried in the boilerplate of documents. The purposeful estate planner will carefully review, with a fresh mind, his boilerplate for every client to ascertain what items to discuss so that the estate plan more carefully mirrors the goals and desires of the particular client.

Don't Force Equal Treatment

Fair isn't always equal; equal isn't always fair. Many clients slavishly adhere to the principle of treating children equally. Often, it's the children who remind and pressure clients about this; I call this the "what about me?" syndrome. The purposeful estate planner will point out to clients that leaving estates equally to children isn't always a fair result, particularly if one child is needier than other children or when the client helped one child far more during lifetime than the other children.

Build on Bridges of Trust

In my experience, the best estate plans involved an element of intergenerational trust in passing on the torch of leadership. How does one engender that trust? It's simple to articulate, but is sometimes difficult to put into practice. At some level, it involves a surrender of some control by the senior generation. But, it also requires the younger generation to be circumspect, respectful and magnanimous about the use of that received power and control. Building safeguards into the estate plan in the form of checks and balances on authority can assist greatly in the building of this bridge of trust. This can be seen in the common installment sale to the junior generation in exchange for a promissory note, so that the senior generation's interests are adequately protected through security devices such as pledges and/or mortgages.

Carefully Select Fiduciaries

Carefully consider choices of executors, trustees, agents and officers, including backups, advisors and alternate choices. Don't overlook institutional trustees. The best laid estate plans can be torn asunder if the wrong people are put in charge. The purposeful estate planner should caution clients not to pick fiduciaries who'll have an inherent conflict of interest without instituting adequate safeguards. For example, the agent under a durable power of attorney should have to account to someone after the principal's incapacity, because without such protection, suspicious family members may try to intervene with some sort of court proceeding such as conservatorship. That agent under a durable power of attorney generally shouldn't serve as sole executor of the principal's estate or as successor trustee of the principal's trust because that would mean that the agent's final accounting would be to himself, which is a conflict of interest.

Selection of fiduciaries also can inform what powers are given to each fiduciary. And, there may be express limitations on the exercise of certain rights and powers by certain fiduciaries. For example, in a blended family situation in which the client's estate plan includes a significant bequest or provision for children, it's often appropriate to limit the powers of an agent under a durable power of attorney to modify that estate plan by, for example, modifying trusts, exercising POAs or discontinuing a client's pattern and history of gifting. In blended family situations, I provided for affirmative and negative constraints on the power of

an agent under a durable power of attorney when the agent only represented one side of the client's family, for example, a spouse or partner or a child.

Avoid Restrictive Trusts

Trusts are management vehicles—they shouldn't be more restrictive than necessary. All other things being equal, all assets should be held in trust. Because life can turn so quickly and be unpredictable, I recommend that all assets be held in trust absent a compelling reason to do otherwise. However, the trust instruments themselves should give flexibility to the trustee to react to changing circumstances, particularly if something bad happens to the client. And, beneficiaries can and should serve as co-trustees in most situations in which they're competent and able to do so. Trusts can be used simultaneously as wonderful teaching opportunities, as well as effective asset protection devices, which can protect the client from former spouses and other predators.

Making appropriate referrals is a sign of wisdom and strength, not weakness or inadequacy.

Consider Special Situations

Some situations warrant special attention, for example, when less than all of the client's children work in the family business; when the client contemplates separating the building from the family business by bequest or sale; and in all subsequent marriage situations, especially if either spouse has children from a prior marriage or relationship—even if relationships now are good. These enumerated situations require special attention because of their inherent complexity. For example, in a subsequent marriage situation in which the client has children who aren't the children of the client's current spouse or partner, the estate plan should protect all sides after the client's death, which is when superficially good relationships often break down.

