



Fat-Free Fat: Nontax Considerations for Discussing Philanthropy With Your Clients

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In the words of John Steinbeck: “No one wants advice, only corroboration.” So it may seem when it comes to discussing philanthropy with clients, particularly with those seemingly content to continue deferring philanthropic pursuits indefinitely.

It is hard for some of us to imagine discussing philanthropy with clients without pulling out our hefty planned giving toolbox. Indeed, many of my dedicated philanthropist clients began their pursuit of philanthropy for the tax benefits. But knowing the joy that philanthropy brings to the giver, surely we in the estate planning community have some duty to encourage our clients to include some degree of philanthropy in their overall planning.

But these discussions can be awkward. Many attorneys worry that they will be viewed as hard-selling philanthropy or guilt-tripping clients into giving. But neither approach is necessary, and most clients ultimately appreciate attorneys who care enough about them to give valuable advice instead of mere corroboration.

The root of the approach I consider most effective is to realize the power of asking the “why” questions instead of the “what” questions. If you simply ask your clients what they want to give to whom, they will almost inevitably default to giving everything to the children in equal shares. The *easy* next question is whether that will go outright or in trust.

But the *right* next question is: Why? There are two “why” questions here: Why does it all go to the children? Why equal shares? As to the latter question, that is outside the scope of this article. But rarely do I see a situation where equal division is also fair division.

As to the question of inheritance going entirely to children, one obvious opening line is a quote from Warren Buffett, who suggested leaving children “enough to do anything, but not enough to do nothing.” Some clients may discount this statement given Buffett’s immense wealth. But it can be fodder for further discussion.

As the philanthropic discussion unfolds, one key discussion point is a look back at the clients’ own professional life. For example, many successful entrepreneurs ultimately sell their business for a small fortune. If you ask one of these entrepreneurs to recount the greatest experiences of their professional life, they will inevi-

tably focus on the character-building struggles, the conquering of which made them better people. Their big liquidity event rarely rates very high on their list of truly gratifying experiences.

The opportunity to succeed or fail on one’s own merit is a far greater triumph, and far more gratifying to the soul, than the receipt of a large pile of money earned by someone else. Most clients, especially entrepreneurs, will agree that it would be tragic to rob their children of character-building opportunities via excessive inheritance. “A life spent in making mistakes is not only more honorable but more useful than a life spent doing nothing.” – George Bernard Shaw.

As clients begin to consider that there is an amount that is too much, philanthropy often enters the picture. Many clients are intrigued about the opportunity to engage their children in philanthropy. The interest often starts with testamentary philanthropy – perhaps leaving funds in a private foundation that the children control. Giving children a pile of money they must give away each year certainly provides them with a nice way to build connections and get involved with the “right” crowd. But often clients are unsatisfied with testamentary giving. They will have little input and will not see the impact. So lifetime giving becomes increasingly palatable.

And as lifetime giving becomes more palatable, so do the client counseling opportunities. This is when the deepest “why” questions emerge. I have listed several of these below:

- How much is enough for the children?
- How much is too much for the children?
- Why do you give?
- Do you give a planned amount each year?
- Do you give just out of guilt?
- Do you give a percentage of your income?
- As your income grows, will you give more or less as a percentage of income?
- Do your children know that philanthropy is important to you?

It is impossible to suggest a comprehensive list of questions in limited space. But I will leave you with one final question for your clients: When you get to where you want to be in life, how will you know?