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Family Wealth Series – Post #1
Sink, Swim or Maslow

July 18, 2017

Some readers will not agree with what I'm about to write. Perhaps many won't. After all, my ideas run counter to the usual advice that appears in the financial press and numerous books. But I don't present my thoughts lightly: they come from approximately 30 years as a trusts and estates attorney working with wealthy families. And I am convinced my thesis is not only thought-provoking but valid. Simply put, I believe the "limited inheritance" approach most frequently attributed to Warren Buffett is an unfortunate idea. In fact, it may be destructive.

Later I will explain an approach that I suggest. I will cut to the chase, however, and let you know from the outset that accumulated wealth can be used productively as a tool by descendants and other inheritors in support of their reaching their full potential. I encourage families to be thoughtfully engaged in preserving family wealth to that end.

How I reach these conclusions is involved and textured, a story that will take time to unfold. Now, the limited inheritance idea.

Parents and grandparents universally desire that their children and grandchildren lead productive and engaged lives. Every parent can identify with this goal. The image of a ne'er-do-well rich kid, idle and without purpose is disturbing and contrary to much of what parents and grandparents believe is wise or appropriate.[1] The goal of having productive and engaged descendants is laudable and few would argue with that.

To remedy this concern, much focus has been given to one "sink or swim" strategy that limits the descendants' inheritance (often referred to as the "limited inheritance" approach). Some are of the opinion that money can ruin children and that they should not be given much – i.e., give them just a

[1] *See generally*, How Not to Raise a Spoiled Brat, Town & Country (June/July 2017).

little and let them sink or swim. The idea is that the children should struggle, and that this will build character and instill proper values.

Those who can afford to leave their children considerably more, frequently and purposely leave them less. Their hope is to better motivate their beneficiaries.[2] Warren Buffett asserts that the perfect amount to leave children is "enough money so that they would feel they could do anything, but not so much that they could do nothing."[3] Following the model of Mr. Buffett and others, parents adopting the limited inheritance plan are giving the bulk of their wealth to charity. It's not just billionaires that are using the approach. According to CNBC, many baby boomers of far less wealth are following this path.[4] For the uber-wealthy, Mr. Buffett has for years been promoting his "Charitable Pledge," which is a commitment by the world's wealthiest individuals and families to dedicate the majority of their wealth to philanthropy.

This post is not suggesting that charitable giving stop. Quite the contrary. Families can use charitable planning inclusively and positively to support overall goals. Charitable planning can allow families to accomplish desired philanthropic goals and to keep control of "social" wealth that otherwise is frequently paid to the government in the form of taxes. In effect, charitable planning can work synergistically with the goal of maintaining generational wealth.

It is my belief that this limited inheritance plan is a questionable approach for numerous reasons. Here is the first of four such reasons. The others will be forthcoming in future posts.

Reason #1: Reaching Full Potential

You probably recall Maslow's chart of needs or motivations from college Psychology 101. This chart, developed by Abraham Maslow in his 1943 paper "A Theory of Human Motivation,"[5] stuck with me since learning about it – probably the only concept that I could point to from that class. The chart resonated because it illustrates certain markers (I thought of them at the time as prerequisites) to attaining one's full potential, completing one's purpose -- Self-actualization!

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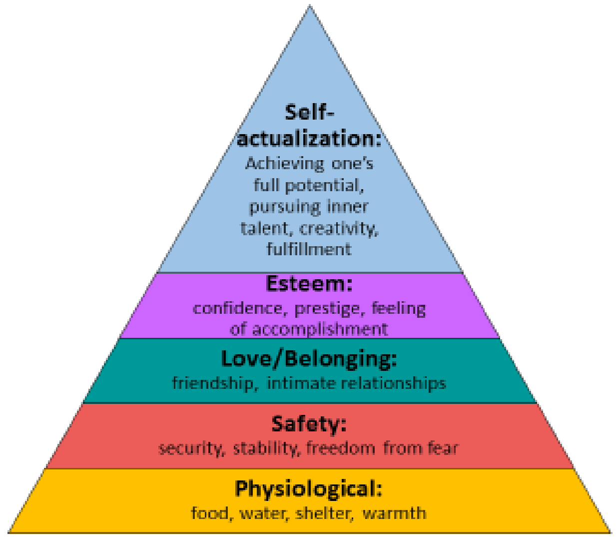
[2] Northern Trust, LEGACY, CONVERSATIONS ABOUT WEALTH TRANSFER, p. 154 (2d. 2011, TriMark Press).

[3] Roxanne Roberts, Why the super-rich aren't leaving much of their fortunes to their kids (Wash. Post, Style section, Aug. 10, 2014).

[4] Julie Halpert, Boomers mimic Warren Buffett when it comes to inheritances (CNBC, March 9, 2015).

[5] Maslow, A.H., *A Theory of Human Motivation,* Psychological Review, vol. 50, p. 370 (1943)(accessible here). For purposes of illustrating the ideas expressed herein, I do not attempt to outline or contrast other models of human behavior with Dr. Maslow's theories on motivation. In this sense, the reliance on Dr. Maslow's work is in the interest of simplification and brevity.



On the bottom of the pyramid is physiological needs, shelter and clothing, etc., then safety and security above that. Dr. Maslow observed that if a person's physiological needs are unsatisfied in an extreme fashion, then all other needs may become non-existent or pushed to the background. When the essentials are satisfied, then the person's motivations will become dominated by the next higher need. Progress is, however, frequently disrupted by failure to meet the lower level needs.[6]

As stated above, parents universally want their children and grandchildren to be productive and engaged. But what does that mean and who determines when the standard is satisfied – the parents, the child? Productive and engaged are subjective terms. As a starting place, consider a more refined statement of the goal for the development of family members based on Maslow's writings: to self-actualize. "It refers to the desire for self-fulfillment, namely, to the tendency for him to become actualized in what he is potentially. This tendency might be phrased as the desire to become more and more what one is, to become everything that one is capable of becoming."[7] Shouldn't the goal be for children and grandchildren to reach their full potential? Imagine Shakespeare's dad, attempting to produce the productive and engaged child, encouraging Will to be a solicitor, doctor or wool merchant[8] (anything other than a writer) and what a waste that would have been. With this new goal,

[6] McLeod, Saul, *Maslow's Hierarchy of Needs*, Simple Psychology (published 2007, updated 2016). Dr. Maslow observed that only one percent of the population becomes fully self-actualized because our society rewards motivation primarily based on esteem, love and other social needs – not necessarily rewarding a person for achieving one's full potential. But even these motivations, esteem, love and other social needs, are higher on the scale than the foundational survival motivations.
[7] Maslow, A.H., *A Theory of Human Motivation*, Psychological Review, vol. 50, p. 370 (1943).
[8] At one time, the father, John Shakespeare, was a wool merchant. *See* Mabillard, Amanda. Shakespeare of Stratford: Shakespeare's

just being productive and engaged takes on a roll of secondary importance. Then the question becomes, assuming this restated goal, is the limited inheritance approach wise?

