The secret of success

Dr Ariel Sergio Goekmen considers inheritance planning for the wealthy family

'The best time to bequeath your assets to a trust is about one year before you pass away…' This is a piece of timely advice I usually give our clients. However, this is not as easily done as said. So, how should one go about this?

A good start is to use the advisory process to help your clients focus on the relevant points regarding their inheritance planning. In addition to drawing up a list of assets and liabilities and an income and expense sheet highlighting the planned entries, their values, for example the family's core beliefs sometimes passed on for generations, are considered and recorded for the family's benefit. This may take longer than anticipated if the family or family head has not yet reflected on this.

Family values

Family values have an enormous impact on successful inheritance planning and they are often not sufficiently taken into account when drafting a plan. They differ from family to family and vary according to educational background, as well as cultural and social background. From a religious point of view, not only Shari'a law principles come to mind, but also certain principles prevailing in Jewish families as well as Protestant Christian families.

It is also important to consider family values when looking at philanthropy. Questions need to be addressed on how discreet or visible the charitable contributions to people or institutions beyond one's own family should be. Some clients prefer to make anonymous donations during their lifetime and posthumously. Others wish to establish a charitable foundation during their lifetime. Still others wish to make donations by means of a properly equipped private foundation, bearing their family name or that of a previously deceased family member. All these aspects need to be addressed when planning for their inheritance.

Taxation

Most often, however, benefactors choose to bequeath the majority of the inheritance to family or next of kin. In this case a number of aspects have to be considered. Taxation is always an important point to consider when structuring a successful inheritance plan in one's lifetime. The suitable type of vehicle, be it a trust, a foundation, a charity, a direct gift *inter vivos*, a bequest, a will or all of the above, needs to be discussed in detail. For a multi-generational and multi-jurisdictional wealthy family, in particular, diligent planning therefore has to start in good time in order to allow the external advisors to verify the suggested plan in each location against local law and potential pitfalls.

Once a plan is drawn up it may, however, still be subject to change. Not only do tax laws change frequently, but the objectives of the testator (i.e. who should be the beneficiary) may also change over time due to divorce, death in the family, change of circumstances and so forth. Therefore, the advisory process should be flexible and structured and not a static planning instrument. Research has shown that the so-called parallel planning process is useful. In this process the wealthy family defines a commonly shared future vision, which is mutually agreed upon and from which all other parts of the plan are derived.

Relationship management

Successful inheritance planning strongly depends on both the family's willingness to plan and the support of the personal relationship manager, who in some cases has known the family for decades and is aware of the family's values and preferences. Such a relationship can be of help in the first weeks after a death in the family, for example, when the relationship manager can act as a trusted advisor and can provide guidance, if desired. Also, if the family has other trusted friends or close external advisors, who can or should be integrated in the plan, this can be done. All permutations are possible, but should be assessed for suitability.

Recently, some clients have also started to include life assurances as vehicles in their inheritance planning. This choice may sometimes not be obvious, although most Western countries have put in place very favourable taxation systems for life assurance premium payments. In any case, such planning has to be checked in view of the locally applicable tax laws to ensure full benefit. One other advantage of life assurances in addition to favourable taxation is their discretion: under Swiss law, the person who takes out the life assurance can discreetly define the beneficiary and equally discreetly change his or her plan at any time.

Mutual funds

Wealthy multi-generational and multi-jurisdictional families sometimes also prefer to create their own mutual fund, which serves as a pool for assets that are otherwise divided among the individual family members. This mirrors a company structure whereby families that are still active in business give shares of their own company, sometimes quoted at the stock exchange, to individual members so that these shares can be sold *ad libitum*. Often such an arrangement is embedded in a contractual relationship so that the other family members can buy from a family seller first, before the open market does. Also, a mutual fund has a number of advantages because on the one hand, the assets of a family remain pooled even after a generational change, which can maintain efficiencies of scale and scope. On the other hand, each family member has a certain amount of freedom and flexibility – and a mutual fund is discreet vis-à-vis the other family members: one can have assets outside the fund that are not visible to other family members. Taxation of the fund units becomes very easy, especially if the family members live scattered around the globe and have to file a tax report in their jurisdiction.

Residence

Finally, another aspect that may need to be considered in inheritance planning is change of residence to a more favourable jurisdiction or change of nationality. All these aspects need to be considered carefully and in good time in inheritance planning, as they have personal and emotional implications and often require a lead time of more than five years. Therefore, the right time to start inheritance planning is now – for all of us.

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