Provide for Sufficient Liquidity

Estate-planning documents don't pay taxes or debts—dollars do. An estate plan must provide for sufficient liquidity to pay taxes and expenses at each death. Illiquidity is an enemy of the estate plan unless it's carefully planned out in advance. Too often, second-to-die life insurance is used as the liquidity vehicle, but this ignores the taxes, debts and expenses that either could be paid or that are due or otherwise payable at the first death. Liquidity is an advantage for a properly crafted estate plan. For example, suppose the estate has an asset in it that's valuable but that's expected to significantly appreciate during the surviving spouse's life. It may be far better to forego a qualified terminable interest property (QTIP) marital deduction and pay tax on a lower number at the first death, but this isn't possible without a liquidity plan for the first death. Having sufficient liquidity at both deaths gives the heirs and fiduciaries more options.

Don't Focus on Tax Considerations

Tax considerations shouldn't drive an estate plan. Estate planners often focus too much attention on the estate tax considerations and spend too little time on the more important and often more vexing non-tax issues. The tax issue is the easiest piece of the puzzle to solve in estate planning, which is why many estate planners want to stop there: It's the path of least resistance. The sad fact is that delving into the non-tax aspects of an estate plan often falls out of the bailiwick and comfort zone of some advisors and can get sticky.

The purposeful estate planner will assist the client in crafting a plan that meets with the client's goals and values, even if it costs some tax at death. I recall several situations in blended family estate planning in which the client simply wanted to divide his estate equally between his current spouse and his children from a prior relationship, even if it increased the total amount of estate tax due because of the reduction in the marital deduction and the estate tax apportionment in the client's estate. As long as the client is aware of and signs off on it, the estate planner should feel comfortable with proceeding in that fashion. The bottom line is that the estate plan should reflect the client's desires, goals and values.

Don't Always Defer Estate Tax

It sometimes makes little sense to defer the estate tax. Taking this action was more important when the estate tax applicable exclusion amounts were much lower and the rates were still graduated, because it often cost more

in overall estate tax to defer the estate tax through the marital deduction, when all that transfer would do is push the surviving spouse into a higher estate tax bracket; the Internal Revenue Service came out better if the estate of the first spouse to die elected to defer the tax through the marital deduction. Even in this time of high applicable exclusion amounts, only one effective rate and portability, it's important in my judgment not to knee-jerk defer the federal estate tax in every situation.

For example, if you have a marginally taxable estate that has an asset in it that's expected to significantly appreciate in value, it may make more sense to employ a credit shelter trust and pay some estate tax at the first death, with the trust funded with that asset, which will get the asset out of both estates. If the asset is allocated to a QTIP trust and portability is elected, the appreciation may turn out to exceed the available applicable spousal exclusion amount, which will trigger estate tax at the second death, which could have been avoided through proper planning at the first death.

Give High Basis Assets

Lifetime donations to family, especially of cash or other high basis assets, can reduce estate taxes, if your client addresses the cash flow considerations. The most important consideration in deciding how to advise a client concerning gifting is an analysis of the cash flow issues both pre- and post-gift. Parting with asset value is one thing, but parting with cash flow from the asset is quite a different kettle of fish. The client must be comfortable with that loss of cash flow, and, just as importantly, the loss of access to the capital that the gifted asset represents, that is, the power to sell or mortgage the property. All other things being equal, it's best to gift assets that are expected to appreciate, but not necessarily when it's likely that the donees are expected to sell the asset shortly thereafter, especially if that asset has a low tax basis in the hands of the donor, who simply passes that low basis on to the donee.

Don't Ignore Income Tax Aspects

They're often more important than estate tax considerations. With the higher applicable exclusion amounts and talk in the air of outright repeal of the estate tax, thankfully, most advisors have started focusing attention on the income tax ramifications of the estate plan because very few clients have to worry about the federal estate tax. But, the income tax aspects of estate planning have always been very important. For example, if the client is charitably inclined and has an individual retirement account or qualified plan, the client should strongly consider satisfying the charitable portion out of the IRA or qualified plan pre-tax assets with post-tax assets because the charitable recipient is exempt from income tax while family members aren't. The differences in the adjusted basis rules for inter vivos versus testamentary transfers can make a huge difference in the after-tax proceeds of a sale of an asset.

