CV article

FEATURE:
ESTATE PLANNING & TAXATION

By **Philip Cubeta, Thomas Rogerson** & **Martin M. Shenkman**

Legacy Planning Teams

Lessons learned from family offices, private banks and best-of-breed teams of independents

Legacy planning is changing. Fewer clients need estate tax planning. Robo-advisors and artificial intelligence are making it more difficult for investment firms to justify their services. To differentiate themselves, add value and compete, many estate-planning and wealth management professionals are evolving toward integrated, multi-generational wealth management. Such planning not only includes the quantitative planning elements, such as tax, investment, life insurance and fiduciary planning, but also considers the qualitative elements, such as philanthropy, family dynamics and family governance.[1]

Let's examine three primary business models for integrated, multi-generational wealth management for successful families: (1) the family office, (2) private bank, and (3) best-of-breed independent advisors (independents). Each model has advantages, each has challenges and each requires teaming across the disciplines.

Family Office Model

A single family office (SFO) serves, as the name implies, one family. Multi-family offices (MFOs) serve several families.[2] A family with $100 million might consider forming its own SFO. Families with as little as $20 million might pool their resources to create an MFO. A family office is owned by the families served. Its board is generally drawn from outsiders but also from family members. The family office is staffed primarily with experts hired from outside, but family members may fill several key positions. A typical staff-to-client ratio might be .6 staff person for each client family member.

Each family office must focus on its in-house core competencies and outsource the rest. In-house services may include wealth management, accounting and tax education, some income tax preparation, estate-planning education, some estate tax preparation, concierge services, property and casualty insurance, life insurance, family governance and family dynamics. When complex projects across the disciplines need to be coordinated beyond the capacity of in-house staff, the family office team seeks independent outside players. Ideally, the family office will then coordinate and integrate the work and maintain continuity over time.

Vendors of products and services may have relationships with family office staff rather than with the principals directly. To independents, family offices can sometimes seem proprietary and guarded.

In theory, a family office can work with multiple generations and maintain continuity across time. In reality, not all family members may want to avail themselves of family office services. Maintaining the quality and continuity of the family office itself over time may be difficult. What caliber of advisor can be hired in-house? What long-term career path is available? Without constant interaction with independents, the talents of in-house staff may atrophy, and clients may not be offered the best possible solutions.

Private Banking Services

Private banks may serve families with investment assets as low as $1 million to $3 million. A client with $10 million, even if illiquid, may be in the "sweet spot." Clients with $20 million and up may have a choice of going with

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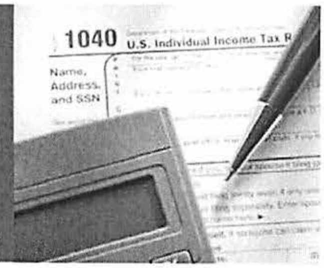


a private bank, MFO or independents. As far as continuity of service across generations goes, private banks are expressly built to last for generations, with clear plans for executive development, career ladders and succession. The private bank may have been founded by a financier or a family, but is today publicly owned. The staff may be expert professionals, but there's usually a wide range of capabilities among different firms and even within the same firm. The board and governance are corporate.

To provide integrated solutions across disciplines, the bank may have client-facing professionals backed by in-house teams of resources. Legal, accounting, financial advisory, investment, trust services, life insurance, commercial lending, banking, family financial education, family governance and family dynamics expertise may be available in-house or through a roster of independent outside professionals. Certain services, such as family governance and family meetings, may be cross-subsidized and offered as a free "value add" for clients of a certain level of wealth. The internal teams may coordinate internal and external resources to provide the client with updates across the client's entire range of concerns as frequently as quarterly.

But, there are challenges. To the client, particularly the trust beneficiary, the bank may seem impersonal, more concerned with managing the money and following the document than with the well-being of the beneficiaries. Banks may be bought out or merged. Trust officers come and go. As public companies, banks have a responsibility to shareholders, a responsibility that may be in tension with client service. The tacit message to bank personnel may be "heads down and numbers up." The greater emphasis may be on getting new business, rather than on caring for existing clients. In a large operation, service quality may vary from in-house team to team. Internal management styles may constrain creativity.

Banks may have excellent internal staff, across many disciplines, but the internal team may work in tension with local advisors. In creating and implementing a plan, the local attorney, CPA and insurance agent may be involved, but may be relegated by the bank to the role of scrivener or vendor. When these internal teams over-represent themselves to clients as the total "one stop shop," with all other professionals as subordinate to them, they can damage their relationships with the client's other advisors. This situation can lead independents, justifiably, to steer clients away from these firms for fear of losing their clients or diminishing their role.

