WISEMAN · BRAY PLLC
ATTORNEYS AT LAW

ESTATE PLANNING NEWSLETTER

Volume 5, Issue 2
Spring 2009

INSIDE THIS ISSUE:

Larry R. Bray
Attorney & Counselor at Law

WISEMAN BRAY PLLC
1665 Bonnie Lane
Suite 106
Memphis, Tennessee 38016
901.372.5003 voice
901.383.6599 fax

Please visit our website at www.WisemanBray.com for more information about estate planning strategies as well as additional information about other services provided by our firm.

Leaving a Legacy Greater Than Wealth

One of our primary goals in working with clients and prospective clients is helping them design an estate plan that fits in with their overall goals and values, rather than fitting their goals into a "cookie-cutter" estate plan. While providing our children with a better life than we had may be a noble goal, the goal is often lost in translation because of the means we choose.

As the saying in America goes, it is "shirt sleeves to shirt sleeves in three generations." In fact, studies show that 60% of transferred or inherited wealth is lost by the end of the second generation, and 90% of family wealth is lost by the third generation.[1]

Your first reaction may be that wealth is lost to taxes. While this is true in some cases, good planning can reduce or even eliminate estate taxes, and the loss of wealth phenomenon is rarely attributable to taxes. In rare cases, the loss of wealth may be attributable to a family disaster, but in most instances, the cause seems to be much simpler.

Is money really the root of all evil? Is giving our children a life of affluence replacing more traditional values such that our descendants cannot manage wealth?

Although we certainly do not profess to be psychologists or psychiatrists, watching different generations through the years provides an interesting peek at this phenomenon. In fact, most of our older clients have a very realistic view of their adult children, and their fears regarding inherited wealth are often well-founded. Working with multiple generations of clients means that at least part of our job includes trying to make sure that the goals and overall purposes of an estate plan established by a parent or grandparent are actually realized when the wealth transfer occurs.

As our culture becomes increasingly one of instant gratification, the younger generation now wants in their twenties what their parents and grandparents did not have until their fifties or sixties. In many cases, the younger generation has accumulated more degrees from more prestigious institutions than their parents. Thus, often we are providing the tools, at least in the way of education, to help our children succeed in their own right. However, maybe what we are not imparting to our descendants is how we got where we are and have worked to maintain it.

Approaching an estate plan from strictly a tax, asset protection or other objective standpoint may indeed add to the problem. These issues certainly need to be addressed as part of any comprehensive plan, but perhaps the seeds of a legacy are planted during lifetime instead of at death and have little to do with a dollar figure.

In fact, several recent tax court cases have reduced or eliminated estate or gift tax discounts available for family-owned businesses based on a lack of any

(continued on back)

(CONTINUED FROM PREVIOUS PAGE)

nontax reasons for establishing the partnership or limited liability company. In one such case, the decedent was shown to have been very clear in his investment philosophy, actively researched and monitored the family's securities and consulted frequently with his financial advisor. The assets were transferred to two family limited partnerships in which his wife and his children were given partnership interests. The court discussed that the decedent did not teach his children much about investing, the children did not participate in any of the partnership decision-making during his lifetime and there was no family unity in terms of investing or financial position.[2]

Although the details of the case may not be relevant to this discussion, perhaps the underlying principles of creating and implementing an estate plan that extends beyond tax planning into values, relationships and a smooth transition of wealth are applicable to many situations.

Leaving a legacy may involve telling our children and grandchildren how the wealth was accumulated, the work ethic that helped us achieve what we have achieved and the hard times we went through to get there. It may involve teaching our children, even adult children, how to manage money, invest wisely, plan well, and save for retirement. In that case, even if the money is gone or depleted, we have left a legacy far greater for our descendants because we have truly given them the tools to accumulate and maintain their own wealth. Indeed, isn't this giving them the better life we had envisioned for them?

Wealth that a person works hard to achieve is often more valuable to that person than wealth that falls into his or her lap. The more value it has to you, the harder you will work to preserve it.

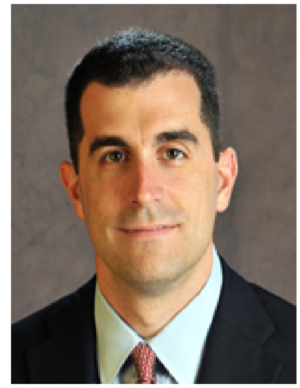
In our practice, we spend a significant amount of time working with clients on how to gift and leave assets to beneficiaries because we can see the value of preserving the wealth a parent has spent a lifetime accumulating, rather than watching a beneficiary blow large sums of money received as an inheritance outright. Most, if not all of the time, it is not about a parent's lack of trust in a child or any dislike for a child. In fact, using lifetime trusts and other tools for beneficiaries is about the exact opposite. We view planning and discussing the way in which your beneficiaries will receive their inheritance, no matter the size, as a way to help clients see beyond dollars and cents and think about their goals for their children.

In so doing, maybe your family becomes the minority in preserving wealth beyond the second generation. If not, at least you have left a legacy far greater than your wealth because you have imparted to them the values with which they can then leave a lasting legacy of their own.

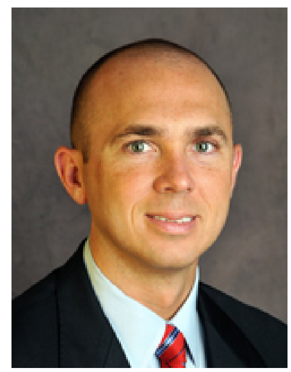
Please contact us at (901) 372-5003 if you would like to discuss strategies to preserve wealth for your family and incorporate your goals and values into your estate plan.

<u>Footnotes</u>

1. Perry L. Cochell & Rodney C. Zeeb, *Beating the Midas Curse*, 7.
2. *Estate of Erma V. Jorgensen v. Commissioner*, T.C. Memo 2009-66 (3/26/09)



Lang Wiseman
Attorney & Counselor at Law
Business Litigation
Construction Disputes
Products Liability
Wrongful Death
Probate



Chris Patterson
Attorney & Counselor at Law
Litigation
Probate
Products Liability
Wrongful Death

Lindsay A. Jones
Attorney & Counselor at Law
Estate Planning
Probate
Trust Administration