How Much Should Beneficiaries Know in Advance?

By
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Roberta Lee-Driscoll and Richard E. Vodra present opposing views on the merits of discussing your estate plan with your beneficiaries.

Getting a mature couple to address estate planning issues, make decisions, and execute documents can often be a difficult and emotional process. Once this process is finished, the couple and their advisors may want to put the matter aside, but there is another question to be answered: what should a couple with grown children tell others in their family—especially their children who may be the main beneficiaries—about the plans?

We are two financial planners who disagree on the answer to this question. Although neither of us takes an absolute position, one of us (Richard) believes that more disclosure is usually a good thing, while the other (Roberta) thinks that the parents should pretty much keep things to themselves. We hope that this discussion will help you and your clients think about the implications of their choices and suggest decisions that feel right for them, their families, and their situations. We have written this article as though each of us is talking to a client.

The topics you need to think about can be grouped under three broad headings: the process of estate administration, health care management issues, and the distribution plans. You don't need to handle all three the same—in fact, we don't think you should. We start with the most difficult issue, decisions you've made about where your money will go when (or before) you die.

Richard: It Is Wise to Talk About Your Estate Plan with Your Beneficiaries

The content of your estate plan—who will get what, and when, and in what form—represents both a statement of your last wishes and a complicated finan-

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cial and legal strategy. If the amount of money is at all substantial, or the strategies at all complex, effective communication increases the chances that your intentions will have a positive effect on the beneficiaries and that your plans will in fact be carried out as you intend.

When we think of a "model" or "typical" estate plan, we often assume a simple design: everything passes to the surviving spouse at the first death, and at the death of the survivor, everything is equally divided among the children. Although this would seem to be simple, things have a way of becoming "interesting" along the way. In the real world, many estate plans should include special features.

Some questions to ask before starting the planning process are:

- Do you have a split or blended family, where stepchildren are involved?
- Are there family assets that can't simply be split up—a family business or vacation home, or a collection of antiques?
- Do you plan to make substantial charitable bequests so that most of your money will not pass to the next generation at all?
- Have you planned unequal distributions among your children, perhaps reflecting special health concerns or occupational choices?
- Do you want to put restrictions on the money going to the surviving spouse so that it eventually passes to the children of this marriage, or will the survivor have discretion to give it to his or her new family upon remarriage?
- Will there be major restrictions on when the money becomes available?
- Are there other surprises that could either upset existing plans or lead to hard feelings between your children?
- Is there any substantial likelihood that you may run out of money and need the help of your children some day?

You may perceive a conflict between doing what you think makes sense and what won't hurt anyone's "feelings." As parents, you've had those conflicts before, and, hopefully, you've acted in the best interest of the family and trusted that you could explain your actions if necessary. This could be another such situation, but taking unexpected actions without preparing family members could result in an unwanted outcome.

Even if your plans do not include these factors, your children know that they could. I believe that a conversation about your plans with some general information about how your assets may be distributed would be beneficial to everyone in both generations. Here are some reasons why:

1. You, as parents, will have peace of mind, knowing that things will be carried out according to your wishes, with no surprises or burdens.
2. You may have a special dream or wish for your family, from a desire that all your grandchildren attend college to a hope that your children will travel to Paris together as your "guests." If you talk about it, they'll know it's important to you, and it is more likely to happen.
3. An important part of your children's financial planning is the ability to make good decisions about their resources. If they know that there is a high probability they will inherit money from you, they may feel free to spend more on their own children now. Otherwise they may feel forced to save now, only to have extra money when it is too late. Conversely, if your children are not going to inherit much, or anything, they should know that early enough to save for their own retirements.
4. The receipt of a substantial inheritance may be the first time your children have ever had a large amount of money to handle, and it can be difficult, both emotionally and mechanically. By talking about it in advance, you can provide advice and training (or at least some suggestions) to help them manage it responsibly. Further, if you begin a program of annual giving to them, you can see how they handle the money and provide practical help. You may judge that they would be better off if you left the money to them through a trust. You will reduce the risk that their money will be squandered or lost.
5. Many heirs regard their inheritances as somehow tainted, since they have the money only because their parents died. You can explain that you want them to use this money well, and free them from this sense of guilt.
6. You can provide help with complex or tangible assets. It's a bad idea to pass a family vacation property—or worse, a family business—onto the next generation without discussing your goals and experiences with it. Not all of the children may have the same interest or ability to use the asset.