> Some members of the independent team may have succession plans to provide continuity of service.

Independents

Both competing and collaborating with private banks and family offices are independents who form teams across the relevant disciplines to serve their common client. Generally, the team will include a wealth professional and/or a life insurance professional, a tax attorney and a CPA. Additional members may be added for particular projects. Among these team members may be a business exit specialist, a business valuation professional, a family philanthropy expert or a family dynamics specialist. Each individual on the team has his ways of being compensated. There are no cross-subsidies. The independent must bill out a service like assisting with family governance and family meetings rather than providing it as a "value add" as a private bank would do. Some members of the team may accept a fiduciary standard and may or may not be able to serve a client as a trustee.

Certain members of the team, such as the wealth manager or life insurance agent, may represent a national or regional firm offering varying degrees of support to

their top advisors. The frontline advisor accesses specialized staff at a local, regional or national center. The units may, as with private banks, have a range of professionals on staff with credentials like JD, LLM, CPA, CLU, CFP, CAP and AEP. The firms may or may not operate as registered investment advisory firms. They may have a range of product offerings in insurance and investments, but some of these products may be pushed as they're central to the firm's business model.

As with a family office or private bank, the in-house team backing an advisor on a local team may do a preliminary plan, for consideration and implementation by the local team, or the local experts may do it on their own. Either way, the frontline advisor must coordinate with other members of the local planning team not only to create the plan, but also to maintain and modify it over time, perhaps over generations.

Increasingly, clients need integrated services that no one professional can supply.

Often, there's no one on the local team or among the staff at any supporting unit at the financial services company who takes responsibility for project management of the overall integrated plan over time, much less over generations. In practice, it's often the client who's the "telephone operator" calling individual meetings and transferring information among the advisors. Some members of the independent team may have succession plans to provide continuity of service. The team may struggle to remain intact as members die or retire or when the original patriarch or matriarch dies.

Signs of Strain

Many would agree that the future of planning for high-net-worth families belongs to those who can collaborate effectively in the client's best interest. Yet, there are signs of strain. An informal survey of scores of independent estate-planning attorneys and CPAs indicated only a modest percentage, under 10 percent, regularly referred clients to wealth advisors, even when the case included significant wealth planning issues and even if the CPA or attorney couldn't perform financial forecasting calculations in areas like retirement income security.[3] In many instances, unless the client specifically requests a referral, none is made. Here's a sample of the emotionally charged responses:

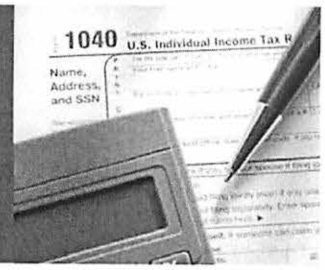
- "Most wealth advisors think 'we're the golden ticket, if the attorney refers us a client, then the client will be better served by us' but that isn't the case."
- "If they don't refer me clients, why should I refer them clients?"
- "We [CPA firm] have a financial services arm…"
- "Banks and financial institutions think CPAs have all the power of persuasion over clients, but clients don't often look to us to determine where to bank."
- "When wealth advisors do fact finding, they muddy the waters."
- "It's best that the wealth manager just issue spot and turn it over to us [attorney/CPA]."
- "I resent trust company in-house counsel reviewing my documents and blessing them. I don't need them to tell me my documents are good. They have failed T&E attorneys on staff reviewing my documents."

The strains are understandable. No highly qualified independent wants to lose control of a case or a client, be subordinated to another advisor or be turned into a vendor or scrivener by a bank or private office. Each professional has established routines, profit models and a "sweet spot" for services most efficiently provided. Yet, increasingly, clients need integrated services that no one professional can supply. And, those solutions must be maintained and updated regularly. In the case of a successful family, the plan may have to work for generations, outliving every professional who built the original legacy plan.

Questions About Your Practice

The most important question, perhaps, isn't "legacy planning trends in general" or the dysfunctions sometimes afflicting any given model, but how you as a leading professional will adapt to, compete and succeed in this changing market place. As you position your services and your firm, here are some questions to consider:

- We've assumed that legacy planning is moving



toward integrated wealth management, including financial security analyses, investment planning, life insurance, business exit planning, fiduciary trust services, family dynamics and family governance, as well as traditional estate-planning services. Has that been your observation, as well? If so, does it follow that teams are the solution, because no one professional, or even firm, has all needed capacities?