Consider that by maintaining the family wealth, families help future descendants beyond the chart's foundational levels. Why wouldn't parents want to give children a leg up the hierarchy and spending less of their time on the basic levels? During his time in Paris, John Adams wrote to his wife, Abagail, that it would be delightful and instructive to describe with eloquence the gardens and statuary around the city. He recognized his responsibility and that of his children in creating the favorable circumstance whereby his grandchildren could study the higher arts. While written about 150 years before Dr. Maslow published his chart, President Adams reflected the desire of many parents that their children and grandchildren be positioned to function at a higher level – not struggling to build the foundation, again and again:

> *I could fill Volumes with Descriptions of Temples and Palaces, Paintings, Sculptures, Tapestry, Porcelaine, &c. &c. &c. -- if I could have time. But I could not do this without neglecting my duty. The Science of Government it is my Duty to study, more than all other Studies Sciences: the Art of Legislation and Administration and Negotiation, ought to take Place, indeed to exclude in a manner all other Arts. <u>I must study Politicks and War that my sons may have liberty to study Painting and Poetry Mathematicks and Philosophy. My sons ought to study Mathematicks and Philosophy, Geography, natural History, Naval Architecture, navigation, Commerce and Agriculture, in order to give their Children a right[9] to study Painting, Poetry, Musick, Architecture, Statuary, Tapestry and Porcelaine</u>.*[10]

Dr. Maslow's hierarchy, however, recognizes that functioning at a higher level, including the higher arts as President Adams describes it, is not just a means to itself, but a step on the journey towards reaching one's full potential – to become self-actualized. Therefore, in creating the favorable circumstances that more fully allow for this journey, isn't the wealth likely to useful?

Once I heard a presentation that argued individuals are more creative and productive when functioning in the "heart" frequency rather than the "survival" frequency. The presenter illustrated this idea in the context of a work or employment setting. We have all experienced times in the work world when we are just trying to survive – i.e., functioning in survival mode. The speaker pointed to

<u>Parents</u>. Shakespeare Online (September 18, 2000).

[9] It is fascinating to consider that President Adams used the word "right" here. Consider that, "a right to study painting…"

[10] Letter from John Adams to Abigail Adams, post 12 May 1780 [electronic edition]. Adams Family Papers: An Electronic Archive. Massachusetts Historical Society. <u>http://www.masshist.org/digitaladams/</u>

evidence that workers function at a higher level and are more creative and productive when they experience a comfortable, safe work environment. The analogy to Dr. Maslow's chart is spot on with survival mode being the functional equivalent of physiological, safety and security needs. Why would an employer want employees struggling in survival mode rather than operating at a higher level where more is possible? Likewise, the suggestion is that needlessly imposing survival mode on future descendants through a limited inheritance is misguided.

It is also important to distinguish between struggling to satisfy the base levels, the physiological, safety and security needs, and striving to achieve higher aspirations, those labors associated with achieving one's highest purpose. The former struggles are not necessarily helpful or instructive in the latter, though they might be in some cases. Moreover, the time and energy involved with the former may, in some cases, detract from the time and energy that could be devoted to the latter.

I would wager that if we could ask President Adams his opinion of the limited inheritance approach that he would agree it's an unfortunate idea. Assuming the goal is for family members to reach their full potential, consistent with Maslow's chart, it seems to me that preserving the family wealth is more likely to be supportive of that goal than not. In later posts, I will develop this line of reasoning further.

In my next post, as we delve deeper into the pitfalls of the limited inheritance approach, I will explain one the main reasons it's a troubling idea – it's negative, pre-emptively negative.

Richard Franklin
rfranklin@fkl-law.com

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Family Wealth Series - Post # 2
Going Negative

July 25, 2017

In Post # 1, I addressed why I believe the "limited inheritance" approach is an unfortunate idea. This post continues my analysis of the approach by focusing on the negativity at its core.

Reason #2: Going Negative is No Solution

In Post #1, I noted that parents universally desire that their kids be productive and engaged. I also suggested that this goal should be secondary to enabling their children to reach their full potential. All these ambitions, however, are undermined by the misguided premise behind the limited inherited approach. Think about its negative logic: the parent is saying I want "x" behavior (a child who is productive and engaged), and to achieve that I am *not* doing "y" (not giving that child the wealth I could otherwise leave them). Imagine actually explaining that to a son, daughter or grandchild. Where is the parent's positive, supportive action to achieve the desired result? Moreover, as far as I can determine, there is no empirical data to support the efficacy of this approach.

Many times, the parent who created the wealth did so at the expense of not spending time with the children. Frequently he or she who worked long hours and in effect took time away from the children to build a business, medical or law practice. To not give their children the wealth accumulated from those efforts might be the last, worst act. Imagine a child who already felt the parent's absence during his or her formative years, harboring the suspicion that mom or dad did not really care about them. Discovering that they would receive little inheritance might solidify the belief. The child's thought may be: "I always thought the old man didn't care about me, and his final act of providing this 'limited' inheritance proves it." The child's point of view might be that the parent has robbed them of both time and treasure. So is it any surprise that some of these children might harbor feelings of disappointment in their parents? Yep, disappointment is a two way street.

Parents who are considering the limited inheritance plan need to pause and honestly consider their own motivations. For example, a few wealthy parents may feel that they created the wealth and are entitled to do with it as they please -- give it to charity, burn it, whatever -- regardless of the consequences to other family members.[1] Rarely, however, does one person pursue any great project in a vacuum, including the accumulation of wealth by a parent.

What's the role of family in wealth accumulation and should the broader family receive some credit for it? For example, suppose the parent responsible for amassing the wealth coaches his son's little league baseball team on weekends (or read-in any other parenting activity that is emotionally enriching to parent and child). Suppose further that this involvement gives the parent a tremendous sense of love and belonging. Remember that Maslow's chart has love and belonging in the middle level (see Post #1). Isn't it a fair argument that this sense of love and belonging added to the parent's sense of well-being and self-esteem? After all, most parents experience love on a level that defies comprehension. It's not much of an extrapolation to then argue that the parent carried this sense of well-being and self-esteem back to the office or business, and who's to say that did not enhance the parent's ability to be successful? This is not so much an argument towards collectivism as it is towards humility in considering the inheritance questions.

Consider whether, in a sense, the parents' actions run counter to the meaning of family. For instance, there is a personal price that the kids paid for being children of prominent or rich people, such as absence of the parents, or growing up in environments of social obligations, even frivolity, minimal private life and extremely high demands and expectations. The law recognizes the efforts of a spouse who has dedicated his or her career/life to raising children, but it seems there is nothing similar for children. The fact that they are not adults does not mean that they do not "provide" anything to a father or mother who becomes rich, or that they do not pay any personal price for that. One of the challenges of being a family is to manage that duality where everyone is an individual yet also a part of the whole. In a way, nobody becomes who he or she is without the others.

Frequently the parents are inheritors themselves and they wind up deciding how to dispose of the wealth they were given. Is this *their* wealth to dispose of as they please? Legally that may be the case, but morally the lines are more blurred. Should wealth be viewed as a resource of the family that should stay in the family line? How should spouses be able to inherit? Can it all be given to charity in spite of the family?

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[1] Jessie O'Neill, THE GOLDEN GHETTO, p.63 (The Affluenza Project 1997).

For some parents the power to determine the disposition of wealth may be the final opportunity to exhibit their control. Some parents wield this power well in advance of death as a fear mechanism to control the behavior of potential inheritors. The threat of disinheritance is a common theme in books, films and other media. Conditional inheritances and incentive trusts are other devices used to continue wielding that power after the death of the parent. Care must be exercised, however, or these devices may be viewed as a means of manipulation and control that cultivate guilt, confusion and anger for the inheritor.[2]

Consider how Warren Buffett frames his stated approach for giving children "enough money so that they would feel they could do anything, but not so much that they could do nothing." These words could be interpreted as "I don't trust you" to make reasonable and appropriate decisions and "I will therefore paternalistically make decisions for you." Is that the message the parents really want to convey?