7. A conversation about your plans helps you to do more and better planning. For example, special rules apply with respect to inherited IRAs. Thus, if you name a child as beneficiary of your IRA, the child can extend the tax deferral for many years, but only if the IRA stays in your name, something your child probably wouldn't know. If you have a special purpose for a gifting strategy, make sure the children do not ruin your plans through ignorance.
8. Related to this, your children, once the conversation has begun, may make you aware of other planning opportunities they've started. Perhaps the family's wealth would be enhanced if you made your bequests to trusts your children have set up for your grandchildren. Multi-generational planning is hard if you don't talk about it.
9. Challenges to estate plans most often come when there is a surprise and disappointment to one or more persons who expected to be a beneficiary. If your intentions have been discussed in advance, the chance for a challenge, especially a successful challenge, should diminish. (This assumes, importantly, that if you radically change your plans after you talk to your children, you'll let them know. Failing to do so is asking for trouble.)

These are all more-or-less practical reasons to talk about your estate plans with your children. There is another, deeper, set of benefits that can result from your conversation.

"Money Is . . ."

Talking about money is one of the last taboos in our society. Dealing with our "secrets" can create a new level of freedom and honesty for everyone involved. By "de-toxifying" money, we open up other conversations, as well.

Many of us allow money to symbolize other values. We may feel that money represents power, or security, or happiness, or a threat, or evil. You may be afraid that your children will ignore you or manipulate you or abuse you if you talk about your estate plans with them (and they have the same fears about you!). Ultimately, though, money can be just money.

Your estate plan conversation offers an opportunity to pass on some of your life's lessons and stories. Where did the money come from? How was it earned or created or acquired? What was sacrificed to accumulate it? What did you choose to do instead of saving more money? Should you do what we did? What should you do differently?

Our families represent a kind of community that exists over time—they are always works in process. You didn't start with a clean slate, and you won't leave one. Money is only one of the things that this community is about. Others include faith, health, training, recreation, culture, languages, experiences, homes, travel. The inheritance you leave your children is only incidentally involved with money because that's the part the law is most concerned with.

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When you think about your estate plan conversation, you realize that you've been having this talk about money all your life. The choices you have made, your attitudes, how you have lived, worked, invested, and spent—all these have been communicated at some level with your children already. Those communications, though, were often hidden and not explicit. Now you have the chance to do it openly and clearly.

Two Examples of How Talking Can Work

Like most planners, we learn from our clients, and I would like to share two stories. In the first, a couple was dealing with the terminal cancer of the husband. Once it was obvious that death would occur in a matter of months (but not days), he asked me to help arrange a family meeting that included his wife, two of their several children, their attorney, their accountant, and the family friend they'd selected to be trustee. I prepared an agenda of about 15 items, and we reviewed the plans so his wife and children knew what would happen to houses, retirement accounts, insurance policies, and the like. More importantly, they had the comfort of understanding that the advisors all knew each other, knew the plan, and accepted their roles and responsibilities. In the months after the meeting, the wife could focus on the care of her husband, knowing that the rest would be taken care of at the proper time.

In the seven years since she became a widow, she has kept the team and the communications process intact for her own planning. Each year she has reviewed where she is and what steps are now appropriate for her to take. In year two, she began giving the family vacation property to her children. In year four, she executed a Qualified Personal Residence Trust. In year five, she discussed the idea of a family foundation with her children and rejected it. The open planning has already produced estate tax savings of over $1 million and has begun the distribution of assets while the children can use them, while assuring her financial security as the first priority. She is extremely pleased with the result.