- If you're employed by a family office or private bank, are you teaming effectively with independents? Are you treating them as peers and collaborators? What may be lost, for the client and your organization, if you subordinate outside advisors as vendors and scriveners?
- If you're an independent, do you attempt to retain client control by simply brushing aside issues in which you're not competent, but which may be essential to the family's long-term well-being? If your best client families will hold together for 100 years, how will your firm stay with them? Do you have a succession plan for your practice and for the independent planning teams on which you play a key role?
- Whatever your business model, if you do work as part of a collaborative team, when you leave the planning table and return to your office, who'll keep track of the moving parts, particularly when they cross disciplines into areas of adjacent expertise? Do you gain control of the situation by having someone in your firm track progress and integrate the results, or do you assume that you can let another firm play that integrative cross-disciplinary role? Have you staffed to the role of coordinator of all the moving parts? If not, are you being pulled into it in a way that's counterproductive, getting you out of your core competence into the detail oriented world of project management? Do you have the volume and the business model to justify having a qualified project manager on staff?

- Are those with whom you collaborate making the best possible use of technology to meet virtually, share documents, maintain a "punch list" of open items and ultimately provide and service a multi-disciplinary plan? Have you considered the security of that information shared virtually? Have you considered the issues of confidentiality, cross-representation and legal liability that may be involved as planning, data and client confidences cross disciplinary and firm boundaries?

Family offices, private banks and independents strive to collaborate within their own ecosystems as they both compete and collaborate to provide multi-generational wealth management solutions.

- When a project is finished (the business sold, the policy placed, the trust created and the legacy plan done), do you wait for the client to call you for another project? Or, are you coordinating with the other members of the team to provide an integrated snapshot or dashboard to the client once a year, or more often, of where their planning stands overall, not just with you?
- How do you handle qualitative services like family philanthropy, family dynamics and family governance (the soft areas)? If in your marketing territory, family offices and private banks are offering such services as a "value add," what's your response? Do you provide such services going forward? Do you team with independents who do? Do you rely on the bank or family office to do it? And, how then do you maintain your role as lead advisor?

Position Your Practice

Family offices, private banks and independents strive to collaborate within their own ecosystems as they both compete and collaborate to provide multi-generational wealth management solutions. No one model is yet dominant—each model has its strengths and weaknesses. Meeting the challenge of partnering with peers and offering a more integrated wealth management experience for the client over the long term is a lofty goal for any model or group of advisors to meet. More and more, advisors are looking for a better process to accomplish this tall task, and they're increasingly turning to organizations like the National Association of Estate Planners & Councils (NAEPC) and Accredited Estate Planner designees for help. Advisors are realizing, with some urgency, that the future success of their business lies in embracing a collaborative team-based approach of multi-disciplinary professionals and that the time to position their practice is today![4]

—The authors wish to thank Charlie Douglas and Mark Alton, current and past committee chairs of NAEPC's Multi-Disciplinary Teaming Committee, for their time and specific contributions. Many members of NAEPC's Multi-Disciplinary Teaming Committee also contributed to the underlying thought processes on which this article is based: Hartman Axley, Todd A. Fithian, Richard L. Harris, David W. Holaday, Lawrence M. Lehmann, Kit Mac Nee, Laura J. Malone, John T. Midgett, Michael Rush Noland, Tiffany A. O'Connell, Huldah A. Robertson, Judith A. Saxe, John C. Scott, Jr., Jeffrey M. Turner, Paul S. Viren and John A. Warnick.

Endnotes

1. *See* the books and readings at Wise Counsel Research, *www.wisecounselresearch.org*, as one entry point to this growing body of research and practice, stemming largely from the work of James E. Hughes, Jr. *See also* Purposeful Planning Institute, *www.purposefulplanninginstitute.com*, founded by John A. Warnick.
2. Drawing on "Insights on Family Office Compensation," Fidelity Family Office Services (2015); "Inside the Family Office Today," J.P. Morgan (2016).
3. This unpublished survey was done in 2017 by Martin M. Shenkman.
4. To learn more about how teaming can advance your practice and better serve your clients, you may wish to consult the growing list of teaming resources available from the National Association of Planners and Councils, *www.naepc.org/home/teaming*.