In effect, the words evoke a perception of needing to protect the children from the parent's money -- that the parent must decide for the children because otherwise the parent's money will lessen them. These parents are expecting a negative result, and latch onto the limited inheritance approach as a preemptive measure.

Parents should carefully consider the legacy they want to leave, monetary and otherwise. Those who gravitate to the limited inheritance approach do so based on a few bad examples, rather than realistically considering the broader landscape that reflects positively on the behavior of inheritors. One recent study found, for example, that 91% of inheritors understood that they had an obligation to preserve the wealth for future generations.[3] Moreover, the limited inheritance offers parents a seductively simply solution. Compared to engaging with the children and preparing them financially, socially and psychologically to live with wealth, the limited inheritance approach can be implemented unilaterally and in secret.

There must be a more positive path forward. In my next posts, as we continue to delve deeper into the pitfalls of the limited inheritance approach, I will explain why this attempt to control and

[2] Jessie O'Neill, THE GOLDEN GHETTO, p.73 (The Affluenza Project 1997). It is important to note that frequently sophisticated trust arrangements are used to transmit and hold inheritances. At first these might appear to be controlling and manipulating structures (and sometimes they are that), but oftentimes they are arrangements that allow certain benefits to the inheritor not allowed with an outright inheritance (such as protection from creditors and taxes), and upon closer examination and understanding also allow the inheritor controls that are very nearly like that associated with owning the assets outright.

[3] Navigating the Wealth Transfer Landscape, Wilmington Trust (2017).

manipulate children and grandchildren is counterproductive – perhaps preventing inheritors from reaching their full potential rather than enabling.

Richard Franklin
rfranklin@fkl-law.com

FRANKLIN KARIBJANIAN & LAW PLLC

1101 17th Street N.W., Washington, DC 20036

(p) 202-857-3434 | (f) 202 -463-3060 | www.fkl-law.com

UNCONDITIONAL POSITIVE REGARD

AUGUST 1, 2017

In Posts #1 and #2, I presented reasons why I believe the "limited inheritance" approach is an unfortunate idea. This post explains yet another core concern I have with it.

Reason #3: Controlling Behavior is Counterproductive

Control and manipulation are negative dynamics to be avoided. Isn't the idea of the limited inheritance a form of control and manipulation? Of course, it's justified as an effort to limit or control the possible negative impacts that wealth may have on the inheritor. But consider Dr. Maslow's observation:

> *Even if all these needs are satisfied [levels 1 – 4 of his chart], we may still often (if not always) expect that a new discontent and restlessness will soon develop, unless the individual is doing what he is fitted for. A musician must make music, an artist must paint, a poet must write, if he is to be ultimately happy. What a man can be, he must be. This need we may call self-actualization.*[1]

The idea being expressed is that this highest motivation is automatic if the other motivations are satisfied. Consider that! Parents do not need to control or manipulate their children in order for them to achieve their highest potential – the motivation to do that is wired in. Instead—and this is critical—the parents' focus should be to *help create the circumstances for the other needs to be satisfied* and then stand back. At first, this may seem counterintuitive.

Carl Rogers, another of the most famous humanistic psychologists of the 20th century, echoed Maslow's idea. Dr. Rogers believed that all individuals have one basic and positive motive, which is the tendency to self-actualize. According to him every individual can achieve his or her goals, wishes and desires in life, if the conditions are right. While his ideas are more complicated than recounted here, one of the most important factors is the individual feeling genuine acceptance (especially by the parents) for who he or she is. Family and friends are critical to the individual feeling accepted. Dr. Rogers adopted the phrase "unconditional positive regard" to describe the

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[1] Maslow, A.H., *A Theory of Human Motivation,* Psychological Review, vol. 50, p. 382 (1943).

ideal circumstance when those around the individual believe in his or her potential and provide acceptance without judgement. An individual receiving unconditional positive regard, especially from parents (a point that bears repeating), is more likely to self-actualize. Unconditional positive regard stands in stark juxtaposition to the judgement, disbelief, and biases hemorrhaging from the inapposite limited inheritance approach.

Another core point that parents must internalize is that the parent cannot be the "decider" of the child's highest potential. The child must have the freedom to pursue his or her own expression, which Dr. Maslow noted is a precondition to the satisfaction of the basic needs:

> *There are certain conditions which are immediate prerequisites for the basic need satisfactions. Danger to these is reacted to almost as if it were a direct danger to the basic needs themselves. Such conditions as freedom to speak, freedom to do what one wishes so long as no harm is done to others, freedom to express one's self, freedom to investigate and seek for information, freedom to defend one's self, justice, fairness, honesty, orderliness in the group are examples of such preconditions for basic need satisfactions. Thwarting in these freedoms will be reacted to with a threat or emergency response. These conditions are not ends in themselves but they are almost so since they are so closely related to the basic needs, which are apparently the only ends in themselves. These conditions are defended because without them the basic satisfactions are quite impossible, or at least, very severely endangered.*[2]

Therefore, parents attempting to control the child's pursuits are, in effect, handicapping the child and working counterproductively. With this understanding, reflect on the possible damage inflicted by an overbearing parent, or worse yet by a super-successful parent's compulsive, manipulative behavior. Parents need to carefully distinguish between communicating thoughtfully in a supportive role and communicating in order to manipulate.[3]

Influenced by a few bad examples, some parents may be employing the limited inheritance approach as a means of controlling behavior. As previously indicated, there is no data to support the efficacy of the approach. Based on the writing of some of the most respected humanistic

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[2] *Id*. at p. 383.
[3] Ellen Miley Perry, A WEALTH OF POSSIBILITIES, NAVIGATING FAMILY, MONEY, AND LEGACY, p.13 (Egremont Press, 2012).

psychologists, that approach may in fact be exactly the wrong stimulus, and it is therefore another reason why the limited inheritance approach is an unfortunate idea.

In the next post, I will address the pitfalls of attempting to "right size" the inheritance.

Richard Franklin
rfranklin@fkl-law.com

<u>Author's Note</u>: The ideas expressed in this series of posts are mine and not necessarily those of my firm. I understand that all families are unique and that the topic involves a deeply personal domain. The ideas will be not useful for everyone. My hope, however, is that the posts provide a springboard for discussion and engagement.

FRANKLIN KARIBJANIAN & LAW PLLC

1101 17th Street N.W., Washington, DC 20036

(p) 202-857-3434 | (f) 202 -463-3060 | www.fkl-law.com

In Posts #1 -- #3, I addressed why I believe the "limited inheritance" approach is an unfortunate idea. This post continues the analysis by focusing on its close relative, the "right sized" inheritance.

Reason #4: "Right Sizing" the Inheritance

Many parents believe that their values have contributed to their financial success and the quality of their lives. They want to protect against the risk that their accumulated wealth will undermine those values in their children. Some of these parents seize on the idea that they can dial-in (or "right size") the inheritance so that it is sufficient to enable their children to "do anything," as Warren Buffet suggests, but not so much that it encourages laziness or profligacy. Northern Trust, in its book LEGACY, CONVERSATIONS ABOUT WEALTH TRANSFER, attempts to recast the question to focus on how much is *too* much?[1]

Just as there are concerns with the limited inheritance approach, there are hazards attempting to "right size." Most important among these is deciding what amount is needed to "do anything." Consider the example of Elon Musk (who is by any possible standard, productive and engaged). Musk invested $100 million of his own money into SpaceX (the rest of the $180 million he made from the sale of PayPal he invested into Tesla). The first three Falcon rocket launches failed. Musk said of his most difficult time in 2008: "It's bad enough to have three strikes. Having four strikes is really kaput."[2] Investment money had dried-up, the company was in debt and running on financial fumes. It achieved new life, however, when its fourth attempted launch was successful and SpaceX's Falcon 1 rocket became the first privately developed liquid-fuel launch vehicle to orbit the earth. Three months later, NASA awarded it a contract to resupply the International Space Station and new capital from investors flowed into the company.