By contrast, the failure to communicate effectively and follow through led to a difficult situation for another of my clients. This woman was divorced in her midfifties without a lot of money. She later married a man who had four children from a prior marriage. When he contracted cancer, he assured her that he would leave his money to her (his wife) because his daughters were grown and independent. He apparently never told his daughters this, however. More importantly, he never actually changed his will, and his wife was too "traditional" to ask for details over the last six months of his life. Only when he died did she discover that his documents had not been changed. The daughters found it believable that he would leave his money to them rather than his more recent wife, so they kept the money. The widow is now in her sixties in much worse economic shape than she expected, or her husband (she believes) intended.

The Form of "the Talk"

After reading the pros and cons of talking to your children about your estate plans, suppose you decide to proceed. What should you do? It's up to you. There is no single format that works all the time.

The talk does not have to be complete or explicit. Numbers and details are optional. You can say as little as, "we have a will and life insurance, and enough money so you won't have to take care of us. Here's who to call when the time comes." You may simply want to alert your children that you plan to give some of your money to charity.

Because situations change, you should clearly reserve your power to change your mind (unless you have made some irrevocable plans). Don't do this as a way of keeping control over your children's lives, but as a way to keep control of your own life.

Your conversation does not have to be a negotiation, unless you want it to be. You are telling them about your plans. Don't ask for opinions or feedback unless you want them.

You don't have to do all this at once. You can bring up one topic (like a special trust you intend to create, or what will happen to the family retreat) without going into your other assets.

The meeting or conversation can include introducing your advisors to the next generation. You may, in fact, want your advisors to provide details on some sophisticated techniques you'll be using, so you don't have to be the expert.

You can encourage your children to be sure their plans are in order, too.

Talking about your estate plans is a great opportunity to show your children that you love them by letting them know you have spared them some of the confusion, heartache, and work that would happen at your death without good planning and communication.

Roberta: You Should Not Discuss Your Estate Plan with Your Beneficiaries

If all of us had the same values, then perhaps the execution of an estate plan would be easier. Unfortunately, human nature plays a big part in the way people react. It is sometimes hard to determine how our own children and beneficiaries will react when faced with certain situations. We cannot always account for and understand the many influences that affect their lives and decision making. Anything from the influences of other people (good and bad), mentors, people they marry, new extended families, employment situations, or new religious affiliations can greatly influence their reactions to unfamiliar events and new information. Our ability to predict their behavior becomes even more difficult when things out of their control such as illnesses, natural disasters, or accidents come into play.

In addition, not only do your children and beneficiaries change, you yourself change. New people you meet and your experiences with them may influence decisions in your life. Life is ever changing, and with it our beliefs.

Along with values and change, there is expectation. "Expect" is defined as looking forward to the occurrence or appearance; to consider reasonable or due. "Expectation" is defined as the act or condition of expecting; eager anticipation; prospects or hopes, especially of success or gains.

Children and beneficiaries have expectations. People continue to make changes, both in their lifestyles and in their documents. Since we don't know when we will die, sometimes there are many changes. It is difficult to make decisions today that will last for a lifetime. There is a big chance of miscommunication when people change their minds. You may try communicating the changes, but in many cases your children will hear only what they want to hear. These are all problems that can be avoided if your beneficiaries don't know in advance about the distribution of your estate.

Situations to Think About

Sometimes an estate plan may be established jointly by a couple. The dominant person may design the estate plan. The spouse may consent to the plan, but not necessarily agree with it. For example, in some cultures, the oldest male child is entitled to the entire estate. While both spouses are alive, each may consent to this plan to maintain harmony within a marriage. However, after the first spouse dies, the surviving spouse may be exposed to others who believe in equal distributions or other alternatives. In these situations, once exposed to alternatives and having the freedom to express a new opinion, the surviving spouse may change the estate plan. This could create a problem of expectations at the death of the second spouse.

I have seen situations where beneficiaries are counting on a distribution to see them through retirement and old age. Unfortunately, the estate could dwindle to nothing if there is a major illness and money is needed to pay for major medical and nursing home care for aging parents. With advances in medical care, people are living longer. The quality of life may not be there, but they are still alive.

In addition to illness, there is longevity. People will need more and more of their money for their own well-being. People are also retiring earlier so they are using their own funds for themselves. People may be counting on Social Security or pensions to fund their retirement years as it did for their parents. With current changes in employee benefits, these benefits may be a lot less then anticipated.