Require Charitable Intent

Charitable estate-planning tools require charitable intent—these tools rarely provide a better economic result than making no charitable gift at all. Very few things can get a practitioner in more hot water than trying to shoehorn a non-charitably inclined client into a charitable technique under the guise that it produces a better economic result. For example, charitable remainder trusts (CRTs) used to be marketed so that the client's income tax charitable contribution deduction was "invested" in a life insurance policy that was to make up to the client's family what the charity received at the end of the CRT term. I've found that this was seldom true, as the life insurance almost always cost more than the tax savings from the charitable

SPOT LIGHT

In Full Bloom

At the Far Edge of the Universe (part of a set of eight prints) by Marc Quinn sold for $20,200 at Sotheby's recent Prints & Multiples auction in London on April 4, 2017. Quinn has an ongoing project, titled *Self*, in which he creates a frozen sculpture of his head using five liters of his own blood. He creates a new sculpture every five years to document his aging and deterioration.

deduction, particularly when the client couldn't fully use the entire charitable deduction. In these situations, all you would end up with is an unhappy client, unless there's true charitable intent buttressing the transaction. There's no substitute for true charitable intent on the front end. Estate planners have been successfully sued for this mistake. Don't make this error. Steer non-charitably and even marginally charitably inclined clients away from charitable techniques.

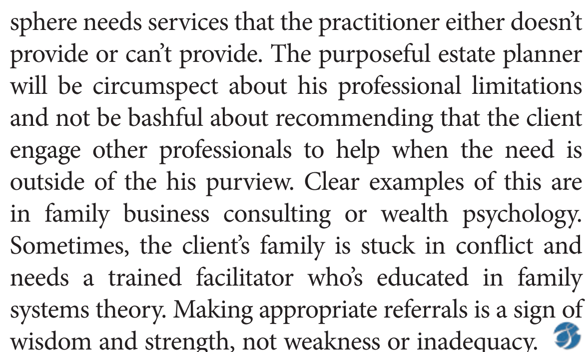
Get Complete Appraisals

Gifting (or selling to family) without full-blown, complete appraisals by qualified appraisers invites tax disaster. I realize that clients hate to pay appraisers and often only begrudgingly do so because you told them that they had to, but the purposeful estate planner will be firm about this necessity. In tax valuations, actual value is irrelevant because it's the tax return value that's important, and that value may have no relation to true value. Actual value is unknown because there usually hasn't been an arm's-length sale at fair market value, and perceived, defensible value is everything. Only a comprehensive appraisal performed by a qualified, independent appraiser can protect the client from the vagaries and sometimes arbitrary and capricious valuations of the IRS, as well as the associated expenses and risk of having to defend value.

Consider Total Situation

An estate plan must consider the client's total situation—personal and business relationships, values, health care, management, property disposition, liability exposure, liquidity and cash flow needs and taxes. Too often, practitioners just want to deal with a limited aspect of the client, usually the property and the taxes, but this does the client and the practitioners a grave disservice. The true practitioner will see the client as a complete person, who's comprised of many related parts, and will address all of those parts. In today's extraordinarily litigious world, it's imperative that the practitioner review the client's assets and lifestyle for liability exposure and consider ways either to eliminate or reduce that exposure.

Liquidity should be viewed as much a separate asset as illiquidity is a liability. Insurability at standard rates also should be viewed as an asset that usually doesn't last forever. There will be plenty of situations along the way in which the client or someone in the client's



sphere needs services that the practitioner either doesn't provide or can't provide. The purposeful estate planner will be circumspect about his professional limitations and not be bashful about recommending that the client engage other professionals to help when the need is outside of the his purview. Clear examples of this are in family business consulting or wealth psychology. Sometimes, the client's family is stuck in conflict and needs a trained facilitator who's educated in family systems theory. Making appropriate referrals is a sign of wisdom and strength, not weakness or inadequacy.

SPOT LIGHT

Puzzling

Design for London Underground Mosaics by Sir Eduardo Paolozzi sold for $13,992 at Sotheby's recent Made in Britain auction in London on April 5, 2017. The featured painting is the "blueprint" of the iconic mosaics created by Paolozzi at the Tottenham Court Road tube station in London. Completed in 1986, 95 percent of the installation has been retained following a recently completed renovation.