Now suppose that fourth attempt had *failed* and Musk needed a fifth launch for SpaceX to achieve viability. If he had been an inheritor from a family of great wealth, a "right-sized" inheritance may

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[1] Northern Trust, LEGACY, CONVERSATIONS ABOUT WEALTH TRANSFER (2d. 2011, TriMark Press).
[2] FAST CARS AND ROCKET SHIPS, 60 Minutes Interview with Scott Pelley (March 30, 2014).

have made that fifth launch financially impossible. To some inheritors, accumulated family wealth could be a useful resource in achieving their full potential and flourishing. The amount needed to "do anything" might just be "everything."

Some may think, "Well, Elon Musk is not a good example. He is one in a billion and we can't plan our estate on the possibility there will be an Elon in our family." Okay, so let's suppose instead the potential inheritor is an attorney who went to a top 25 law school and thereafter had a 20 year career as a litigator at a large law firm. She is by all accounts skilled and well regarded, has earned a good income and been financially independent. Suppose further that she comes to believe that women's rights are under attack and in jeopardy. She concludes that all of her litigation experience has been for the purpose of starting her own firm – one devoted to pursuing women's rights cases on a national basis, strategically selecting cases for the greatest potential impact. She has the experience, national network of connections, and committed passion to make a meaningful difference. Accumulated family wealth could be a useful resource to her in capitalizing the new firm and pursuing her vision. How much is needed to counter a national reversal in women's rights?

Someone else might argue, "Where is the wisdom in allowing someone like Musk – a grand scale thinker and entrepreneur, to risk losing the family wealth on a risky venture? Perhaps some limits may be appropriate, but one of the advantages of having wealth is that it allows for risk taking that is often not possible for people with less resources. What better way is there to use family wealth than in opening the door to innovative and creative efforts? Parents want their children and descendants to be productive and engaged, and to be passionate about accomplishing something meaningful. Keeping wealth in the family where it can support and further these endeavors is, as the adage goes, "putting your money where your mouth is."

Having access to family wealth in order to support innovation and creativity is an advantage that's not available to much of the world's population. Another possible pitfall of the "right sized" inheritance is that it potentially limits innovation and creativity and associated risk taking. The Musk story is again instructive. He thought that Tesla would likely fail, but that the goal – the viability of electric cars – was important enough to try. This type of risk taking, whether it's in the for-profit space (like Musk with SpaceX and Tesla) or non-profit space (like the Bill and Melinda Gates Foundation and its pioneering work in the developing world), is by some measure limited to those of substantial financial means.

Consider another point related to Musk and SpaceX. Since 2013, Musk has considered the possibility of SpaceX becoming a publicly traded company. Yet his fear that the company would be used for near-term profit has caused him to reject any IPO.[3] After all, Musk wants SpaceX to have regular missions to Mars! He wants innovation and creativity to be at the core of his company, and his vision for SpaceX is on-going. In similar situations, preserved family wealth could strategically support such efforts. Families can simply choose to have a long-term investment horizon, which may not be possible with public or private equity investors. Again, the amount needed to "do anything" might just be "everything."

Finally, with respect to "right sizing," consider that the individual in the family who could most benefit in this manner from the family wealth may not even be known right now. It could be a child, but the need may not arise during the parent's lifetime. It could be a great-grandchild the parent never meets.

Future posts will develop the positive and inclusive approach that I suggest families consider – an approach that is not just for the uber wealthy, but for families of all means.

Richard Franklin
rfranklin@fkl-law.com
Twitter @richsfranklin

FRANKLIN KARIBJANIAN & LAW PLLC

1101 17th Street N.W., Washington, DC 20036

(p) 202-857-3434 | (f) 202 -463-3060 | www.fkl-law.com

[3] *See Generally*, SpaceX: This Is Why Elon Musk Will Never Have a SpaceX IPO, Profit Confidential (July 24, 2016).

FLORENCE, FOUNDATIONS & FRESCOES

AUGUST 21, 2017

In prior posts, I addressed four reasons why I think the "limited inheritance" approach is an unfortunate idea. It is my belief that preserving family wealth through the generations can be to the family's clear advantage. This and future posts will develop a positive and inclusive approach that I suggest families consider. It is not based on a few worst case examples of ne'er-do-well inheritors, but rather is geared towards the larger population of inheritors who are productive and engaged and who, with some guidance, could use family wealth to support reaching their full potential.

Foundation to Flourish

Preserved family wealth can be used to create a foundation for descendants to flourish in the higher arts (see the Adams' quote in Post #1) or in other activities that allow them to reach their full potential. Let me use some imagery to make the point. I want you to imagine one of the greatest cathedrals of Europe, the Santa Maria del Fiore – the Duomo – in Florence. The cathedral's foundation is immense, the walls at its base are many feet wide.[1] Laying the foundation was a necessary prerequisite for building the inspiring structure above ground. If you visit this magnificent cathedral, it is the part above ground that demands your attention. The vast open spaces, the frescos, and the dome reaching to the heavens have been inspiring people for hundreds of years. These elements are the flourishes, and by analogy to Dr. Abraham Maslow's chart for an individual's development (see Post #1), they represent the higher levels of functioning – i.e., the art, beauty, and transcendence of reaching one's full potential.

The foundation of the cathedral is analogous to the base layers of Dr. Maslow's chart – physiological needs of food, shelter and safety. Unless these are satisfied, the individual cannot focus too well on flourishing and reaching his or her full potential. To connect the imagery back to inheritance, preserving family wealth will help the individual spend less time on rebuilding the foundation[2] and more time on the flourishes that may lead to self-actualization.

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[1] To give you an idea, the walls at the base of the cathedral's dome are 13 feet wide. *See generally*, W. Momtalbano, *Piazza, Duomo Work : In Florence, It's Politics vs. Preservation* (LA Times, January 21, 1988).

[2] Maybe from time to time some rebuilding will be necessary. The existing Duomo was built upon the site of an earlier church

Surely those building the foundation of the Duomo struggled to do so and likewise many individuals struggle with satisfying the base layers in their individual lives. The Duomo's foundation has been supporting the enormous weight above it since it was constructed. Similarly, a wealthy family might build a framework that satisfies the base layers for its future descendants for centuries to come. Thereafter, in the case of the Duomo or the family, the focus is on flourishing and reaching full potential!

To be sure, shifting the focus to the flourishing phase does not eliminate all struggles. For example, Filippo Brunelleschi was the architect of the Duomo's dome, which was built over three decades, from 1420 into the 1450s. Even today, you would be hard pressed to find a greater architectural achievement and certainly this project represented the best of Brunelleschi. Yet he struggled mightily with the dome's design and construction, which was significantly larger than any prior dome constructed.[3] Had Brunelleschi been bogged down with rebuilding the foundation first, he would not have had sufficient time to unleash his full creativity in the dome's construction. Shortening the flourishing phase is one danger of the limited inheritance approach.