By the time these situations occur and the estate has decreased, the beneficiaries may not be able to take care of themselves. By telling beneficiaries they are getting money, many beneficiaries do not learn the new skills they may need to pursue a career or advance their current careers. Beneficiaries may also not contribute to their own retirement plans in anticipation of an inheritance. Many incur debts because they anticipate using their inheritance to clear existing expenses. The estate that you leave your beneficiaries may not be large enough to maintain them in the lifestyle to which they have become accustomed.

Once in a while, the person who is establishing the estate plan will use the estate plan as a stick instead of a carrot. Children who come often to dinner or call are the ones who benefit from the bounty of the estate. Sometimes, as people get older and there is less and less contact with family, there is a shift in the percentages of the estate from person to person. Sometimes there is "talk" of changes to the estate plan, but the changes do not occur. There are many stories of people who have changed their estate plan every other month depending on which heir is in favor at that time. Although this stick approach seems to work on certain children, making them visit more frequently, most often, by the time the person dies, the estate plan may not necessarily reflect the family situation. This can cause hard feelings for those who have given of their time.

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Estate plans, especially a trust, can be used to encourage certain types of behavior. For example, you can have a trust match dollar for each dollar that the beneficiaries earn. This type of matching may encourage continuous and healthy work habits. On the other hand, people may not work or work consistently because they are aware that they are the beneficiaries of a huge estate. Expectations change people and their habits.

Before You Make Promises

My philosophy is that you should enjoy the bulk of your estate while you are alive. What you leave to your beneficiaries should be secondary to your needs. You shouldn't feel guilty if you want or need to change your mind. By disclosing "certainties" to beneficiaries, you may end up boxing yourself into a situation that doesn't feel right later. For better or worse, sometimes life does not run its course the way you plan.

Financial planners often say you will need to replace about two thirds of your pre-retirement income to live comfortably in retirement, and this can require a lot of capital. Early retirement also means that you will have more time to play. You may not have been able to travel because you were busy raising children and did not have the extra funds. Now that you are retired you may want to pursue new hobbies. These new hobbies may be more costly then you anticipated. So it is not necessarily true that you will need less money during retirement.

Your estate could also dwindle because of situations outside your control. The real estate market could be soft when you die and, therefore, your home may not be sold on a timely basis. If the home can't be sold, and it is also a renter's market, your estate may not make enough money during the transition. The value of your stock portfolio could be down. There could be a change in the tax law that increases your estate taxes. There could be a divorce late in life.

Life experiences can also make people change their minds. Today you may want to leave the money to your heirs. Tomorrow you may want to leave the money to a charity or a scholarship program named after you. Situations are changing quickly in today's society. There seems to be more charitable giving, as federal grants become less available. People may have the opportunity to give back to their community more now then they could in the past. Gifts to the community are getting larger and larger.

The hardest decision may be to leave nothing to your heirs. Some wealthy families make current gifts with the understanding that the bulk of the estate will be going to charity. If the beneficiaries are doing well financially and otherwise, this will not become an issue. On the other hand, if beneficiaries are expecting something, and have not made the appropriate plans, then a huge problem may arise when the expected inheritance does not become a reality. Some parents feel that the ability for children to make it on their own may be the greatest gift that they can leave their beneficiaries.

Final Thoughts

I am not saying that there should not be any communications with your beneficiaries about your estate. You can communicate with them without telling them your estate distribution.

You may ask for ideas on the distribution of tangible personal property, the "things" you own. This is not a promise that certain beneficiaries will get certain items. This is more of a discussion on what possessions are special to them and what they would like. It is nice to leave a remembrance of you.

Equal distributions in families seem to work out the best because everyone "feels" that they are being treated fairly. Unequal distributions seem to require more care. This care, however, does not have to be in the form of family discussions. They can be in the form of precatory language—a nonbinding expression of a wish or intent—in estate planning documents, or a letter to each of the beneficiaries. Leaving detailed messages to loved ones after you die will resolve a lot of the issues that may come up.