As mentioned earlier, Dr. Maslow postulated that the drive to seek one's highest purpose or to "actualize" is a given if the other needs were satisfied. Dr. Carl Rogers echoed this idea and believed that every individual can achieve their goals, wishes and desires in life, if the conditions are right. The writings of these humanistic psychologists do not indicate that the child must satisfy the lower level needs herself, rather than having the base needs satisfied by family wealth. Of course, family wealth cannot satisfy the middle level needs for love, belonging and self-esteem on Dr. Maslow's chart,[4] but *intelligent and engaged wealthy parents* ought to be just as capable of promoting the satisfaction of these needs as other less wealthy parents. Therefore, consider the extent to which parents can help ensure that fundamental needs are satisfied, including the sense of love, belonging and self-esteem. The idea here is that preserving family wealth can be part of a comprehensive strategy of supporting children to move beyond the base needs and allow them and future descendants to focus on their transcendent highest motivation. The message to parents

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dating from the 5th century, this cathedral dedicated to Florence's patron saint, Saint Reparata. This earlier structure was crumbling by the 12th century.

[3] *See generally*, King, BRUNELLESCHI'S DOME (Penguin Books 2013).

[4] On the other hand, consider whether the limited inheritance plan would be interpreted as reflecting a lack of love and undermine this goal.

is to refocus their energies on creating the circumstances that allow the child to feel love and belonging, and for the child to develop a deep sense of self-esteem.

The suggestion is that the preservation approach is a form of unconditional positive regard (see Post #3) and therefore is better suited than the limited inheritance plan to help achieve the goal of having productive and engaged children. Imagine parents working inclusively with their children over the arc of the parents' lives to establish a framework that preserves the wealth as a tool in support of the children reaching their full potential, as well as prepares them financially, socially and psychologically to be responsible and self-aware inheritors.

This approach is not just for the uber wealthy, but for families of all means.

Future posts will flesh out the suggested approach of maintaining wealth within the family.

Richard Franklin
rfranklin@fkl-law.com
Twitter @richsfranklin

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Family Wealth Series - Post # 6
Cliffs to Inclines

August 31, 2017

In Post #5, I addressed preserving family wealth as a foundation in support of children and future descendants reaching their full potential. In this post, I start to develop how that can be done.

Engage over Arc of Life Expectancy

I believe in the wisdom of preserving family wealth, but this is not done in one or two simple steps. In fact, I suggest that parents think of it as a lifelong process that runs along several tracks simultaneously. At its essence, it is a continuous transitioning of family values, wealth and control, while simultaneously educating and positively supporting the growth of future generations. Educating in what sense? Heirs need to develop financial/estate planning acumen, and be fully aware of the social and psychological implications of living with wealth. As for supporting growth, that translates to unconditional positive regard. And it is a lifelong process because transitioning slowly over the arc of the parents' lifetimes avoids the risk of an abrupt and unpredictable transition at the time of a parent's passing.

Traditionally, the death of a parent or other relative was the event that triggered a wealth transfer to the next generation. The timing of death is, of course, beyond our knowing. Therefore, in large measure, the traditional approach makes the entire process of wealth transfer subject to the vagaries of circumstances beyond the family's control. In families of substantial wealth, I recommend abandoning this outdated approach and taking control of the wealth transfer process.

Without planning, the infusion of a substantial inheritance upon an ancestor's death can be disruptive. It is by analogy a cliff event – meaning the inheritor has to scale the cliff face. The wealth should be beneficial and it certainly holds that potential. But the inheritor may not be prepared for the wealth. The cliff face becomes a series of challenges: How will the wealth be invested and managed? Who can be trusted to assist the inheritor? How should the inheritor use the wealth (i.e., for new cars, houses, art, jobs, education, travel, gifts, investments)? How will the wealth affect the inheritor's relationships with other family members and friends? Moreover, these questions frequently come at a heartbreaking and emotionally charged time following a family member's death.[1] These concerns all combine to make this an especially difficult time to be intentional, thoughtful and self-aware.

For example, if the inheritor quickly moves to a new and more affluent neighborhood, will he or she feel comfortable and connected in the new area? What are the occupations and backgrounds of the other homeowners? What commonalities are present? How will such a move affect the other family members, inside and outside the immediate household? Will the friends and neighbors left behind still feel comfortable being friends with the inheritor who now lives in a more upscale area? Newton's third law of motion -- "for every action, there is an equal and opposite reaction" -- may be apt here too.

A large inheritance has the potential to impact all aspects of the inheritor's life, both positively and negatively. Being prepared and knowledgeable is essential.

To prevent the inheritance from being an abrupt cliff face for the inheritor to climb (and perhaps tumble from), consider a model in which wealth is largely transferred during the ancestor's lifetime. Having a gradual transition over a long period of time can transform the cliff face into a steady incline that's far more easily climbed. A significant advantage of this approach is that the ancestor could simultaneously work with the inheritor to impart both her knowledge of wealth management and her philosophy relating to wealth. Think of how valuable it will be to the inheritor to have the benefit of the ancestor's approach to investment management and financial literacy, including introductions to investment advisors, accountants, attorneys, and the various other professionals who assist with the ancestor's wealth management. This is also the time to teach all that it means to live with wealth and to prepare the inheritor for all of the ramifications – i.e., financial, social and psychological.

It makes no sense to expect the inheritor to handle his or her inheritance responsibly unless he or she is prepared adequately in advance. If you are the ancestor, whose job is it to prepare the inheritor if not yours? Imagine sending your 20-year old son into a college football game with no preparation. Even if he is a talented athlete, he stands a good chance of being hurt or killed unless he has previously played a lot of football. Leave the same son a large inheritance with no training

[1] *See* Jessie O'Neill, THE GOLDEN GHETTO, p. 72 (The Affluenza Project 1997).

and an undesirable result is just as likely. Of course, this does not mean the ancestor must or should conduct all the training. Others can assist—for example, the specified professionals can explain their background and roles, and review their statements and work products. Similarly, wealth counselors can flesh out some of the social and psychological complexities to create a deeper awareness of the effects that wealth can have upon a person's life. All of this training should be focused on preparing the inheritor to use wealth as a tool to reach his or her full potential, and keeping the wealth protected for future generations to benefit in the same way.

It is my belief that, through thoughtful education, families can avoid many of the risks identified with inherited wealth. For example, inheritors frequently experience guilty feelings related to having not earned the wealth. Some inheritors feel inferior to well-heeled counterparts who did earn their wealth. Some inheritors harbor feelings that they are "less." On the other hand, many wealthy individuals feel superior, considering themselves unique, special and elevated above the rest of mankind. "Terminal uniqueness" is a term for this affectation.[2] These distorted views, albeit at opposite ends of the spectrum, work to create distance between the inheritor and the rest of the world.

It is critical to gain the perspective and self-awareness that the inheritor is an individual – separate and distinct from the wealth. As an individual, the inheritor is no better than any other individual, and no worse either. The inheritor, like any other individual, is empowered by the basic freedoms to love and be loved, to be respected as a fully sentient being, and to be entitled to his or her space on the planet. Inheriting wealth does not change these universal rights.

Thoughtful education and a deliberate and ongoing transition should help avoid cliff events and prepare the inheritor for what lies ahead.

Future posts will flesh out other benefits of this positive and inclusive continuum of transition.

Richard Franklin
rfranklin@fkl-law.com
Twitter @richsfranklin

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[2] Golden Ghetto, supra note 1, p.59.

FRANKLIN KARIBJANIAN & LAW PLLC

1101 17th Street N.W., Washington, DC 20036

(p) 202-857-3434 | (f) 202 -463-3060 | www.fkl-law.com

In Post #6, I introduced the idea of a life-long process of transferring family values, wealth and control, while simultaneously educating future generations and positively supporting their growth. This approach compliments the ever extending life expectancy of the affluent.

Prince Charles Effect

Life expectancy for the affluent is nearing 100 years in the United States. The average life expectancy presently stands at 81.2 years for females and 76.4 years for males (based on 2012 data as reported by the Centers for Disease Control and Prevention's National Center for Health Statistics). However, the statistics for the wealthy are substantially better: 91.9 years for females and 88.8 years for males.[1] Other reports show a 13 to 15 year life expectancy edge for the affluent.[2] According to census data, the over 85 age group is the fastest growing demographic in the US. Surviving baby boomers will be over age 85 by 2050.[3]

This means that wealth holders must plan for their own financial security with a longer time horizon. Some companies are now offering individually prepared longevity analyses to enable individuals to better plan for their future needs, as well as engage in estate and wealth transfer planning. This may provide some individuals with greater confidence than just relying on age based tables.[4]

This actuarial data also means that children are often in their 70s before inheriting wealth from parents at their passing. This is analogous to Prince Charles, age 68, waiting to inherit the throne from his mother, Queen Elizabeth II, age 91! Thoughtful family wealth planning should take account of this increasing life expectancy.

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[1] *See* Max Ehrenfreund, The stunning — and expanding — gap in life expectancy between the rich and the poor, The Washington Post (Sept. 18, 2015).

[2] *See* Ben Steverman, The Rich Are Living Longer and Taking More From Taxpayers, Bloomberg (April, 24, 2017); Rich Americans Live Up To 15 Years Longer Than Poor Peers, Studies Find, The Guardian (April 6, 2017); Peter Dizikes, New Study Shows Rich, Poor Have Huge Mortality Gap in U.S., MIT News (April 11, 2016).

[3] Ortman, Velkoff & Hogan, An Aging Nation: The Older Population in the United States, Current Population Reports (May 2014).

[4] Jamie L. Mendelsohn, Longevity Throws a Wild Card in Even the Best-Laid Plans, J. Fin. Serv. Prof. (May 2017).

A benefit of transferring wealth that's intended for family during the lifetime of the parents (as proposed in Post #6) is that it will be available sooner to the children and more remote descendants – perhaps through irrevocable trusts, designed as the parents deem appropriate. This enables at least a portion of the family wealth to be available to assist the descendants in their quest for fulfillment before they retire from that effort. This likely also reduces the negative energy associated with a prolonged anticipation of inheriting wealth upon death, as well as mitigates the possibility of a cliff event (as noted in Post #6).

Moreover, there is a connection between the Prince Charles Effect and the concern over the growing income and wealth inequality. The connection intersects with that unfortunate limited inheritance idea. From 1980 to 2012, the richest one percent's share of national income grew from about 8% to 20% and the bottom fiftieth percent's share of national income declined from about 18% to 12%.[5] The richest 85 individuals hold as much wealth as the poorest half of the world's population.[6] This economic disparity is more pronounced in the United States than other first world countries.[7] The predictable end result of this trend, based on historical precedent, is pitchforks for the super-rich, plutocrats and crony capitalists – think the French Revolution![8]

But it's not just an economic disparity. It's much more fundamental than that. It's life itself. The statistics noted earlier indicate that affluent individuals have, on average, a 15 year life expectancy advantage. Among the reasons for this advantage: the affluent individual is likely better educated, lives in a city, does not smoke, is not overweight and has access to good health care – i.e., is not one of the millions of Americans who cannot afford health care or health care coverage. Imagine this wealthy individual eating organic, when choice is available (and not stressing over the cost difference), driving safe cars, and on and on.

Economic inequality is also driving an education disparity. In the quest to educate America's children, social class is becoming a barrier.[9] Parents from lower economic rungs simply cannot keep up with their wealthy counterparts in providing quality preschool, tutors, private schools, enrichment, etc., and the chasm is widening.[10] Commentator Chrystia Freeland observed that as

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[5] *See* C. Freeland, The Rise of the New Global Super-Rich, TED Talk (June 2013); N. Hanauer, Beware, Fellow Plutocrats, The Pitchforks are Coming, TED Talk (August 2014).
[6] L. Shin, The 85 Richest People In The World Have As Much Wealth As The 3.5 Billion Poorest, Forbes (January 23, 2014).
[7] *See* T. Piketty, New Thoughts on Capital in the Twenty-First Century, TED Talks (June 2014).
[8] *See* Hanauer, *supra* note 5; E. Sherman, 7 Billionaires Worried About Income Inequality, Fortune (November 28, 2015).
[9] R. Reeves, Stop Pretending You're Not Rich, New York Times (June 10, 2017).
[10] *See* E. Porter, Education Gap Between Rich and Poor is Growing Wider, New York Times (September 22, 2015). *See also*, R. Wilkinson, How Economic Inequality Harms Societies, TED Talks (July 2011).

economic inequity increases, social mobility decreases.[11] There are more children from families with annual incomes in the top 1% now attending the nation's top schools than from families comprising the entire bottom 60% of the income scale.[12]

Growing economic inequity is a fact. It makes preserving family wealth more critical to each future generation, otherwise they will be at a competitive disadvantage. Limited inheritance is an especially risky approach at a time when income and wealth inequity has limited social mobility. There's also the point that being on the short side of this economic divide risks life itself.

The concerns raised here about the Prince Charles Effect and economic inequity argue for keeping family wealth and beginning a thoughtful transition of this inheritance during the wealth holder's lifetime.

Future posts will flesh out other benefits of this positive and inclusive continuum of transition.

Richard Franklin
rfranklin@fkl-law.com
Twitter @richsfranklin

FRANKLIN KARIBJANIAN & LAW PLLC

1101 17th Street N.W., Washington, DC 20036

(p) 202-857-3434 | (f) 202 -463-3060 | www.fkl-law.com

[11] *See supra* note 5.
[12] Aisch, Buchanan, Cox, Quealy, Some Colleges Have More Students from the Top 1 Percent Than the Bottom 60. Find Yours., New York Times (Jan. 18, 2017); *see also*, M. Zinshteyn, The Growing College Degree Wealth Gap, The Atlantic (April 25, 2016)(only 4% of students at the top schools are from the lowest socioeconomic rung).

In Post #6, I introduced the idea of a life-long process of transferring family values, wealth and control, while simultaneously educating future generations and supporting their growth. Post #7 outlined one benefit of this approach in relation to the "Prince Charles Effect." This Post explores the need to address transfer of control.

Continuously Concerned with Control

Keep in mind our critical focus: To build a foundation that is enduring, and that ensures accumulated family capital is maintained within the family long-term as a tool to help family members reach their full potential. You'll recall my analogy to Florence's Duomo (Post #5) in which I suggested that families endeavor to build a foundation that will last for centuries to come, much like the accomplishment of the builders of the cathedral's foundation. But a core stumbling block for many families is their reluctance to address the multi-dimensional impacts of "control."

One dimension of control is at the wealth holder level, which is thought to be the most critical one and therefore tends to receive the most attention. For example, it's common to encounter the patriarch or matriarch who refuses to focus at all on transiting control – not even developing a plan by which it will be done in the future. In part, this is understandable. Often the wealth holder has built the business, fortune or estate. It represents a large part of their life's effort. Entrusting even a portion of it to someone else, even family, is fraught with anxiety. There is also concern about what the patriarch or matriarch will do with the rest of their life if they walk away.