However, leaving your family to guess why you did what you did is the worst situation. Unfortunately, we live in a litigious society. It is becoming more common for beneficiaries to sue the estate and each other because of what they thought they were going to get. It is better to set the record straight with notes and detailed written instructions.

Communicating About Estate Administration

Anyone who has administered an estate can attest to, and anyone who hasn't cannot believe, the number of details that have to be dealt with in settling an estate. Although the authors don't agree about communicating the content of your plans, we agree that giving those who survive you a lot of information in advance is a valuable and thoughtful service. Whoever you have selected to administer your estate should either have a data list or should know how to find it.

If you decide not to talk to your beneficiaries about the details of your situation, make sure you have given the information to someone, or have it in a letter that the beneficiaries can find. Usually a letter of instruction to the administrator with the location of a more comprehensive list facilitates this.

There are many topics you could include in a conversation or letter about your life and estate information. We've included at the end of this article a list of possible topics, including some (like computer passwords) that you may not have considered.

Communicating Plans Concerning Health Care

In addition to your estate plan, health care facts and plans should be communicated to the next generation, and others who might be involved. Sudden death has been increasingly replaced in our society by a period of extended illness or incapacity before death for many people. If you have made plans for these contingencies, make sure that someone in addition to your spouse knows about it. Although most of the details in the list below are confidential, your intentions and plans with respect to health care should not be. One study recently showed that many doctors are unaware that their patients in nursing homes have created living wills and similar documents.

The issues go beyond purely medical decisions. If you have a lengthy period of incapacity, someone with a power of attorney or trustee responsibilities is going to need most of the information on this list. Make sure they can find it.

Conclusion

The purpose of this article is not to suggest a hard and fast rule that everyone should follow. Rather, we wanted to present options for you to think about. As you consider the specifics of your situation and the way your family works, reflect on whether the potential benefits of communicating your plans outweigh the risks and difficulties that could result, and then decide how much information you want to share with your beneficiaries, and in what form. There is no perfect way to do this, or an answer you can be sure is correct, but this is an important part of your overall estate planning process.

- ☐ **Will and Codicils**
  - Personal tangible property memorandum
- ☐ **Revocable Living Trusts and Amendments**
- ☐ **Irrevocable Trusts or Similar Arrangements**
- ☐ **Power of Attorney**
  - Legal/financial
  - Health care
  - Advanced medical directive
- ☐ **Living Wills and "Do Not Resuscitate" Orders**
- ☐ **List of Real Property**
  - Location of deeds
  - Lease and rental agreements
  - Property managers
  - Mortgage note
- ☐ **List of Securities**
  - Brokerage accounts
  - Location of individual stocks and bonds
  - Mutual fund statements
  - Other investment statements
- ☐ **List of Insurance Policies (life, health, disability, property, long-term care)**
  - Location of original policies
  - Information on group plans
- ☐ **List of Outstanding Debts**
  - Loans—secured and unsecured
  - Credit cards
- ☐ **List of Bank Accounts**
  - Location of cancelled checks or bank registers
- ☐ **Employer(s) List of Money Owed to You**
  - Supporting documents
- ☐ **Business Interests**
  - Buy/sell agreements
  - Royalty agreements
  - Patents and copyrights owned
- ☐ **List of Retirement Accounts**
  - Pensions
  - Defined contribution plans
  - Individual retirement plans (IRAs)
  - Social Security
- ☐ **Income Tax Returns**
  - Location of last 3 years' returns
- ☐ **Veterans Benefits**
  - Insurance
- ☐ **Location of Safety Deposit Box**
  - Location of key
  - List of contents
- ☐ **Funeral Plans**
  - Special instructions
  - Veterans benefits
  - List of people to notify
  - Burial plans and plots
- ☐ **Computer Records**
  - Location of financial or personal files
  - Passwords
- ☐ **Children and Other Family Members**
  - Names, addresses, Social Security numbers of children
  - Information on other family members, organizations, and others who should be notified
- ☐ **Medical Information**
  - Doctors' names and addresses
  - Health plans
  - Health insurance
  - Medical records
- ☐ **Financial and Legal Advisors**
  - Tax preparer
  - Attorneys
  - Financial planner
  - Insurance agent
  - Stock broker