Whether addressing a family business or a portfolio of passive investments, the ancestor with control must teach the subsequent generations how to give up control. There may be no better model for doing this than George Washington. In 1783, following the Treaty of Paris that ended the Revolutionary War, Washington resigned his commission and returned to his home at Mount Vernon. Under the new Constitution ratified in 1788, Washington was unanimously elected as the first President. In 1797, after serving two terms as President, Washington again returned to private life at Mount Vernon. His main motivation gets a modern but accurate portrayal in the Broadway musical *Hamilton*, when Washington explains (or rather raps) to Hamilton that the country will learn to move along if he does not seek reelection.[1] With this selfless act, Washington taught the young Republic about the peaceful transition of power or control. The family patriarch or matriarch must be focused on teaching the same lesson to future generations.

If you ask the patriarch or matriarch if they are the leader of the family or business, most likely they will answer "yes" without hesitation. That being the case, whose job is it to develop a plan for transitioning control if not the current leader? And that leader has the responsibility to avoid making control a cliff event, as discussed in Post #6.

Of course, before being taught the lesson of giving up control, the succeeding generation must be trained adequately and have the technical skills to actually do the job of maintaining the inheritance. This process may take many years, which is all the more reason this should be permanently on the agenda.[2] There is elasticity in designing the transition of control: it can be gradual or partial and complementary to the family's unique circumstance. However designed, the ultimate goal of this planning will be to move beyond the transition to teaching the final lesson – how to move on. This completes the circle and provides an example for future generations to follow.

My advice is to consider separating the role of patriarch or matriarch from financial control. Will the wealth holder still be the patriarch or matriarch if he or she doesn't control all financial decisions?

There is also the dimension of control at the inheritor's level. Post #3 touched on the point that it is counterproductive for parents to attempt to control a child's pursuits towards achieving his or her highest potential. But there is another element of control to consider from the inheritor's side and that is what control should the inheritor have over his or her inheritance, and when?

My suggestion is to consider the merits of an approach whereby each inheritor is vested with control over his or her inheritance, or at least a portion of it. If assets are slowly transitioned during the wealth holder's lifetime, the control of those assets by the inheritor could likewise be passed on incrementally during the wealth holder's lifetime (i.e., as part of the overall program of educating on the financial, social and psychological implications of wealth). The inheritor's

[1] Lin-Manuel Miranda, *One Last Time*, from HAMILTON, AN AMERICAN MUSICAL.

[2] This Post is addressing the broad conceptual idea. In actual practice, standards and other criteria may be established for each position of control – i.e., college degree, relevant graduate studies, and progressive experience in the particular area.

control might come from owning the transferred property outright or having control as trustee over a trust established for the inheritor's benefit.

This latter idea addresses the need of inheritors for some self-determination. Allowing for the inheritor to control his or her own investment direction is one way to help gratify this need. For example, the wealth holder and family could create opportunities for family members to invest together. From the pools of wealth that each family member separately controls, the individual family members could determine whether to join in the investment. If the family learns the value of pooling resources for co-investing, with each member at liberty to participate or not, then the family has created an approach that is likely to be enduring. Rather than force family members to join together, this approach promotes family investing as an idea that family members freely choose over other alternatives.

Post #9 will address ideas for integrating philanthropy and charitable planning into the approach of preserving the wealth in the family.

Richard Franklin
rfranklin@fkl-law.com
Twitter @richsfranklin

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FRANKLIN KARIBJANIAN & LAW PLLC

1101 17th Street N.W., Washington, DC 20036

(p) 202-857-3434 | (f) 202 -463-3060 | www.fkl-law.com

At the very outset of this Family Wealth Series, I suggested maintaining accumulated family wealth in the family as a tool to help family members reach their full potential. But what about charity?

Philanthropy and Social Wealth

Everyone likely accepts the idea that thoughtfully incorporating charitable giving into a family's philosophy and regular activities can help establish shared values, as well as expand life experiences and stimulate connections with diverse people and places of the world. In Warren Buffett's "sink or swim" limited inheritance approach, the vast majority of accumulated wealth goes to charity. However, just giving most of the family wealth to charity may have absolutely nothing to do with sharing values or providing enriching life experiences to the succeeding generations.

My suggestion is to use charitable planning in an inclusive and positive way within the family, and design it to work synergistically with the goal of maintaining generational wealth. Rather than limit or "right size" the family's portion of the accumulated wealth, consider the merits of flipping that approach to the charitable portion. The general approach would be to favor family first, for the reasons described in prior posts, but preserve and incorporate charitable planning and philanthropy to achieve personal and family goals. Typically, these goals fall into three categories.

1. Faith Determined

For millennia, individuals have been giving guided by faith based principles. Even today, a religious connection appears to motivate greater charitable giving to both religious and secular charities. A 2013 study found that among religiously affiliated Americans 65% made charitable gifts compared to 56% of those claiming no such affiliation.[1]

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[1] Alex Daniels, *Religious Americans Give More, New Study Finds*, The Chronicle of Philanthropy (November 25, 2013).

2. Project Determined

Perhaps the greatest motivator of charitable gifts and philanthropy is the desire to achieve a specific goal. At any given time, the family – together or individually – can make gifts to achieve charitable goals that are meaningful to them. Even though I am not suggesting that the family set an arbitrary amount aside for charity, an idea promoted by some of the world's billionaires (as mentioned in Post #1 relating to the Charitable Pledge), the family is always free to give as much as desired to achieve their chosen objectives. So the family is not foreclosed from charitable gifts, but rather than giving arbitrary portions of the family's accumulated wealth, I suggest giving to projects and activities that the family identifies from time to time. This basis for charitable giving is more organic, often closely-related to the individual's values, and likely to provide the greatest emotional gratification.

3. Tax Determined

In many cases an individual will be incentivized towards charitable giving because of available tax breaks. In effect, charitable planning can allow the family to keep control of "social" wealth that otherwise is frequently paid to the government in the form of income or estate taxes. For example, a plan that I recommend is to transfer the bulk of family wealth during the wealth holder's lifetime – typically through trusts – because it is far more efficient for gift and estate tax purposes,[2] it avoids cliff events (see <u>Post #6</u>), and it mitigates the "Prince Charles Effect" (see <u>Post #7</u>). With substantial family wealth transferred during his or her lifetime, the wealth holder can then leave the remaining estate to charity (usually a pre-established private family foundation that the family controls) and completely avoid all estate taxes, federal and state. If the estate tax is 50%, which is the approximate effective rate of taxation in DC and Maryland (at maximum rates), the cost to the family of this "remainder-to-charity" plan is 50% of those assets because the other 50% would have been paid to the government in estate taxes. In other words, every dollar remaining in the estate that is given to a family foundation only costs the family 50 cents. This remainder-to-charity plan therefore allows the family to keep control (through the family foundation) of the entire

[2] Over the past two years, my law partner, Lester B. Law, and I prepared an extensive economic modeling approach and gave presentations at many of the largest continuing legal education programs around the country to other estate & trust lawyers proving the economic benefits of lifetime giving. *See e.g.*, Franklin & Law, *Never Pay Estate Taxes - The Annual Taxable Gift Approach with a CLAT Remainder*, 46th Annual Estate Planning Seminar, Estate Planning Council of Portland, Oregon (January 20, 2017); Franklin & Law, *Extraordinary, Efficient, Elegant, Evolutionary: The Annual Taxable Gifts Approach and Testamentary CLAT Remainder*, 51st Heckerling Institute on Estate Planning (January 11, 2017).

remaining estate including the social wealth, which otherwise would have been paid to the government.

However, these remainder-to-charity plans, or any large charitable gift upon death, can be structured to potentially provide generational benefits – i.e., they can work synergistically with the goal of maintaining family wealth. In my article *The Intermediary CLAT Alternative to the Residuary Estate Family Foundation Gift,*[3] I suggested an alternative to leaving the remainder of the estate directly to the family foundation. An intermediary charitable lead annuity trust will pay the estate remainder to the family foundation over a number of years, yet have the same federal estate tax benefit as a direct bequest. This approach helps maintain generational wealth because the Intermediary CLAT allows for the possibility of a reinfusion of wealth to the succeeding generation. A reinfusion that comes at no estate tax cost. The transfer to a CLAT also provides a framework in which family members could purchase private company interests or other illiquid assets from the ancestor's estate without running afoul of the self-dealing rules and perhaps provide a little more privacy.

The CLAT would receive the ancestor's remaining assets and pay an annuity to the family foundation over a period of time, say 20 years. The annuity payment would be determined as a fixed percentage of the fair market value of the property transferred into the CLAT on the ancestor's death. The annuity payments would be designed to have an aggregate present value (based on the applicable IRS interest rate) equal to the fair market value of the remaining ancestor's estate. A 100% charitable estate tax deduction is available for the aggregate present value of the annuity payments. After the annuity payments end, upon conclusion of the 20-year term, the CLAT remainder passes to the children or to trusts for their benefit. The remainder interest held by children would have a zero value upon the ancestor's death and therefore cause no transfer tax (meaning no gift, estate or GST tax). This allows for a possible reinfusion of wealth to the family in 20 years or so at no transfer tax costs. Moreover, the children could control and administer the CLAT and could take a reasonable trustee's fee for doing so. Amazingly, we illustrated in the *Intermediary CLAT* article, through Monte Carlo simulations, that this approach also enables the

[3] Franklin & Birchfield, Vol. 39, No. 3, ACTEC Law Journal, 355 (Winter 2013 [actually published Jan. '15]).

family foundation's endowment to be larger at the end of the CLAT term than the endowment would be with a direct bequest.[4]

Therefore, it is entirely possible to promote a symbiotic relationship between substantial charitable giving and family wealth – a relationship that is beneficial to both the family and charity. I firmly believe that charity is better off in the long-run if a family is able to maintain the bulk of its wealth (staving off the "shirtsleeves to shirtsleeves" in three generations dynamic and/or the preemptively negative limited inheritance approach), because this enables the family to continue providing substantial support to charitable causes into the future. Of course, this long-run approach can be thoughtfully used by the family to teach values, expand life experiences and stimulate connections with diverse people and places of the world.

Post #10 will explain why "positivity" should be at the core of your family wealth and inheritance planning. Post #10 will also conclude this Family Wealth Series of posts!

Richard Franklin
rfranklin@fkl-law.com
Twitter @richsfranklin

FRANKLIN KARIBJANIAN & LAW PLLC

1101 17th Street N.W., Washington, DC 20036

(p) 202-857-3434 | (f) 202 -463-3060 | www.fkl-law.com

4 This approach has other benefits too. Rather than flooding the family foundation with a large bequest that may overwhelm its existing operation, staging the large charitable bequest over a period of years allows the family foundation time to grow its operation to match its larger endowment.

POSITIVELY AT CORE

In prior posts, I addressed the reasoning behind preserving family wealth as a way to help children and future descendants reach their full potential and also provided ideas for implementing the approach. In this post, I outline the core thinking behind the approach I recommend.

Positive Approach

In my initial Post #1, I proposed that the goal of wealth inheritance should be for children and grandchildren to reach their full potential – self-actualization – rather than just being productive and engaged. This idea is based on the writings of humanist psychologist Dr. Abraham Maslow. For wealth holders surveying the landscape of possible ways to dispose of accumulated wealth while fulfilling this "full potential" goal, I suggested an approach that is positive and inclusive. Towards that end, I further suggested working inclusively with the children over the arc of the wealth holder's life to establish a framework that accomplishes two things: preserving the wealth as a tool in support of the inheritors reaching their full potential, and preparing the inheritors to be financially, socially and psychologically responsible and self-aware. It is my belief that this approach, built on a foundation of positivity, is more likely to create circumstances in which inheritors function and thrive at a higher level.

Why is positivity so important and what justifies it being at the core of this approach? The answer is that deep inside, humans are positive in nature—and to engage this positivity it's necessary to reach into those depths of being.[1] The core desire of wealth holders is for their inheritors to have engaged and meaningful lives. This natural desire reflects love and positivity. The approach to family wealth and inheritance planning should reflect that same depth of love and positivity. Therefore, in this dynamic, the wealth holder and inheritor are connected at their core, positive to positive.

It is worth noting that working with the children is, in itself, an inclusive act that typifies the belonging level on Dr. Maslow's chart of needs. The parents in this paradigm are showing trust

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[1] C. Rogers, ON BECOMING A PERSON, p. 73, Houghton Mifflin (Boston 1961). Yes, in case you are wondering, I reject the idea promoted by philosopher Thomas Hobbes that humans are selfish and brutish at their core.

and faith in the children by bringing the children into the discussion and mission. The need for belonging is a two-way street, and by taking this step the parents are including themselves, too.

Even if parents positively engage with their family to preserve the wealth through the generations as part of a comprehensive strategy to convey a sense of love and belongingness, the plan might fail to produce the desired result. The favorable circumstances that allow a child to develop his or her full potential can exist, but the child must – of his or her free will – consent to the actualization of that potential. The parent does not control that part.

By focusing on the positive, which the preservation approach supports, the descendants are more empowered by the acts of their parents. This shifts the focus to the child's role and away from the parents. And maybe, just maybe, the fruits of the preservation plan will help the children reach their full potential.

There are risks posed by inherited wealth, which can broadly range from low self-esteem, delayed emotional development, poor motivation, boredom, guilt, and feelings of alienation and being "less than" others because the wealth and position have not been earned. As mentioned in Post #6, a proactive family can educate and engage to minimize these risks. After all, we have learned to lower stress through yoga, meditation, and exercise; lower the risk of cancer by diet, physical activity and early detection; and on and on. Surely a family can use education to mitigate the risks associated with inherited wealth.

Three final suggestions:

<u>Engage</u>. Be engaged and deliberate – few great projects (think the Duomo's foundation) are accomplished by happenstance. It's hard work. Don't dwell on the past, but engage now, in the present, to design and develop the conditions for future generations to flourish.

<u>Communicate</u>. For many parents communication is difficult, especially with other family members, regarding values, wealth, finances, inheritance and related issues. But communicating with difficulty is better than not communicating. Listen to the TED Talk entitled "<u>Your body language may shape who you are</u>" by Harvard Professor Amy Cuddy, and fake being a good communicator until you *become* it.

<u>Get Help</u>. For numerous reasons, you shouldn't do it alone. When feasible, assemble a team of advisors, such as financial planners, investment advisors, trust & estate attorneys, psychologists and counselors. A good team can help facilitate the approach and keep the project on track.

This concludes my Family Wealth Series. I hope these posts have helped you consider family inheritance in a new light!

Richard Franklin
rfranklin@fkl-law.com
Twitter @richsfranklin

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FRANKLIN KARIBJANIAN & LAW PLLC

1101 17th Street N.W., Washington, DC 20036

(p) 202-857-3434 | (f) 202 -463-3060 | www.fkl-law.com